(June 30, 1914, ch. 131, 38 Stat. 420.)

REFERENCES IN TEXT

The meat inspection law, referred to in text, is classified generally to this chapter. At the time of enactment, such reference probably meant the Act of Mar. 4, 1907, ch. 2907, 34 Stat. 1260, as amended. That Act (formerly classified to section 71 et seq. of this title), was generally revised by Pub. L. 90–201, Dec. 15, 1967, 81 Stat. 584, and is classified to this chapter. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV–A of this chapter.

Section was formerly classified to section 94 of this title.

§ 693. Inspection of dairy products for export

The act of March 3, 1891, as amended, for the inspection of live cattle and products thereof, shall be deemed to include dairy products intended for exportation to any foreign country, and the Secretary of Agriculture may apply, under rules and regulations to be prescribed by him, the provisions of said act for inspection and certification appropriate for ascertaining the purity and quality of such products, and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in the markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

(May 23, 1908, ch. 192, 35 Stat. 254.)

REFERENCES IN TEXT

Act of March 3, 1891, referred to in text, is act Mar. 3, 1891, ch. 555, 26 Stat. 1089, which was superseded by act Mar. 4, 1907, ch. 2907, 34 Stat. 1260, as amended by act June 29, 1938, ch. 810, 52 Stat. 1235 (formerly classified to section 71 et seq. of this title). Act Mar. 4, 1907, ch. 2907, was generally revised by Pub. L. 90–201, Dec. 15, 1967, 81 Stat. 584, and is classified to this chapter.

CODIFICATION

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV–A of this chapter.

Section was formerly classified to sections 94a and 132 of this title.

§ 694. Authorization of appropriations

Annual appropriations of the sum of $3,000,000 from the general fund of the Treasury are authorized for the expenses of the inspection of cattle, sheep, swine, and goats and the meat and meat food products thereof which enter into interstate or foreign commerce and for all expenses necessary to carry into effect the provisions of this Act relating to meat inspection, including rent and the employment of labor in Washington and elsewhere, for each year, and in addition there is authorized to be appropriated such other sums as may be necessary in the enforcement of the meat inspection laws.

(June 30, 1906, ch. 3913, 34 Stat. 679; June 26, 1934, ch. 756, § 2, 48 Stat. 1225.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 30, 1906, ch. 3913, 34 Stat. 669, which made appropriations for the Department of Agriculture for the fiscal year ending June 30, 1907.

CODIFICATION

Section 2 of act June 26, 1934, which was classified to section 725a of former Title 31, Money and Finance, repealed the permanent appropriation under the title ''Meat inspection, Bureau of Animal Industry (fiscal year) (3–114)'' effective July 1, 1935, provided that such portions of any Acts as make permanent appropriations to be expended under such account are amended so as to authorize, in lieu thereof, annual appropriations from the general fund of the Treasury in identical terms and in such amounts as now provided by the laws providing such permanent appropriations, and authorized, in addition thereto, the appropriation of ''such other sums as may be necessary in the enforcement of the meat inspection laws.'' In the original, the parenthetical ''(U.S.C., title 21, secs. 71 to 96, inclusive)'' followed the phrase ''meat inspection laws''. The ''meat inspection laws'' are classified generally to this chapter.

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV–A of this chapter.

Section was formerly classified to section 95 of this title.

§ 695. Payment of cost of meat-inspection service; exception

The cost of inspection rendered on and after July 1, 1948, under the requirements of laws relating to Federal inspection of meat and meat food products shall be borne by the United States except the cost of overtime and holiday pay paid pursuant to section 2219a of title 7.

(June 5, 1948, ch. 423, 62 Stat. 344; Pub. L. 107–171, title X, § 10703(c)(2), May 13, 2002, 116 Stat. 517.)

REFERENCES IN TEXT

Section 2219a of title 7, referred to in text, was in the original ''section 10703 of the Farm Security and Rural Investment Act of 2002'', meaning section 10703 of Pub. L. 107–171, which enacted section 2219a of Title 7, Agriculture, amended this section, section 468 of this title, and section 5549 of Title 5, Government Organization and Employees, and repealed section 394 of Title 7.

CODIFICATION

Section was formerly classified to section 98 of this title.

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV–A of this chapter.

AMENDMENTS

2002—Pub. L. 107–171 substituted ''overtime and holiday pay paid pursuant to section 2219a of title 7.'' for ''overtime pursuant to section 394 of title 7.''

CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

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SUBCHAPTER I—CONTROL AND ENFORCEMENT

PART A—INTRODUCTORY PROVISIONS

§ 801. Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

(Pub. L. 91–513, title II, § 101, Oct. 27, 1970, 84 Stat. 1242.)

REFERENCES IN TEXT

This subchapter, referred to in par. (1), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out below and Tables.

EFFECTIVE DATE

Section 704 of title II of Pub. L. 91–513 provided that:

''(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

''(b) Parts A, B, E, and F of this title [Parts A, B, E, and F of this subchapter], section 702 [set out as a note under section 321 of this title], this section, and sections 705 through 709 [sections 901 to 904 of this title and note set out below], shall become effective upon enactment [Oct. 27, 1970].

''(c) Sections 305 (relating to labels and labeling) [section 825 of this title], and 306 (relating to manufacturing quotas) [section 826 of this title] shall become effective on the date specified in subsection (a) of this section, except that the Attorney General may by order published in the Federal Register postpone the effective date of either or both of these sections for such period as he may determine to be necessary for the efficient administration of this title [see Short Title note below].''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–425, § 1, Oct. 15, 2008, 122 Stat. 4820, provided that: ''This Act [enacting section 831 of this title, amending sections 802, 823, 827, 829, 841, 843, 882, and 960 of this title, and enacting provisions set out as notes under section 802 of this title and listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Ryan Haight Online Pharmacy Consumer Protection Act of 2008'.''

Pub. L. 110–415, § 1, Oct. 14, 2008, 122 Stat. 4349, provided that: ''This Act [amending section 830 of this title] may be cited as the 'Methamphetamine Production Prevention Act of 2008'.''

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, § 701, Mar. 9, 2006, 120 Stat. 256, provided that: ''This title [see Tables for classification] may be cited as the 'Combat Methamphetamine Epidemic Act of 2005'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–57, § 1(a), Aug. 2, 2005, 119 Stat. 592, provided that: ''This Act [amending section 953 of this title] may be cited as the 'Controlled Substances Export Reform Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–358, § 1, Oct. 22, 2004, 118 Stat. 1661, provided that: ''This Act [enacting section 290bb–25f of Title 42, The Public Health and Welfare, amending sections 802 and 811 of this title, enacting provisions set out as notes under section 802 of this title and section 290aa–4 of Title 42 and listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure, and amending provisions set out as a note under section 802 of this title] may be cited as the 'Anabolic Steroid Control Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–21, title VI, § 608(a), Apr. 30, 2003, 117 Stat. 691, provided that: ''This section [amending sections 843 and 856 of this title and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Illicit Drug Anti-Proliferation Act of 2003'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–310, div. B, title XXXV, § 3501, Oct. 17, 2000, 114 Stat. 1222, provided that: ''This title [amending sections 823 and 824 of this title] may be cited as the 'Drug Addiction Treatment Act of 2000'.''

Pub. L. 106–310, div. B, title XXXVI, § 3601, Oct. 17, 2000, 114 Stat. 1227, provided that: ''This title [enacting section 864 of this title and sections 290aa–5b and 290bb–9 of Title 42, The Public Health and Welfare, amending sections 802, 830, 853, 856, and 863 of this title, sections 3663 and 3663A of Title 18, Crimes and Criminal Procedure, section 524 of Title 28, Judiciary and Judicial Procedure, and sections 285*o*–2 and 3751 of Title 42, and enacting provisions set out as notes under this section and sections 802, 872, 873, 886, and 1706 of this title, sections 524 and 994 of Title 28, and sections 201, 290aa–4, 290aa–5b and 3751 of Title 42] may be cited as the 'Methamphetamine Anti-Proliferation Act of 2000'.''

Pub. L. 106–172, § 1, Feb. 18, 2000, 114 Stat. 7, provided that: ''This Act [amending sections 802, 827, 841 and 960 of this title and enacting provisions set out as notes under this section and section 812 of this title] may be cited as the 'Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–277, div. C, title VIII, §801(a), Oct. 21, 1998, 112 Stat. 2681–693, provided that: ''This title [enacting section 1713 of this title and section 2291–5 of Title 22, Foreign Relations and Intercourse, amending section 956 of this title, and enacting provisions set out as notes under sections 801 and 956 of this title and section 2291 of Title 22] may be cited as the 'Western Hemisphere Drug Elimination Act'.''

Pub. L. 105–277, div. C, title VIII, subtitle G (§§871, 872), §871, Oct. 21, 1998, 112 Stat. 2681–707, and Pub. L. 105–357, §1, Nov. 10, 1998, 112 Stat. 3271, provided that such subtitle and such Act, which amended section 956 of this title and enacted provisions set out as notes under section 956 of this title ''may be cited as the 'Controlled Substances Trafficking Prohibition Act'.''

Pub. L. 105–277, div. E, §1, Oct. 21, 1998, 112 Stat. 2681–759, provided that: ''This division [amending sections 841 and 960 of this title and section 13705 of Title 42, The Public Health and Welfare] may be cited as the 'Methamphetamine Trafficking Penalty Enhancement Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–305, §1, Oct. 13, 1996, 110 Stat. 3807, provided that: ''This Act [amending sections 841, 844, 959, and 960 of this title and enacting provisions set out as notes under section 872 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Drug-Induced Rape Prevention and Punishment Act of 1996'.''

Pub. L. 104–237, §1(a), Oct. 3, 1996, 110 Stat. 3099, provided that: ''This Act [enacting section 872a of this title, amending sections 802, 814, 830, 841 to 844, 853, 881, 959, and 960 of this title and section 1607 of Title 19, Customs Duties, and enacting provisions set out as notes under this section and sections 802, 872, and 971 of this title, section 994 of Title 28, Judiciary and Judicial Procedure, and section 290aa–4 of Title 42, The Public Health and Welfare] may be cited as the 'Comprehensive Methamphetamine Control Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title XVIII, §180201(a), Sept. 13, 1994, 108 Stat. 2046, provided that: ''This section [enacting section 849 of this title, amending section 841 of this title, and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Drug Free Truck Stop Act'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–200, §1, Dec. 17, 1993, 107 Stat. 2333, provided that: ''This Act [enacting section 814 of this title, amending sections 802, 821 to 824, 830, 843, 880, 957, 958, 960, and 971 of this title, and enacting provisions set out as a note under section 802 of this title] may be cited as the 'Domestic Chemical Diversion Control Act of 1993'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–647, title XIX, §1901, Nov. 29, 1990, 104 Stat. 4851, provided that: ''This Act [probably means title XIX of Pub. L. 101–647, which amended sections 333, 802, 812, and 844 of this title and section 290aa–6 of Title 42, The Public Health and Welfare, repealed section 333a of this title, and enacted provisions set out as notes under sections 802 and 829 of this title] may be cited as the 'Anabolic Steroids Control Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–690, title VI, §6001, Nov. 18, 1988, 102 Stat. 4312, provided that: ''This title [see Tables for classification] may be cited as the 'Anti-Drug Abuse Amendments Act of 1988'.''

Pub. L. 100–690, title VI, §6051, Nov. 18, 1988, 102 Stat. 4312, provided that: ''This subtitle [subtitle A (§§6051–6061) of title VI of Pub. L. 100–690, enacting section 971 of this title, amending sections 802, 830, 841 to 843, 872, 876, 881, 960, and 961 of this title, and enacting provisions set out as notes under sections 802 and 971 of this title] may be cited as the 'Chemical Diversion and Trafficking Act of 1988'.''

Pub. L. 100–690, title VI, §6071, Nov. 18, 1988, 102 Stat. 4320, provided that: ''This subtitle [subtitle B (§§6071–6080) of title VI of Pub. L. 100–690, enacting sections 881–1, 887, and 1509 of this title, amending section 881 of this title, section 1594 of Title 19, Customs Duties, section 524 of Title 28, Judiciary and Judicial Procedure, and section 782 of former Title 49, Transportation, and enacting provisions set out as notes under section 881 of this title] may be cited as the 'Asset Forfeiture Amendments Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–570, §1, Oct. 27, 1986, 100 Stat. 3207, provided that: ''This Act [see Tables for classification] may be cited as the 'Anti-Drug Abuse Act of 1986'.''

Pub. L. 99–570, title I, §1001, Oct. 27, 1986, 100 Stat. 3207–2, provided that: ''This subtitle [subtitle A (§§1001–1009) of title I of Pub. L. 99–570, amending sections 802, 841, 845, 845a, 848, 881, 960, and 962 of this title, sections 3553 and 3583 of Title 18, Crimes and Criminal Procedure, rule 35 of the Federal Rules of Criminal Procedure, Title 18, Appendix, and section 994 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under section 841 of this title, sections 3553 and 3583 of Title 18, and rule 35 of the Federal Rules of Criminal Procedure] may be cited as the 'Narcotics Penalties and Enforcement Act of 1986'.''

Pub. L. 99–570, title I, §1051, Oct. 27, 1986, 100 Stat. 3207–8, provided that: ''This subtitle [subtitle B (§§1051, 1052) of title I of Pub. L. 99–570, amending section 844 of this title] may be cited as the 'Drug Possession Penalty Act of 1986'.''

Pub. L. 99–570, title I, §1101, Oct. 27, 1986, 100 Stat. 3207–10, provided that: ''This subtitle [subtitle C (§§1101–1105) of title I of Pub. L. 99–570, enacting section 845b of this title and amending sections 841, 845, and 845a of this title] may be cited as the 'Juvenile Drug Trafficking Act of 1986'.''

Pub. L. 99–570, title I, §1201, Oct. 27, 1986, 100 Stat. 3207–13, provided that: ''This subtitle [subtitle E (§§1201–1204) of title I of Pub. L. 99–570, enacting section 813 of this title and amending section 802 of this title] may be cited as the 'Controlled Substance Analogue Enforcement Act of 1986'.''

Pub. L. 99–570, title I, §1251, Oct. 27, 1986, 100 Stat. 3207–14, provided that: ''This subtitle [subtitle F (§§1251–1253) of title I of Pub. L. 99–570, amending section 848 of this title] may be cited as the 'Continuing Drug Enterprises Act of 1986'.''

Pub. L. 99–570, title I, §1301, Oct. 27, 1986, 100 Stat. 3207–15, provided that: ''This subtitle [subtitle G (§§1301, 1302) of title I of Pub. L. 99–570, amending section 960 of this title] may be cited as the 'Controlled Substances Import and Export Penalties Enhancement Act of 1986'.''

Pub. L. 99–570, title I, §1821, Oct. 27, 1986, 100 Stat. 3207–51, which provided that subtitle O (§§1821–1823) of title I of Pub. L. 99–570, enacting section 857 of this title and provisions set out as a note under section 857 of this title, was to be cited as the ''Mail Order Drug Paraphernalia Control Act'', was repealed by Pub. L. 101–647, title XXIV, §2401(d), Nov. 29, 1990, 104 Stat. 4859.

Pub. L. 99–570, title I, §1991, Oct. 27, 1986, 100 Stat. 3207–59, provided that: ''This subtitle [subtitle U (§§1991, 1992) of title I of Pub. L. 99–570, amending section 881 of this title] may be cited as the 'Federal Drug Law Enforcement Agent Protection Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title II, §501, Oct. 12, 1984, 98 Stat. 2068, provided that: ''This chapter [chapter V (§§501–525) of title II of Pub. L. 98–473, enacting section 845a of this title, amending sections 802, 811, 812, 822–824, 827, 841, 843, 845, 873, 881, 952, 953, 957, 958, 960, and 962 of this title, and enacting provisions set out as a note under

this section] may be cited as the 'Controlled Substances Penalties Amendments Act of 1984'.''

Pub. L. 98–473, title II, § 506(a), Oct. 12, 1984, 98 Stat. 2070, provided that: ''This part [part B of chapter V (§§ 506–525) of title II of Pub. L. 98–473, amending sections 802, 811, 812, 822–824, 827, 843, 873, 881, 952, 953, 957, and 958 of this title] may be cited as the 'Dangerous Drug Diversion Control Act of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–633, § 1, Nov. 10, 1978, 92 Stat. 3768, provided: ''That this Act [enacting sections 801a, 830, and 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealing section 830 of this title (effective Jan. 1, 1981), and enacting provisions set out as notes under sections 801a, 812, and 830 of this title] may be cited as the 'Psychotropic Substances Act of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–281, § 1, May 14, 1974, 88 Stat. 124, provided: ''That this Act [amending sections 802, 823, 824, and 827 of this title] may be cited as the 'Narcotic Addict Treatment Act of 1974'.''

SHORT TITLE

Pub. L. 91–513, in the provisions preceding section 1 immediately following the enacting clause, provided: ''That this Act [enacting this chapter and sections 257a, 2688*l*–1, 2688n–1, and 3509 of Title 42, The Public Health and Welfare, amending sections 162, 198a, 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114, 1952, and 4251 of Title 18, Crimes and Criminal Procedure, sections 1584, 2078, 2079, and 2080 of Title 19, Customs Duties, sections 4901, 4905, 6808, 7012, 7103, 7326, 7607, 7609, 7641, 7651, and 7655 of Title 26, Internal Revenue Code, section 2901 of Title 28, Judiciary and Judicial Procedure, section 304m of former Title 40, Public Buildings, Property, and Works, sections 201, 225a, 242, 242a, 246, 257, 258, 259, 260, 261, 261a, 2688k, 2688*l*, 2688m, 2688n, 2688*o*, 2688r, and 3411 of Title 42, The Public Health and Welfare, section 239a of former Title 46, Shipping, and section 787 of Title 49, Appendix, Transportation, repealing sections 171 to 174, 176 to 185, 188 to 188n, 191 to 193, 197, 198, 199, 360a, and 501 to 517 of this title, sections 1401 to 1407 and 3616 of Title 18, sections 4701 to 4707, 4711 to 4716, 4721 to 4726, 4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, 4771 to 4776, 7237, 7238, and 7491 of Title 26, sections 529a and 529g of former Title 31, Money and Finance, and section 1421m of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section and sections 171, 321, 822, 951, and 957 of this title] may be cited as the 'Comprehensive Drug Abuse Prevention and Control Act of 1970'.''

Section 100 of title II of Pub. L. 91–513 provided that: ''This title [enacting this subchapter, repealing section 360a of this title, amending sections 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114 and 1952 of Title 18, Crimes and Criminal Procedure, and section 242 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 321 and 822 of this title] may be cited as the 'Controlled Substances Act'.''

For short title and complete classification of title III of Pub. L. 91–513, which enacted subchapter II of this chapter, as the ''Controlled Substances Import and Export Act'', see section 1000 of Pub. L. 91–513, set out as a note under section 951 of this title.

SEVERABILITY

Pub. L. 106–310, div. B, title XXXVI, § 3673, Oct. 17, 2000, 114 Stat. 1246, provided that: ''Any provision of this title [see Short Title of 2000 Amendments note above] held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.''

CONTINUATION OF ORDERS, RULES, AND REGULATIONS

Section 705 of title II of Pub. L. 91–513 provided that: ''Any orders, rules, and regulations which have been promulgated under any law affected by this title [see Short Title note above] and which are in effect on the day preceding enactment of this title [Oct. 27, 1970] shall continue in effect until modified, superseded, or repealed.''

ANTI-DRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET SITES

Pub. L. 106–391, title III, § 320, Oct. 30, 2000, 114 Stat. 1597, provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 30, 2000], the Administrator [of the National Aeronautics and Space Administration], in consultation with the Director of the Office of National Drug Control Policy, shall place anti-drug messages on Internet sites controlled by the National Aeronautics and Space Administration.''

Pub. L. 106–310, div. B, title XXXVI, § 3671, Oct. 17, 2000, 114 Stat. 1245, provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2000], the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place antidrug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.''

PROTOCOLS FOR INVESTIGATIONS AND PROSECUTIONS RELATING TO DATE-RAPE DRUGS AND OTHER CONTROLLED SUBSTANCES; ANNUAL REPORT; NATIONAL AWARENESS CAMPAIGN

Pub. L. 106–172, §§ 6, 7, Feb. 18, 2000, 114 Stat. 11, as amended by Pub. L. 111–8, div. G, title I, § 1301(d), Mar. 11, 2009, 123 Stat. 829, provided that:

''SEC. 6. DEVELOPMENT OF MODEL PROTOCOLS, TRAINING MATERIALS, FORENSIC FIELD TESTS, AND COORDINATION MECHANISM FOR INVESTIGATIONS AND PROSECUTIONS RELATING TO GAMMA HYDROXYBUTYRIC ACID, OTHER CONTROLLED SUBSTANCES, AND DESIGNER DRUGS.

''(a) IN GENERAL.—The Attorney General, in consultation with the Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation, shall—

''(1) develop—

''(A) model protocols for the collection of toxicology specimens and the taking of victim statements in connection with investigations into and prosecutions related to possible violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving abuse of gamma hydroxybutyric acid, other controlled substances, or so-called 'designer drugs'; and

''(B) model training materials for law enforcement personnel involved in such investigations; and

''(2) make such protocols and training materials available to Federal, State, and local personnel responsible for such investigations.

''(b) GRANT.—

''(1) IN GENERAL.—The Attorney General shall make a grant, in such amount and to such public or private person or entity as the Attorney General considers appropriate, for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

''(c) REPORT.—Not later than 180 days after the date of the enactment of this Act [Feb. 18, 2000], the Attorney General shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on current mechanisms for coordinating Federal, State, and local investigations into and prosecutions related to possible violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving the abuse of gamma hydroxybutyric acid, other controlled substances, or so-called 'designer drugs'. The report shall also include recommendations for the improvement of such mechanisms.

''SEC. 7. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

''(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary') shall periodically submit to Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent 1-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

''(b) NATIONAL AWARENESS CAMPAIGN.—

''(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

''(i) The dangers of date-rape drugs.

''(ii) The applicability of the Controlled Substances Act [21 U.S.C. 801 et seq.] to such drugs, including penalties under such Act.

''(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

''(iv) Appropriately responding when an individual has such symptoms.

''(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

''(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act [Feb. 18, 2000], the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

''(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

''(c) DEFINITION.—For purposes of this section, the term 'date-rape drugs' means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.''

CONGRESSIONAL FINDINGS REGARDING METHAMPHETAMINE MANUFACTURE AND ABUSE

Pub. L. 104–237, §2, Oct. 3, 1996, 110 Stat. 3100, provided that: ''The Congress finds the following:

''(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

''(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

''(A) a dramatic increase in deaths associated with methamphetamine ingestion;

''(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

''(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

''(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.''

SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL METHAMPHETAMINE AND PRECURSORS

Pub. L. 104–237, title I, §101, Oct. 3, 1996, 110 Stat. 3100, provided that: ''The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.''

INTERAGENCY METHAMPHETAMINE TASK FORCE

Pub. L. 104–237, title V, §501, Oct. 3, 1996, 110 Stat. 3111, provided that:

''(a) ESTABLISHMENT.—There is established a 'Methamphetamine Interagency Task Force' (referred to as the 'interagency task force') which shall consist of the following members:

''(1) The Attorney General, or a designee, who shall serve as chair.

''(2) 2 representatives selected by the Attorney General.

''(3) The Secretary of Education or a designee.

''(4) The Secretary of Health and Human Services or a designee.

''(5) 2 representatives of State and local law enforcement and regulatory agencies, to be selected by the Attorney General.

''(6) 2 representatives selected by the Secretary of Health and Human Services.

''(7) 5 nongovernmental experts in drug abuse prevention and treatment to be selected by the Attorney General.

''(b) RESPONSIBILITIES.—The interagency task force shall be responsible for designing, implementing, and evaluating the education and prevention and treatment practices and strategies of the Federal Government with respect to methamphetamine and other synthetic stimulants.

''(c) MEETINGS.—The interagency task force shall meet at least once every 6 months.

''(d) FUNDING.—The administrative expenses of the interagency task force shall be paid out of existing Department of Justice appropriations.

''(e) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) [5 U.S.C. App.] shall apply to the interagency task force.

''(f) TERMINATION.—The interagency task force shall terminate 4 years after the date of enactment of this Act [Oct. 3, 1996].''

SUSPICIOUS ORDERS TASK FORCE

Pub. L. 104–237, title V, §504, Oct. 3, 1996, 110 Stat. 3112, provided that:

''(a) IN GENERAL.—The Attorney General shall establish a 'Suspicious Orders Task Force' (the 'Task Force') which shall consist of—

''(1) appropriate personnel from the Drug Enforcement Administration (the 'DEA') and other Federal, State, and local law enforcement and regulatory agencies with the experience in investigating and prosecuting illegal transactions of listed chemicals and supplies; and

''(2) representatives from the chemical and pharmaceutical industry.

''(b) RESPONSIBILITIES.—The Task Force shall be responsible for developing proposals to define suspicious orders of listed chemicals, and particularly to develop quantifiable parameters which can be used by registrants in determining if an order is a suspicious order which must be reported to DEA. The quantifiable parameters to be addressed will include frequency of orders, deviations from prior orders, and size of orders. The Task Force shall also recommend provisions as to what types of payment practices or unusual business practices shall constitute prima facie suspicious orders. In evaluating the proposals, the Task Force shall consider effectiveness, cost and feasibility for industry and government, and other relevant factors.

''(c) MEETINGS.—The Task Force shall meet at least two times per year and at such other times as may be determined necessary by the Task Force.

''(d) REPORT.—The Task Force shall present a report to the Attorney General on its proposals with regard to suspicious orders and the electronic reporting of suspicious orders within one year of the date of enactment of this Act [Oct. 3, 1996]. Copies of the report shall be forwarded to the Committees of the Senate and House of Representatives having jurisdiction over the regulation of listed chemical and controlled substances.

''(e) FUNDING.—The administrative expenses of the Task Force shall be paid out of existing Department of Justice funds or appropriations.

''(f) FACA.—The Federal Advisory Committee Act (5 U.S.C. App. 2) [5 U.S.C. App.] shall apply to the Task Force.

''(g) TERMINATION.—The Task Force shall terminate upon presentation of its report to the Attorney General, or two years after the date of enactment of this Act [Oct. 3, 1996], whichever is sooner.''

JOINT FEDERAL TASK FORCE ON ILLEGAL DRUG LABORATORIES

Pub. L. 100–690, title II, § 2405, Nov. 18, 1988, 102 Stat. 4231, provided that:

''(a) ESTABLISHMENT OF TASK FORCE.—There is established the Joint Federal Task Force on Illegal Drug Laboratories (hereafter in this section referred to as the 'Task Force').

''(b) APPOINTMENT AND MEMBERSHIP OF TASK FORCE.—The members of the Task Force shall be appointed by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration (hereafter in this section referred to as the 'Administrators'). The Task Force shall consist of at least 6 and not more than 20 members. Each Administrator shall appoint one-half of the members as follows: (1) the Administrator of the Environmental Protection Agency shall appoint members from among Emergency Response Technicians and other appropriate employees of the Agency; and (2) the Administrator of the Drug Enforcement Administration shall appoint members from among Special Agents assigned to field divisions and other appropriate employees of the Administration.

''(c) DUTIES OF TASK FORCE.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. In formulating such program, the Task Force shall consider the following factors:

''(1) The volume of hazardous waste produced by illegal drug laboratories.

''(2) The cost of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration in cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(5) The dissemination of information to law enforcement agencies that have responsibility for enforcement of drug laws.

''(d) GUIDELINES.—The Task Force shall recommend to the Administrators guidelines for cleanup of illegal drug laboratories to protect the public health and environment. Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988], the Administrators shall formulate and publish such guidelines.

''(e) DEMONSTRATION PROJECTS.—

''(1) The Attorney General shall make grants to, and enter into contracts with, State and local governments for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

''(2) The Attorney General may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (d).

''(3) The Attorney General shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this subsection and shall recommend appropriate legislation to the Congress.

''(f) FUNDING.—Of the amounts made available to carry out the Controlled Substances Act [21 U.S.C. 801 et seq.] for fiscal year 1989, not less than $5,000,000 shall be made available to carry out subsections (d) and (e).

''(g) REPORTS.—After consultation with the Task Force, the Administrators shall—

''(1) transmit to the President and to each House of Congress not later than 270 days after the date of the enactment of this subtitle [Nov. 18, 1988] a report describing the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection);

''(2) periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection) and the progress made in the cleanup and disposal of hazardous waste produced by illegal drug laboratories; and

''(3) transmit to each House of Congress a report describing the findings made as a result of the evaluations referred to in subsection (e)(3).''

GREAT LAKES DRUG INTERDICTION

Pub. L. 100–690, title VII, § 7404, Nov. 18, 1988, 102 Stat. 4484, provided that:

''(a) INTERAGENCY AGREEMENT.—The Secretary of Transportation and the Secretary of the Treasury shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

''(b) NEGOTIATIONS WITH CANADA ON DRUG ENFORCEMENT COOPERATION.—The Secretary of State is encouraged to enter into negotiations with appropriate officials of the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to law enforcement efforts conducted on the Great Lakes between the United States and Canada.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

GAO STUDY OF CAPABILITIES OF UNITED STATES TO CONTROL DRUG SMUGGLING INTO UNITED STATES

Pub. L. 100–180, div. A, title XII, §1241, Dec. 4, 1987, 101 Stat. 1162, directed Comptroller General of the United States to conduct a comprehensive study regarding smuggling of illegal drugs into United States and current capabilities of United States to deter such smuggling, with special consideration given to issues involving use of military and National Guard units along with Customs Service in cooperative drug smuggling interdiction efforts, and to issue, not later than Apr. 30, 1988, and Mar. 31, 1989, reports to Congress outlining results of this study.

COMPLIANCE WITH BUDGET ACT

Pub. L. 99–570, §3, Oct. 27, 1986, 100 Stat. 3207–1, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification], any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term 'spending authority' has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)] and the term 'credit authority' has the meaning provided in section 3(10) of the Congresssional [sic] Budget Act of 1974 [2 U.S.C. 622(10)].''

DRUG INTERDICTION

Pub. L. 99–570, title III, §§3001–3003, 3301, Oct. 27, 1986, 100 Stat. 3207–73, 3207–74, 3207–98, as amended by Pub. L. 104–66, title I, §1091(a), Dec. 21, 1995, 109 Stat. 722, provided that:

''SEC. 3001. SHORT TITLE.

''This title [enacting section 379 of Title 10, Armed Forces, sections 1590, 1628, 1629, and 2081 of Title 19, Customs Duties, and section 312a of Title 47, Telegraphs, Telephones, and Radiotelegraphs, amending section 959 of this title, sections 374 and 911 of Title 10, sections 507, 1401, 1433, 1436, 1454, 1459, 1497, 1509, 1584 to 1586, 1594 to 1595a, 1613, 1613b, 1619, and 1622 of Title 19, section 5316 of Title 31, Money and Finance, section 12109 of Title 46, Shipping, sections 1901 to 1904 of Title 46, Appendix, Shipping, and sections 1401, 1472, 1474, and 1509 of former Title 49, Transportation, repealing section 1460 of Title 19, enacting provisions set out as notes under section 801 of this title, sections 371, 374, 525, and 9441 of Title 10, sections 1613b and 1654 of Title 19, section 403 of Title 23, Highways, section 1901 of Title 46, Appendix, section 11344 of Title 49, and section 1509 of former Title 49, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard] may be cited as the 'National Drug Interdiction Improvement Act of 1986'.

''SEC. 3002. FINDINGS.

''The Congress hereby finds that—

''(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

''(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

''(A) increased investigations of large networks of drug smuggler organizations;

''(B) source country drug eradication;

''(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

''(D) increased emphasis on drug education programs in the schools and workplace;

''(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

''(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

''(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive anti-drug effort are emphasized;

''(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal [national] drug interdiction program;

''(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

''(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

''(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

''(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

''SEC. 3003. PURPOSES.

''It is the purpose of this title—

''(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

''(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act [18 U.S.C. 1385], for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States; and

''(3) to improve other drug interdiction programs of the Federal Government.

''SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

''(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act [Oct. 27, 1986], immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141 [see 19 U.S.C. 2075], and (ii) any training and personnel enhancements authorized in this section and section 3141.

''(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title [see section 3001 of Pub. L. 99–570 set out above], $10,000,000 for the following:

''(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

''(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

''(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

''(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

''(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.''

INFORMATION ON DRUG ABUSE AT THE WORKPLACE

Pub. L. 99–570, title IV, § 4303, Oct. 27, 1986, 100 Stat. 3207–154, directed Secretary of Labor to collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs, to conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts, and submit the findings of such collection and research to Congress no later than two years from Oct. 27, 1986.

INTERAGENCY COORDINATION

Pub. L. 99–570, title IV, § 4304, Oct. 27, 1986, 100 Stat. 3207–154, provided that:

''(a) The Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, respectively, to coordinate interagency drug abuse prevention activities to prevent duplication of effort.

''(b) Within one year after enactment of this Act [Oct. 27, 1986], a report shall be jointly submitted to the Congress by such Secretaries concerning the extent to which States and localities have been able to implement non-duplicative drug abuse prevention activities.''

SUBSTANCE ABUSE COVERAGE STUDY

Pub. L. 99–570, title VI, § 6005, Oct. 27, 1986, 100 Stat. 3207–160, as amended by Pub. L. 100–690, title II, § 2058(c), Nov. 18, 1988, 102 Stat. 4214, directed Secretary of Health and Human Services to contract with Institute of Medicine of National Academy of Sciences to conduct a study of extent to which cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and adequacy of such coverage for the rehabilitation of drug abusers, and not later than 18 months after execution of such contract to transmit to Congress a report of results of study, including recommendations of means to meet the needs identified in such study.

HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT

Pub. L. 99–570, title VI, § 6006, Oct. 27, 1986, 100 Stat. 3207–160, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

''(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

''(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

''(4) the total cost of drug abuse to the Nation in 1983 was over $60,000,000,000; and

''(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

''(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.''

COMMISSION ON MARIHUANA AND DRUG ABUSE

Section 601 of Pub. L. 91–513, as amended by Pub. L. 92–13, May 14, 1971, 85 Stat. 37, provided that:

''(a) [ESTABLISHMENT; COMPOSITION] There is established a commission to be known as the Commission on Marihuana and Drug Abuse (hereafter in this section referred to as the 'Commission'). The Commission shall be composed of—

''(1) two Members of the Senate appointed by the President of the Senate;

''(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

''(3) nine members appointed by the President of the United States.

At no time shall more than one of the members appointed under paragraph (1), or more than one of the members appointed under paragraph (2), or more than five of the members appointed under paragraph (3) be members of the same political party.

''(b) [CHAIRMAN; VICE CHAIRMAN; COMPENSATION OF MEMBERS; MEETINGS] (1) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

''(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

''(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

''(c) [PERSONNEL; EXPERTS; INFORMATION FROM DEPARTMENTS AND AGENCIES] (1) The Commission shall

have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

''(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including traveltime. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

''(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

''(d) [MARIHUANA STUDY; REPORT TO THE PRESIDENT AND THE CONGRESS] (1) The Commission shall conduct a study of marihuana including, but not limited to, the following areas:

''(A) the extent of use of marihuana in the United States to include its various sources of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

''(B) an evaluation of the efficacy of existing marihuana laws;

''(C) a study of the pharmacology of marihuana and its immediate and long-term effects, both physiological and psychological;

''(D) the relationship of marihuana use to aggressive behavior and crime;

''(E) the relationship between marihuana and the use of other drugs; and

''(F) the international control of marihuana.

''(2) Within one year after the date on which funds first become available to carry out this section, the Commission shall submit to the President and the Congress a comprehensive report on its study and investigation under this subsection which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

''(e) [STUDY AND INVESTIGATION OF CAUSES OF DRUG ABUSE; REPORT TO THE PRESIDENT AND THE CONGRESS; TERMINATION OF COMMISSION] The Commission shall conduct a comprehensive study and investigation of the causes of drug abuse and their relative significance. The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

''(f) [LIMITATION ON EXPENDITURES] Total expenditures of the Commission shall not exceed $4,000,000.''

EXECUTIVE ORDER NO. 11599

Ex. Ord. No. 11599, June 17, 1971, 36 F.R. 11793, which established the Special Action Office for Drug Abuse Prevention, was superseded. See Prior Provisions notes set out under section 1111 of this title.

EXECUTIVE ORDER NO. 11641

Ex. Ord. No. 11641, Jan. 28, 1972, 37 F.R. 2421, which established the Office for Drug Abuse Law Enforcement, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out below.

EXECUTIVE ORDER NO. 11676

Ex. Ord. No. 11676, July 27, 1972, 37 F.R. 15125, which established the Office of National Narcotics Intelligence, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out below.

EX. ORD. NO. 11727. DRUG LAW ENFORCEMENT

Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, provided:

Reorganization Plan No. 2 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees], which becomes effective on July 1, 1973, among other things establishes a Drug Enforcement Administration in the Department of Justice. In my message to the Congress transmitting that plan, I stated that all functions of the Office for Drug Abuse Law Enforcement (established pursuant to Executive Order No. 11641 of January 28, 1972) and the Office of National Narcotics Intelligence (established pursuant to Executive Order No. 11676 of July 27, 1972) would, together with other related functions, be merged in the new Drug Enforcement Administration.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including section 5317 of title 5 of the United States Code, as amended, it is hereby ordered as follows:

SECTION 1. The Attorney General, to the extent permitted by law, is authorized to coordinate all activities of executive branch departments and agencies which are directly related to the enforcement of laws respecting narcotics and dangerous drugs. Each department and agency of the Federal Government shall, upon request and to the extent permitted by law, assist the Attorney General in the performance of functions assigned to him pursuant to this order, and the Attorney General may, in carrying out those functions, utilize the services of any other agencies, Federal and State, as may be available and appropriate.

SEC. 2. Executive Order No. 11641 of January 28, 1972, is revoked and the Attorney General shall provide for the reassignment of the functions of the Office for Drug Abuse Law Enforcement and for the abolishment of that Office.

SEC. 3. Executive Order No. 11676 of July 27, 1972, is hereby revoked and the Attorney General shall provide for the reassignment of the functions of the Office of National Narcotics Intelligence and for the abolishment of that Office.

SEC. 4. Section 1 of Executive Order No. 11708 of March 23, 1973, as amended [set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level IV of the Executive Schedule is hereby further amended by deleting—

(1) ''(6) Director, Office for Drug Abuse Law Enforcement, Department of Justice.''; and

(2) ''(7) Director, Office of National Narcotics Intelligence, Department of Justice.''

SEC. 5. The Attorney General shall provide for the winding up of the affairs of the two offices and for the reassignment of their functions.

SEC. 6. This order shall be effective as of July 1, 1973.

RICHARD NIXON.

§ 801a. Congressional findings and declarations: psychotropic substances

The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to

regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

(Pub. L. 95–633, title I, § 101, Nov. 10, 1978, 92 Stat. 3768; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

This Act, referred to in par. (2), is Pub. L. 95–633, Nov. 10, 1978, 92 Stat. 2768, as amended, known as the Psychotropic Substances Act of 1978, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in par. (3), is Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to this chapter [§ 801 et seq.]. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Section was enacted as a part of the Psychotropic Substances Act of 1978, and not as a part of the Controlled Substances Act which comprises this subchapter.

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (3) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Section 112 of title I of Pub. L. 95–633 provided that: ''This title [enacting this section and section 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 872, 952, and 953 of this title and section 242a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 801 and 812 of this title] and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States.'' [The Convention entered into force in respect to the United States on July 15, 1980.]

§ 802. Definitions

As used in this subchapter:

(1) The term ''addict'' means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term ''administer'' refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term ''agent'' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term ''Drug Enforcement Administration'' means the Drug Enforcement Administration in the Department of Justice.

(5) The term ''control'' means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise.

(6) The term ''controlled substance'' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

(7) The term ''counterfeit substance'' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any like-

ness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms ''deliver'' or ''delivery'' mean the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not there exists an agency relationship.

(9) The term ''depressant or stimulant substance'' means—

(A) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term ''dispense'' means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term ''dispenser'' means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term ''distribute'' means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term ''distributor'' means a person who so delivers a controlled substance or a listed chemical.

(12) The term ''drug'' has the meaning given that term by section 321(g)(1) of this title.

(13) The term ''felony'' means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term ''isomer'' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term ''isomer'' means any optical, positional, or geometric isomer. As used in schedule II(a)(4), the term ''isomer'' means any optical or geometric isomer.

(15) The term ''manufacture'' means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term ''manufacturer'' means a person who manufactures a drug or other substance.

(16) 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. Such term does 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.

(17) The term ''narcotic drug'' means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(B) Poppy straw and concentrate of poppy straw.

(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).

(18) The term ''opiate'' means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(19) The term ''opium poppy'' means the plant of the species Papaver somniferum L., except the seed thereof.

(20) The term ''poppy straw'' means all parts, except the seeds, of the opium poppy, after mowing.

(21) The term ''practitioner'' means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(22) The term ''production'' includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(23) The term ''immediate precursor'' means a substance—

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(24) The term ''Secretary'', unless the context otherwise indicates, means the Secretary of Health and Human Services.

(25) The term ''serious bodily injury'' means bodily injury which involves—

(A) a substantial risk of death;

(B) protracted and obvious disfigurement; or

(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(26) The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(27) The term ''ultimate user'' means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(28) The term ''United States'', when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

(29) The term ''maintenance treatment'' means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(30) The term ''detoxification treatment'' means the dispensing, for a period not in excess of one hundred and eighty days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period.

(31) The term ''Convention on Psychotropic Substances'' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term ''Single Convention on Narcotic Drugs'' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.

(32)(A) Except as provided in subparagraph (C), the term ''controlled substance analogue'' means a substance—

(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.

(C) Such term does not include—

(i) a controlled substance;

(ii) any substance for which there is an approved new drug application;

(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 355 of this title to the extent conduct with respect to such substance is pursuant to such exemption; or

(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

(33) The term ''listed chemical'' means any list I chemical or any list II chemical.

(34) The term ''list I chemical'' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter and is important to the manufacture of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following:

(A) Anthranilic acid, its esters, and its salts.

(B) Benzyl cyanide.

(C) Ephedrine, its salts, optical isomers, and salts of optical isomers.

(D) Ergonovine and its salts.

(E) Ergotamine and its salts.

(F) N-Acetylanthranilic acid, its esters, and its salts.

(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(H) Phenylacetic acid, its esters, and its salts.

(I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

(J) Piperidine and its salts.

(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(L) 3,4-Methylenedioxyphenyl-2-propanone.

(M) Methylamine.

(N) Ethylamine.

(O) Propionic anhydride.

(P) Isosafrole.

(Q) Safrole.

(R) Piperonal.

(S) N-Methylephedrine.

(T) N-methylpseudoephedrine.

(U) Hydriodic acid.
(V) Benzaldehyde.
(W) Nitroethane.
(X) Gamma butyrolactone.
(Y) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (U) of this paragraph.

(35) The term ''list II chemical'' means a chemical (other than a list I chemical) specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:
(A) Acetic anhydride.
(B) Acetone.
(C) Benzyl chloride.
(D) Ethyl ether.
(E) Repealed. Pub. L. 101–647, title XXIII, § 2301(b), Nov. 29, 1990, 104 Stat. 4858.
(F) Potassium permanganate.
(G) 2-Butanone (or Methyl Ethyl Ketone).
(H) Toluene.
(I) Iodine.
(J) Hydrochloric gas.

(36) The term ''regular customer'' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.
(37) The term ''regular importer'' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.
(38) The term ''regulated person'' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.
(39) The term ''regulated transaction'' means—
(A) a distribution, receipt, sale, importation, or exportation of, or an international transaction involving shipment of, a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical, a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—
(i) a domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;
(ii) a delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this clause does not relieve a distributor, importer, or exporter from compliance with section 830 of this title;
(iii) any category of transaction or any category of transaction for a specific listed chemical or chemicals specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this subchapter or subchapter II of this chapter;
(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], subject to clause (v), unless—
(I) the Attorney General has determined under section 814 of this title that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and
(II) the quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General;
(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 830(b)(3) of this title; or
(vi) any transaction in a chemical mixture which the Attorney General has by regulation designated as exempt from the application of this subchapter and subchapter II of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered; and
(B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

(40) The term ''chemical mixture'' means a combination of two or more chemical substances, at least one of which is not a list I chemical or a list II chemical, except that such term does not include any combination of a list I chemical or a list II chemical with another chemical that is present solely as an impurity.
(41)(A) The term ''anabolic steroid'' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—
(i) androstanediol—
(I) 3β,17β-dihydroxy-5α-androstane; and
(II) 3α,17β-dihydroxy-5α-androstane;
(ii) androstanedione (5α-androstan-3,17-dione);
(iii) androstenediol—
(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);
(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and
(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

(iv) androstenedione—
(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);
(II) 4-androstenedione (androst-4-en-3,17-dione); and
(III) 5-androstenedione (androst-5-en-3,17-dione);

(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);
(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);
(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);
(x) Δ 1-dihydrotestosterone (a.k.a. ''1-testosterone'') (17β-hydroxy-5α-androst-1-en-3-one);
(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);
(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);
(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);
(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);
(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);
(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);
(xvii) 13β-ethyl-17β-hydroxygon-4-en-3-one;
(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);
(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);
(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);
(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);
(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);
(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);
(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);
(xxv) 17α-methyl-3β, 17β-dihydroxy-5α-androstane;
(xxvi) 17α-methyl-3α,17β-dihydroxy-5α-androstane;
(xxvii) 17α-methyl-3β,17β-dihydroxyandrost-4-ene.
(xxviii) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);
(xxix) methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);
(xxx) methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);
(xxxi) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);
(xxxii) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);
(xxxiii) 17α-methyl-Δ 1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. ''17-α-methyl-1-testosterone'');
(xxxiv) nandrolone (17β-hydroxyestr-4-en-3-one);
(xxxv) norandrostenediol—
(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);
(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);
(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and
(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

(xxxvi) norandrostenedione—
(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and
(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

(xxxvii) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);
(xxxviii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);
(xxxix) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);
(xl) normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);
(xli) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);
(xlii) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);
(xliii) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);
(xliv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);
(xlv) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);
(xlvi) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
(xlvii) testosterone (17β-hydroxyandrost-4-en-3-one);
(xlviii) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);
(xlix) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and
(xlx)[1] any salt, ester, or ether of a drug or substance described in this paragraph.

The substances excluded under this subparagraph may at any time be scheduled by the Attorney General in accordance with the authority and requirements of subsections (a) through (c) of section 811 of this title.

(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).

(42) The term ''international transaction'' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

[1] So in original. Probably should be ''(l)''.

(43) The terms ''broker'' and ''trader'' mean a person that assists in arranging an international transaction in a listed chemical by—

(A) negotiating contracts;

(B) serving as an agent or intermediary; or

(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.

(44) The term ''felony drug offense'' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, anabolic steroids, or depressant or stimulant substances.

(45)(A) The term ''scheduled listed chemical product'' means, subject to subparagraph (B), a product that—

(i) contains ephedrine, pseudoephedrine, or phenylpropanolamine; and

(ii) may be marketed or distributed lawfully in the United States under the Federal, Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug.

Each reference in clause (i) to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

(B) Such term does not include a product described in subparagraph (A) if the product contains a chemical specified in such subparagraph that the Attorney General has under section 811(a) of this title added to any of the schedules under section 812(c) of this title. In the absence of such scheduling by the Attorney General, a chemical specified in such subparagraph may not be considered to be a controlled substance.

(46) The term ''regulated seller'' means a retail distributor (including a pharmacy or a mobile retail vendor), except that such term does not include an employee or agent of such distributor.

(47) The term ''mobile retail vendor'' means a person or entity that makes sales at retail from a stand that is intended to be temporary, or is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility (such as a kiosk at a shopping center or an airport) or whether the stand is located on unimproved real estate (such as a lot or field leased for retail purposes).

(48) The term ''at retail'', with respect to the sale or purchase of a scheduled listed chemical product, means a sale or purchase for personal use, respectively.

(49)(A) The term ''retail distributor'' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to ephedrine, pseudoephedrine, or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

(B) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

(i) A grocery store is an entity within SIC code 5411.

(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

(iii) A drug store is an entity within SIC code 5912.

(50) The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol to such protocol, to communicate information of all kinds by wire or radio.

(51) The term ''deliver, distribute, or dispense by means of the Internet'' refers, respectively, to any delivery, distribution, or dispensing of a controlled substance that is caused or facilitated by means of the Internet.

(52) The term ''online pharmacy''—

(A) means a person, entity, or Internet site, whether in the United States or abroad, that knowingly or intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute, or dispense, a controlled substance by means of the Internet; and

(B) does not include—

(i) manufacturers or distributors registered under subsection (a), (b), (d), or (e) of section 823 of this title who do not dispense controlled substances to an unregistered individual or entity;

(ii) nonpharmacy practitioners who are registered under section 823(f) of this title and whose activities are authorized by that registration;

(iii) any hospital or other medical facility that is operated by an agency of the United States (including the Armed Forces), provided such hospital or other facility is registered under section 823(f) of this title;

(iv) a health care facility owned or operated by an Indian tribe or tribal organization, only to the extent such facility is carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.];

(v) any agent or employee of any hospital or facility referred to in clause (iii) or (iv), provided such agent or employee is lawfully acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee, with such hospital or facility, and, with respect to agents or employees of health care facilities specified in clause (iv), only to the extent such individuals are furnishing services pursuant to the contracts or compacts described in such clause;

(vi) mere advertisements that do not attempt to facilitate an actual transaction involving a controlled substance;

(vii) a person, entity, or Internet site that is not in the United States and does not facilitate the delivery, distribution, or dispensing of a controlled substance by means of the Internet to any person in the United States;

(viii) a pharmacy registered under section 823(f) of this title whose dispensing of controlled substances via the Internet consists solely of—

(I) refilling prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (55); or

(II) filling new prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (56); or

(ix) any other persons for whom the Attorney General and the Secretary have jointly, by regulation, found it to be consistent with effective controls against diversion and otherwise consistent with the public health and safety to exempt from the definition of an ''online pharmacy''.

(53) The term ''homepage'' means the opening or main page or screen of the website of an online pharmacy that is viewable on the Internet.

(54) The term ''practice of telemedicine'' means, for purposes of this subchapter, the practice of medicine in accordance with applicable Federal and State laws by a practitioner (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1395m(m) of title 42, which practice—

(A) is being conducted—

(i) while the patient is being treated by, and physically located in, a hospital or clinic registered under section 823(f) of this title; and

(ii) by a practitioner—

(I) acting in the usual course of professional practice;

(II) acting in accordance with applicable State law; and

(III) registered under section 823(f) of this title in the State in which the patient is located, unless the practitioner—

(aa) is exempted from such registration in all States under section 822(d) of this title; or

(bb) is—

(AA) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

(BB) registered under section 823(f) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(f) of this title;

(B) is being conducted while the patient is being treated by, and in the physical presence of, a practitioner—

(i) acting in the usual course of professional practice;

(ii) acting in accordance with applicable State law; and

(iii) registered under section 823(f) of this title in the State in which the patient is located, unless the practitioner—

(I) is exempted from such registration in all States under section 822(d) of this title; or

(II) is—

(aa) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

(bb) registered under section 823(f) of this title in any State or is using the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(f) of this title;

(C) is being conducted by a practitioner—

(i) who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact with the Indian Health Service under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.];

(ii) acting within the scope of the employment, contract, or compact described in clause (i); and

(iii) who is designated as an Internet Eligible Controlled Substances Provider by the Secretary under section 831(g)(2) of this title;

(D)(i) is being conducted during a public health emergency declared by the Secretary under section 247d of title 42; and

(ii) involves patients located in such areas, and such controlled substances, as the Secretary, with the concurrence of the Attorney General, designates, provided that such designation shall not be subject to the procedures prescribed by subchapter II of chapter 5 of title 5;

(E) is being conducted by a practitioner who has obtained from the Attorney General a special registration under section 831(h) of this title;

(F) is being conducted—

(i) in a medical emergency situation—

(I) that prevents the patient from being in the physical presence of a practitioner registered under section 823(f) of this title who is an employee or contractor of the Veterans Health Administration acting in the usual course of business and employment and within the scope of the official duties or contract of that employee or contractor;

(II) that prevents the patient from being physically present at a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(f) of this title;

(III) during which the primary care practitioner of the patient or a practitioner otherwise practicing telemedicine within the meaning of this paragraph is unable to provide care or consultation; and

(IV) that requires immediate intervention by a health care practitioner using controlled substances to prevent what the practitioner reasonably believes in good faith will be imminent and serious clinical consequences, such as further injury or death; and

(ii) by a practitioner that—

(I) is an employee or contractor of the Veterans Health Administration acting within the scope of that employment or contract;

(II) is registered under section 823(f) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Af-

fairs registered under section 823(f) of this title; and

(III) issues a controlled substance prescription in this emergency context that is limited to a maximum of a 5-day supply which may not be extended or refilled; or

(G) is being conducted under any other circumstances that the Attorney General and the Secretary have jointly, by regulation, determined to be consistent with effective controls against diversion and otherwise consistent with the public health and safety.

(55) The term ''refilling prescriptions for controlled substances in schedule III, IV, or V''—

(A) means the dispensing of a controlled substance in schedule III, IV, or V in accordance with refill instructions issued by a practitioner as part of a valid prescription that meets the requirements of subsections (b) and (c) of section 829 of this title, as appropriate; and

(B) does not include the issuance of a new prescription to an individual for a controlled substance that individual was previously prescribed.

(56) The term ''filling new prescriptions for controlled substances in schedule III, IV, or V'' means filling a prescription for an individual for a controlled substance in schedule III, IV, or V, if—

(A) the pharmacy dispensing that prescription has previously dispensed to the patient a controlled substance other than by means of the Internet and pursuant to the valid prescription of a practitioner that meets the applicable requirements of subsections (b) and (c) of section 829 of this title (in this paragraph referred to as the ''original prescription'');

(B) the pharmacy contacts the practitioner who issued the original prescription at the request of that individual to determine whether the practitioner will authorize the issuance of a new prescription for that individual for the controlled substance described in subparagraph (A); and

(C) the practitioner, acting in the usual course of professional practice, determines there is a legitimate medical purpose for the issuance of the new prescription.

(Pub. L. 91–513, title II, §102, Oct. 27, 1970, 84 Stat. 1242; Pub. L. 93–281, §2, May 14, 1974, 88 Stat. 124; Pub. L. 95–633, title I, §102(b), Nov. 10, 1978, 92 Stat. 3772; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96–132, §16(a), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 98–473, title II, §507(a), (b), Oct. 12, 1984, 98 Stat. 2071; Pub. L. 98–509, title III, §301(a), Oct. 19, 1984, 98 Stat. 2364; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–570, title I, §§1003(b), 1203, 1870, Oct. 27, 1986, 100 Stat. 3207–6, 3207–13, 3207–56; Pub. L. 99–646, §83, Nov. 10, 1986, 100 Stat. 3619; Pub. L. 100–690, title VI, §6054, Nov. 18, 1988, 102 Stat. 4316; Pub. L. 101–647, title XIX, §1902(b), title XXIII, §2301, title XXXV, §3599I, Nov. 29, 1990, 104 Stat. 4852, 4858, 4932; Pub. L. 103–200, §§2(a), 7–9(a), Dec. 17, 1993, 107 Stat. 2333, 2340; Pub. L. 103–322, title IX, §90105(d), title XXXIII, §330024(a), (b), (d)(1), Sept. 13, 1994, 108 Stat. 1988, 2150; Pub. L. 104–237, title II, §§204(a), 209, title IV, §401(a), (b), Oct. 3, 1996, 110 Stat. 3102, 3104, 3106, 3107; Pub. L. 104–294, title VI, §§604(b)(4), 607(j), Oct. 11, 1996, 110 Stat. 3506, 3512; Pub. L. 105–115, title I, §126(c)(3), Nov. 21, 1997, 111 Stat. 2328; Pub. L. 106–172, §§3(c), 5(a), Feb. 18, 2000, 114 Stat. 9, 10; Pub. L. 106–310, div. B, title XXXVI, §3622(a), Oct. 17, 2000, 114 Stat. 1231; Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808; Pub. L. 108–358, §2(a), Oct. 22, 2004, 118 Stat. 1661; Pub. L. 109–162, title XI, §1180, Jan. 5, 2006, 119 Stat. 3126; Pub. L. 109–177, title VII, §§711(a)(1), (2)(A), 712(a)(1), Mar. 9, 2006, 120 Stat. 256, 257, 263; Pub. L. 110–425, §3(a), Oct. 15, 2008, 122 Stat. 4821.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in pars. (6), (14), (32)(A), (52)(B)(viii), (55), and (56), are set out in section 812(c) of this title.

This subchapter, referred to in introductory provisions and in pars. (34), (35), (39)(A)(iii), (vi), and (54), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II of this chapter, referred to in par. (39)(A)(iii), (vi), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in pars. (39)(A)(iv) and (45)(A)(ii), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in pars. (52)(B)(iv) and (54)(C)(i), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

2008—Pars. (50) to (56). Pub. L. 110–425 added pars. (50) to (56).

2006—Par. (39)(A)(iv). Pub. L. 109–177, §712(a)(1)(A)(i), amended cl. (iv) generally. Prior to amendment, cl. (iv) related to transactions involving drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine.

Par. (39)(A)(v), (vi). Pub. L. 109–177, §712(a)(1)(A)(ii), (iii), added cl. (v) and redesignated former cl. (v) as (vi).

Par. (41)(A)(xvii). Pub. L. 109–162, §1180(1), substituted ''13β-ethyl-17β-hydroxygon-4-en-3-one;'' for ''13β-ethyl-17α-hydroxygon-4-en-3-one;''.

Par. (41)(A)(xliv). Pub. L. 109–162, §1180(2), substituted ''(17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);'' for ''(17α-methyl-17α-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);''.

Par. (45). Pub. L. 109–177, §§711(a)(1)(B), 712(a)(1)(B), added par. (45) and struck out former par. (45) which defined ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product''.

Pars. (46) to (48). Pub. L. 109–177, §§711(a)(1)(B), added pars. (46) to (48). Former par. (46) redesignated (49).

Par. (49). Pub. L. 109–177, §711(a)(1)(A), (2)(A), redesignated par. (46) as (49), substituted ''ephedrine, pseudoephedrine, or'' for ''pseudoephedrine or'' in subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: ''For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.''

2004—Par. (41). Pub. L. 108–358, § 2(a)(1), realigned margins, added subpar. (A), and struck out former subpar. (A) which defined ''anabolic steroid''.

Par. (44). Pub. L. 108–358, § 2(a)(2), inserted ''anabolic steroids,'' after ''marihuana,''.

2002—Pars. (43), (44). Pub. L. 107–273 repealed Pub. L. 104–294, §§ 604(b)(4), 607(j)(2). See 1996 Amendment note below.

2000—Par. (32)(A). Pub. L. 106–172, § 5(a)(1), substituted ''subparagraph (C)'' for ''subparagraph (B)'' in introductory provisions.

Par. (32)(B), (C). Pub. L. 106–172, § 5(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Par. (34)(X), (Y). Pub. L. 106–172, § 3(c), added subpar. (X) and redesignated former subpar. (X) as (Y).

Par. (39)(A)(iv)(II). Pub. L. 106–310 substituted ''9 grams'' for ''24 grams'' in two places and inserted before semicolon at end ''and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base''.

1997—Par. (9)(A). Pub. L. 105–115 redesignated cl. (i) as subpar. (A) and struck out cl. (ii) which read as follows: ''any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 352(d) of this title; or''.

1996—Par. (26). Pub. L. 104–294, § 607(j)(1), amended par. (26) generally. Prior to amendment, par. (26) read as follows: ''The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.''

Par. (34)(P), (S), (U). Pub. L. 104–237, § 209(1), substituted ''Isosafrole'' for ''Insosafrole'' in subpar. (P), ''N-Methylephedrine'' for ''N-Methylepherdrine'' in subpar. (S), and ''Hydriodic acid'' for ''Hydriotic acid'' in subpar. (U).

Par. (35)(G). Pub. L. 104–237, § 209(2), amended subpar. (G) generally, inserting ''(or Methyl Ethyl Ketone)'' before period at end.

Par. (35)(I), (J). Pub. L. 104–237, § 204(a), added subpars. (I) and (J).

Par. (39)(A)(iv)(I)(aa). Pub. L. 104–237, § 401(a)(1), (b)(1), substituted '', pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 814(e) of this title, except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996);'' for ''as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;''.

Par. (39)(A)(iv)(II). Pub. L. 104–237, § 401(a)(2), (b)(2), inserted '', pseudoephedrine, phenylpropanolamine,'' after ''ephedrine'' and inserted before semicolon '', except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 830(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction''.

Pars. (43), (44). Pub. L. 104–294, §§ 604(b)(4), 607(j)(2), which provided for amendment to section identical to Pub. L. 104–237, § 401(b)(3), below, were repealed by Pub. L. 107–273, § 4002(c)(1).

Pub. L. 104–237, § 401(b)(3), redesignated par. (43), relating to felony drug offense, as (44).

Pars. (45), (46). Pub. L. 104–237, § 401(b)(4), added pars. (45) and (46).

1994—Par. (34)(V), (W). Pub. L. 103–322, § 330024(b), realigned margins and capitalized first letter.

Par. (35). Pub. L. 103–322, § 330024(d)(1), made technical correction to directory language of Pub. L. 103–200, § 2(a)(4)(B). See 1993 Amendment note below.

Par. (39)(A)(iv)(II). Pub. L. 103–322, § 330024(a), substituted ''; or'' for period at end.

Par. (43). Pub. L. 103–322, § 90105(d), added par. (43) defining ''felony drug offense''.

1993—Par. (33). Pub. L. 103–200, § 2(a)(1), substituted ''any list I chemical or any list II chemical'' for ''any listed precursor chemical or listed essential chemical''.

Par. (34). Pub. L. 103–200, § 2(a)(2), substituted ''list I chemical'' for ''listed precursor chemical'' and ''important to the manufacture'' for ''critical to the creation'' in introductory provisions.

Par. (34)(A), (F), (H). Pub. L. 103–200, § 2(a)(3), inserted '', its esters,'' before ''and''.

Par. (34)(O). Pub. L. 103–200, § 8(1), (2), redesignated subpar. (P) as (O) and struck out former subpar. (O) which read as follows: ''D-lysergic acid.''

Par. (34)(P) to (S). Pub. L. 103–200, § 8(2), redesignated subpars. (Q) to (T) as (P) to (S), respectively. Former subpar. (P) redesignated (O).

Par. (34)(T). Pub. L. 103–200, § 8(2), redesignated subpar. (V) as (T). Former subpar. (T) redesignated (S).

Par. (34)(U). Pub. L. 103–200, § 8(1), (2), redesignated subpar. (X) as (U) and struck out former subpar. (U) which read as follows: ''N-ethylephedrine.''

Par. (34)(V). Pub. L. 103–200, § 8(2), (4), added subpar. (V) and redesignated former subpar. (V) as (T).

Par. (34)(W). Pub. L. 103–200, § 8(1), (4), added subpar. (W) and struck out former subpar. (W) which read as follows: ''N-ethylpseudoephedrine.''

Par. (34)(X). Pub. L. 103–200, § 8(2), (3), redesignated subpar. (Y) as (X) and substituted ''through (U)'' for ''through (X)''.

Par. (34)(Y). Pub. L. 103–200, § 8(2), redesignated subpar. (Y) as (X).

Par. (35). Pub. L. 103–200, § 2(a)(4)(A), (C), substituted ''list II chemical'' for ''listed essential chemical'' and struck out ''as a solvent, reagent, or catalyst'' before ''in manufacturing''.

Pub. L. 103–200, § 2(a)(4)(B), as amended by Pub. L. 103–322, § 330024(d)(1), inserted ''(other than a list I chemical)'' before ''specified'' the first time appearing.

Par. (37). Pub. L. 103–200, § 9(a), amended par. (37) generally. Prior to amendment, par. (37) read as follows: ''The term 'regular supplier' means, with respect to a regulated person, a supplier with whom the regulated person has an established business relationship that is reported to the Attorney General.''

Par. (38). Pub. L. 103–200, § 2(a)(5), inserted before period at end ''or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine''.

Par. (39)(A). Pub. L. 103–200, §§ 2(a)(6)(A), 7, in introductory provisions, substituted ''importation, or exportation of, or an international transaction involving shipment of,'' for ''importation or exportation of'' and inserted ''a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical,'' before ''a threshold amount,''.

Par. (39)(A)(iii). Pub. L. 103–200, § 2(a)(6)(B), inserted ''or any category of transaction for a specific listed chemical or chemicals'' after ''transaction''.

Par. (39)(A)(iv). Pub. L. 103–200, § 2(a)(6)(C), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or''.

Par. (39)(A)(v). Pub. L. 103–200, § 2(a)(6)(D), inserted before semicolon at end ''which the Attorney General has by regulation designated as exempt from the application of this subchapter and subchapter II of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered''.

Par. (40). Pub. L. 103–200, § 2(a)(7), substituted ''list I chemical or a list II chemical'' for ''listed precursor chemical or a listed essential chemical'' in two places.

Pars. (42), (43). Pub. L. 103–200, § 2(a)(8), added pars. (42) and (43).

1990—Par. (32)(A). Pub. L. 101–647, § 3599I, substituted ''the stimulant'' for ''the stimulent'' in cl. (ii) and ''a stimulant'' for ''a stimulent'' in cl. (iii).

Par. (34)(M) to (Y). Pub. L. 101–647, §2301(a), added subpars. (M) to (Y).

Par. (35)(E). Pub. L. 101–647, §2301(b), struck out subpar. (E) ''Hydriodic acid.''

Par. (41). Pub. L. 101–647, §1902(b), added par. (41).

1988—Par. (8). Pub. L. 100–690, §6054(1), inserted ''or a listed chemical'' after ''a controlled substance''.

Par. (11). Pub. L. 100–690, §6054(2), inserted ''or a listed chemical'' after ''a controlled substance'' in two places.

Pars. (33) to (40). Pub. L. 100–690, §6054(3), added pars. (33) to (40).

1986—Par. (6). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Par. (14). Pub. L. 99–570, §1870, and Pub. L. 99–646 amended par. (14) identically, substituting ''any optical'' for ''the optical'' in second and third sentences.

Par. (25). Pub. L. 99–570, §1003(b)(1), added par. (25). Former par. (25) redesignated (26).

Pars. (26) to (31). Pub. L. 99–570, §1003(b)(2), redesignated pars. (25) to (30) as (26) to (31), respectively.

Par. (32). Pub. L. 99–570, §1203, added par. (32).

1984—Pars. (14) to (16). Pub. L. 98–473, §507(a), added par. (14) and redesignated former pars. (14) to (16) as (15) to (17), respectively.

Par. (17). Pub. L. 98–473, §507, redesignated former par. (16) as (17), and expanded and revised definition of ''narcotic drug'', including within term poppy straw, cocaine, and ecgonine. Former par. (17) redesignated (18).

Pars. (18) to (28). Pub. L. 98–473, §507(a), redesignated former pars. (17) to (27) as (18) to (28), respectively.

Par. (29). Pub. L. 98–509 which directed the substitution of ''one hundred and eighty'' for ''twenty-one'' in par. (28), was executed to par. (29) in view of the redesignation of par. (28) as par. (29) by Pub. L. 98–473.

Pub. L. 98–473, §507(a), redesignated former par. (28) as (29). Former par. (29) redesignated (30).

Par. (30). Pub. L. 98–473, §507(a), redesignated former par. (29) as (30).

1979—Par. (4). Pub. L. 96–132 substituted provisions defining ''Drug Enforcement Administration'' for provisions defining ''Bureau of Narcotics and Dangerous Drugs''.

1978—Par. (29). Pub. L. 95–633 added par. (29).

1974—Pars. (27), (28). Pub. L. 93–281 added pars. (27) and (28).

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (24) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–425, §3(j), Oct. 15, 2008, 122 Stat. 4832, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act [enacting section 831 of this title and amending this section and sections 823, 827, 829, 841, 843, 882 and 960 of this title] shall take effect 180 days after the date of enactment of this Act [Oct. 15, 2008].

''(2) DEFINITION OF PRACTICE OF TELEMEDICINE.—

''(A) IN GENERAL.—Until the earlier of 3 months after the date on which regulations are promulgated to carry out section 311(h) of the Controlled Substances Act [21 U.S.C. 831(h)], as amended by this Act, or 15 months after the date of enactment of this Act—

''(i) the definition of the term 'practice of telemedicine' in subparagraph (B) of this paragraph shall apply for purposes of the Controlled Substances Act [21 U.S.C. 801 et seq.]; and

''(ii) the definition of the term 'practice of telemedicine' in section 102(54) of the Controlled Substances Act [21 U.S.C. 802(54)], as amended by this Act, shall not apply.

''(B) TEMPORARY PHASE-IN OF TELEMEDICINE REGULATION.—During the period specified in subparagraph (A), the term 'practice of telemedicine' means the practice of medicine in accordance with applicable Federal and State laws by a practitioner (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), if the practitioner is using an interactive telecommunications system that satisfies the requirements of section 410.78(a)(3) of title 42, Code of Federal Regulations.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create a precedent that any specific course of conduct constitutes the 'practice of telemedicine' (as that term is defined in section 102(54) of the Controlled Substances Act, as amended by this Act) after the end of the period specified in subparagraph (A).''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–358, §2(d), Oct. 22, 2004, 118 Stat. 1664, provided that: ''The amendments made by this section [amending this section, section 811 of this title, and provisions set out as a note under this section] shall take effect 90 days after the date of enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–310, div. B, title XXXVI, §3622(b), Oct. 17, 2000, 114 Stat. 1231, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect 1 year after the date of the enactment of this Act [Oct. 17, 2000].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 604(b)(4) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

Section 401(g) of Pub. L. 104–237 provided that: ''Notwithstanding any other provision of this Act [see section 1(a) of Pub. L. 104–237, set out as a Short Title of 1996 Amendments note under section 801 of this title], this section [amending this section and section 814 of this title and enacting provisions set out as a note below] shall not apply to the sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act [Oct. 3, 1996], except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 330024(f) of Pub. L. 103–322 provided that: ''The amendments made by this section [amending this section and sections 824, 960, and 971 of this title] shall take effect as of the date that is 120 days after the date of enactment of the Domestic Chemical Diversion Control Act of 1993 [Dec. 17, 1993].''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 11 of Pub. L. 103–200 provided that: ''This Act [enacting section 814 of this title, amending this section and sections 821 to 824, 830, 843, 880, 957, 958, 960, and 971 of this title, and enacting provisions set out as a note under section 801 of this title] and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act [Dec. 17, 1993].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1902(d) of Pub. L. 101–647 provided that: ''This section [amending this section and section 812 of this title and enacting provisions set out as a note under section 829 of this title] and the amendment made by this section shall take effect 90 days after the date of enactment of this Act [Nov. 29, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 6061 of title VI of Pub. L. 100–690 provided that: ''Except as otherwise provided in this subtitle, this subtitle [subtitle A (§§ 6051–6061) of title VI of Pub. L. 100–690, enacting section 971 of this title, amending this section and sections 830, 841 to 843, 872, 876, 881, 960, and 961 of this title, and enacting provisions set out as notes under this section and section 971 of this title] shall take effect 120 days after the enactment of this Act [Nov. 18, 1988].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

REGULATIONS

Pub. L. 110–425, § 3(k)(1), Oct. 15, 2008, 122 Stat. 4833, provided that: ''The Attorney General may promulgate and enforce any rules, regulations, and procedures which may be necessary and appropriate for the efficient execution of functions under this Act [see Short Title of 2008 Amendment note set out under section 801 of this title] or the amendments made by this Act, and, with the concurrence of the Secretary of Health and Human Services where this Act or the amendments made by this Act so provide, promulgate any interim rules necessary for the implementation of this Act or the amendments made by this Act, prior to its effective date [see Effective Date of 2008 Amendment note above].''

Section 301(b) of Pub. L. 98–509 provided that: ''The Secretary of Health and Human Services shall, within ninety days of the date of the enactment of this Act [Oct. 19, 1984], promulgate regulations for the administration of section 102(28) of the Controlled Substances Act [21 U.S.C. 802(29)] as amended by subsection (a) and shall include in the first report submitted under section 505(b) [503(b)] of the Public Health Service Act [former 42 U.S.C. 290aa–2(b)] after the expiration of such ninety days the findings of the Secretary with respect to the effect of the amendment made by subsection (a).''

CONSTRUCTION OF 2008 AMENDMENT

Pub. L. 110–425, § 4, Oct. 15, 2008, 122 Stat. 4834, provided that: ''Nothing in this Act [see Short Title of 2008 Amendment note set out under section 801 of this title] or the amendments made by this Act shall be construed as authorizing, prohibiting, or limiting the use of electronic prescriptions for controlled substances.''

PRESERVATION OF STATE AUTHORITY TO REGULATE SCHEDULED LISTED CHEMICALS

Pub. L. 109–177, title VII, § 711(g), Mar. 9, 2006, 120 Stat. 263, provided that: ''This section [amending this section and sections 830, 841, 842, and 844 of this title and enacting provisions set out as notes under sections 830 and 844 of this title] and the amendments made by this section may not be construed as having any legal effect on section 708 of the Controlled Substances Act [21 U.S.C. 903] as applied to the regulation of scheduled listed chemicals (as defined in section 102(45) of such Act [21 U.S.C. 802(45)]).''

REPORT ON DIVERSION OF ORDINARY, OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS

Pub. L. 106–310, div. B, title XXXVI, § 3642, Oct. 17, 2000, 114 Stat. 1237, provided that:

''(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:

''(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.

''(2) Information submitted voluntarily from the pharmaceutical and retail industries involved in the manufacture, distribution, and sale of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, including information on changes in the pattern, volume, or both, of sales of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products.

''(b) REPORT.—

''(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act [Oct. 17, 2000], the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

''(2) ELEMENTS.—The report shall include—

''(A) the findings of the Attorney General as a result of the study; and

''(B) such recommendations on the need to establish additional measures to prevent diversion of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine (such as a threshold on ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products) as the Attorney General considers appropriate.

''(3) MATTERS CONSIDERED.—In preparing the report, the Attorney General shall consider the comments and recommendations including the comments on the Attorney General's proposed findings and recommendations, of State and local law enforcement and regulatory officials and of representatives of the industry described in subsection (a)(2).

''(c) REGULATION OF RETAIL SALES.—

''(1) IN GENERAL.—Notwithstanding section 401(d) of the Comprehensive Methamphetamine Control Act of 1996 [Pub. L. 104–237] (21 U.S.C. 802 note) and subject to paragraph (2), the Attorney General shall establish by regulation a single-transaction limit of not less than 24 grams of ordinary, over-the-counter pseudoephedrine or phenylpropanolamine (as the case may be) for retail distributors, if the Attorney General finds, in the report under subsection (b), that—

''(A) there is a significant number of instances (as set forth in paragraph (3)(A) of such section 401(d) for purposes of such section) where ordinary, over-the-counter pseudoephedrine products, phenylpropanolamine products, or both such products that were purchased from retail distributors were widely used in the clandestine production of illicit drugs; and

''(B) the best practical method of preventing such use is the establishment of single-transaction limits for retail distributors of either or both of such products.

''(2) DUE PROCESS.—The Attorney General shall establish the single-transaction limit under paragraph

(1) only after notice, comment, and an informal hearing.''

REGULATION OF RETAIL SALES OF CERTAIN PRECURSOR CHEMICALS; EFFECT ON THRESHOLDS; COMBINATION EPHEDRINE PRODUCTS

Pub. L. 104–237, title IV, §401(d)–(f), Oct. 3, 1996, 110 Stat. 3108, which authorized the Attorney General to establish a single-transaction limit of 24 grams for pseudoephedrine, phenylpropanolamine, and combination ephedrine products for retail distributors, was repealed by Pub. L. 109–177, title VII, §712(b), Mar. 9, 2006, 120 Stat. 264.

EXEMPTION FOR SUBSTANCES IN PARAGRAPH (41)

Pub. L. 101–647, title XIX, §1903, Nov. 29, 1990, 104 Stat. 4853, as amended by Pub. L. 108–358, §2(c), Oct. 22, 2004, 118 Stat. 1663, provided that:

''(a) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 [1902] of this Act) is—

''(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

''(2) does not have a significant potential for abuse, the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

''(b) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act [Nov. 29, 1990], except that the regulations required under section 3(a) [former 1903(a)] shall be issued not later than 180 days after the date of enactment of this Act.''

§803. Repealed. Pub. L. 95–137, §1(b), Oct. 18, 1977, 91 Stat. 1169

Section, Pub. L. 91–513, title II, §103, Oct. 27, 1970, 84 Stat. 1245, authorized Bureau of Narcotics and Dangerous Drugs to add, during fiscal year 1971, 300 agents, together with necessary supporting personnel, and provided for appropriations of $6,000,000 to carry out such addition.

PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

§811. Authority and criteria for classification of substances

(a) Rules and regulations of Attorney General; hearing

The Attorney General shall apply the provisions of this subchapter to the controlled substances listed in the schedules established by section 812 of this title and to any other drug or other substance added to such schedules under this subchapter. Except as provided in subsections (d) and (e) of this section, the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by subchapter II of chapter 5 of title 5. Proceedings for the issuance, amendment, or repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

(b) Evaluation of drugs and other substances

The Attorney General shall, before initiating proceedings under subsection (a) of this section to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) of this section and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a) of this section.

(c) Factors determinative of control or removal from schedules

In making any finding under subsection (a) of this section or under subsection (b) of section 812 of this title, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

(1) Its actual or relative potential for abuse.

(2) Scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the drug or other substance.

(4) Its history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) What, if any, risk there is to the public health.

(7) Its psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

(d) International treaties, conventions, and protocols requiring control; procedures respecting changes in drug schedules of Convention on Psychotropic Substances

(1) If control is required by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section.

(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health and Human Services who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health and Human Services shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health and Human Services of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health and Human Services shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a ''schedule notice'') that existing legal controls applicable under this subchapter to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health and Human Services after consultation with the Attorney General, shall first determine whether existing legal controls under this subchapter applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

(A) If such requirements are met by such existing controls but the Secretary of Health and Human Services nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

(B) If such requirements are not met by such existing controls and the Secretary of Health and Human Services concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

(C) If such requirements are not met by such existing controls and the Secretary of Health and Human Services does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

(4)(A) If the Attorney General determines, after consultation with the Secretary of Health

and Human Services, that proceedings initiated under recommendations made under paragraph[1] (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health and Human Services and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

(i) the decision is reversed, and

(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 812(b) of this title and without regard to the procedures prescribed by subsection (a) or (b) of this section.

(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health and Human Services or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.

(e) Immediate precursors

The Attorney General may, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

(f) Abuse potential

If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

(g) Exclusion of non-narcotic substances sold over the counter without a prescription; dextromethorphan; exemption of substances lacking abuse potential

(1) The Attorney General shall by regulation exclude any non-narcotic drug which contains a controlled substance from the application of this subchapter and subchapter II of this chapter if such drug may, under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], be lawfully sold over the counter without a prescription.

[1] So in original. Probably should be ''subparagraph''.

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this subchapter unless controlled after October 27, 1970 pursuant to the foregoing provisions of this section.

(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this subchapter if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.

(h) Temporary scheduling to avoid imminent hazards to public safety

(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) of this section relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 812 of this title or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]. Such an order may not be issued before the expiration of thirty days from—

(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

(B) the date the Attorney General has transmitted the notice required by paragraph (4).

(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) of this section with respect to the substance, extend the temporary scheduling for up to six months.

(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c) of this section, including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) of this section with respect to such substance.

(6) An order issued under paragraph (1) is not subject to judicial review.

(Pub. L. 91–513, title II, § 201, Oct. 27, 1970, 84 Stat. 1245; Pub. L. 95–633, title I, § 102(a), Nov. 10, 1978, 92 Stat. 3769; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98–473, title II, §§ 508, 509(a), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 108–358, § 2(b), Oct. 22, 2004, 118 Stat. 1663.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (c)(8), (d)(3), (4)(A), (B), and (g)(2), (3), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (d)(3) and (g)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules I, IV, and V, referred to in subsecs. (d)(4)(A), (B), and (h)(1), are set out in section 812(c) of this title.

The Psychotropic Substances Act of 1978, referred to in subsec. (d)(5), is Pub. L. 95–633, Nov. 10, 1978, 92 Stat. 3768, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

This subchapter and subchapter II of this chapter, referred to in subsec. (g)(1), was in the original ''titles II and III of the Comprehensive Drug Abuse Prevention and Control Act'', which was translated as meaning titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, 1285, as amended, to reflect the probable intent of Congress. Title II is classified principally to this subchapter and part A of title III comprises subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title notes set out under section 801 of this title and Tables.

AMENDMENTS

2004—Subsec. (g)(1). Pub. L. 108–358, § 2(b)(1), substituted ''drug which contains a controlled substance

from the application of this subchapter and subchapter II of this chapter if such drug'' for ''substance from a schedule if such substance''.

Subsec. (g)(3)(C). Pub. L. 108–358, § 2(b)(2), added subpar. (C).

1984—Subsec. (g)(3). Pub. L. 98–473, § 509(a), added par. (3).

Subsec. (h). Pub. L. 98–473, § 508, added subsec. (h).

1978—Subsec. (d). Pub. L. 95–633 designated existing provisions as par. (1) and added pars. (2) to (5).

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (d)(2), (3), (4)(A), (B), (5) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–358 effective 90 days after Oct. 22, 2004, see section 2(d) of Pub. L. 108–358, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 812. Schedules of controlled substances

(a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.

(b) Placement on schedules; findings required

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended[1] pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.[2]
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.

[1] Revised schedules are published in the Code of Federal Regulations, Part 1308 of Title 21, Food and Drugs.

[2] So in original. Probably should be ''Alphacetylmethadol.''

(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Propheptazine.
(40) Properidine.
(41) Racemoramide.
(42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-diamethoxyamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marihuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

SCHEDULE II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
(3) Opium poppy and poppy straw.
(4) coca[3] leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphan.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(14) Pethidine.
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

[3] So in original. Probably should be capitalized.

(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SCHEDULE III

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
(2) Phenmetrazine and its salts.
(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
(4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
(2) Chorhexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methyprylon.
(7) Phencyclidine.
(8) Sulfondiethylmethane.
(9) Sulfonethylmethane.
(10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Anabolic steroids.

SCHEDULE IV

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

SCHEDULE V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(Pub. L. 91–513, title II, §202, Oct. 27, 1970, 84 Stat. 1247; Pub. L. 95–633, title I, §103, Nov. 10, 1978, 92 Stat. 3772; Pub. L. 98–473, title II, §§507(c), 509(b), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 99–570, title I, §1867, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, §84, Nov. 10, 1986, 100 Stat. 3619; Pub. L. 101–647, title XIX, §1902(a), Nov. 29, 1990, 104 Stat. 4851.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–647 added item (e) at end of schedule III.

1986—Subsec. (c). Pub. L. 99–646 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows: ''Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.''

Pub. L. 99–570 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows:

''Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.''

1984—Subsec. (c). Pub. L. 98–473, § 507(c), in schedule II(a)(4) added applicability to cocaine and ecgonine and their salts, isomers, etc.

Subsec. (d). Pub. L. 98–473, § 509(b), struck out subsec. (d) which related to authority of Attorney General to except stimulants or depressants containing active medicinal ingredients.

1978—Subsec. (d)(3). Pub. L. 95–633 added cl. (3).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–647 effective 90 days after Nov. 29, 1990, see section 1902(d) of Pub. L. 101–647, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

CONGRESSIONAL FINDING; EMERGENCY SCHEDULING OF GHB IN CONTROLLED SUBSTANCES ACT

Pub. L. 106–172, §§ 2, 3(a), Feb. 18, 2000, 114 Stat. 7, 8, provided that:

''SEC. 2. FINDINGS.

''Congress finds as follows:

''(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

''(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid (''GHB'') is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

''(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

''(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

''(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

''(6) Abuse of illicit GHB is an imminent hazard to public safety that requires immediate regulatory action under the Controlled Substances Act (21 U.S.C. 801 et seq.).

''SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXYBUTYRIC ACID AND LISTING OF GAMMA BUTYROLACTONE AS LIST I CHEMICAL.

''(a) EMERGENCY SCHEDULING OF GHB.—

''(1) IN GENERAL.—The Congress finds that the abuse of illicit gamma hydroxybutyric acid is an imminent hazard to the public safety. Accordingly, the Attorney General, notwithstanding sections 201(a), 201(b), 201(c), and 202 of the Controlled Substances Act [21 U.S.C. 811(a)–(c), 812], shall issue, not later than 60 days after the date of the enactment of this Act [Feb. 18, 2000], a final order that schedules such drug (together with its salts, isomers, and salts of isomers) in the same schedule under section 202(c) of the Controlled Substances Act as would apply to a scheduling of a substance by the Attorney General under section 201(h)(1) of such Act (relating to imminent hazards to the public safety), except as follows:

''(A) For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, the final order shall treat such drug, when the drug is manufactured, distributed, or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(i)] (whether the exemption involved is authorized before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), as being in the same schedule as that recommended by the Secretary of Health and Human Services for the drug when the drug is the subject of an authorized investigational new drug application (relating to such section 505(i)). The recommendation referred to in the preceding sentence is contained in the first paragraph of the letter transmitted on May 19, 1999, by such Secretary (acting through the Assistant Secretary for Health) to the Attorney General (acting through the Deputy Administrator of the Drug Enforcement Administration), which letter was in response to the letter transmitted by the Attorney General (acting through such Deputy Administrator) on September 16, 1997. In publishing the final order in the Federal Register, the Attorney General shall publish a copy of the letter that was transmitted by the Secretary of Health and Human Services.

''(B) In the case of gamma hydroxybutyric acid that is contained in a drug product for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] (whether the application involved is approved before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), the final order shall schedule such drug in the same schedule as that recommended by the Secretary of Health and Human Services for authorized formulations of the drug. The recommendation referred to in the preceding sentence is contained in the last sentence of the fourth paragraph of the letter referred to in subparagraph (A) with respect to May 19, 1999.

''(2) FAILURE TO ISSUE ORDER.—If the final order is not issued within the period specified in paragraph (1), gamma hydroxybutyric acid (together with its salts, isomers, and salts of isomers) is deemed to be scheduled under section 202(c) of the Controlled Substances Act [21 U.S.C. 812(c)] in accordance with the policies described in paragraph (1), as if the Attorney General had issued a final order in accordance with such paragraph.''

PLACEMENT OF PIPRADROL AND SPA IN SCHEDULE IV TO CARRY OUT OBLIGATION UNDER CONVENTION ON PSYCHOTROPIC SUBSTANCES

Section 102(c) of Pub. L. 95–633 provided that: ''For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by

order, made without regard to sections 201 and 202 of the Controlled Substances Act [this section and section 811 of this title], place such drugs in schedule IV of such Act [see subsec. (c) of this section].''

Provision of section 102(c) of Pub. L. 95–633, set out above, effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 813. Treatment of controlled substance analogues

A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in schedule I.

(Pub. L. 91–513, title II, § 203, as added Pub. L. 99–570, title I, § 1202, Oct. 27, 1986, 100 Stat. 3207–13; amended Pub. L. 100–690, title VI, § 6470(c), Nov. 18, 1988, 102 Stat. 4378.)

REFERENCES IN TEXT

Schedule I, referred to in text, is set out in section 812(c) of this title.

AMENDMENTS

1988—Pub. L. 100–690 substituted ''any Federal law'' for ''this subchapter and subchapter II of this chapter''.

§ 814. Removal of exemption of certain drugs

(a) Removal of exemption

The Attorney General shall by regulation remove from exemption under section 802(39)(A)(iv) of this title a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

(b) Factors to be considered

In removing a drug or group of drugs from exemption under subsection (a) of this section, the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

(1) the scope, duration, and significance of the diversion;

(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

(c) Specificity of designation

The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) of this section to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

(d) Reinstatement of exemption with respect to particular drug products

(1) Reinstatement

On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a) of this section, the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

(2) Factors to be considered

In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

(A) the package sizes and manner of packaging of the drug product;

(B) the manner of distribution and advertising of the drug product;

(C) evidence of diversion of the drug product;

(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) of this section as applied to the drug product.

(3) Status pending application for reinstatement

A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) of this section shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

(A) the Attorney General has evidence that, applying the factors described in subsection (b) of this section to the drug product, the drug product is being diverted; and

(B) the Attorney General so notifies the applicant.

(4) Amendment and modification

A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

(A) applying the factors described in subsection (b) of this section to the drug product, the drug product is being diverted; or

(B) there is a significant change in the data that led to the issuance of the regulation.

(Pub. L. 91–513, title II, § 204, as added Pub. L. 103–200, § 2(b)(1), Dec. 17, 1993, 107 Stat. 2334; amended Pub. L. 104–237, title IV, § 401(c), Oct. 3, 1996, 110 Stat. 3108; Pub. L. 109–177, title VII, § 712(a)(2), Mar. 9, 2006, 120 Stat. 263.)

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–177 struck out subsec. (e). Text read as follows: ''Pursuant to subsection (d)(1) of this section, the Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed

in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2) of this section. Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4) of this section.''

1996—Subsec. (e). Pub. L. 104–237 added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–237 not applicable to sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after Oct. 3, 1996, except that, on application of manufacturer of particular drug product, Attorney General may exercise sole and judicially unreviewable discretion to extend such effective date up to additional 6 months, see section 401(g) of Pub. L. 104–237, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as an Effective Date of 1993 Amendment note under section 802 of this title.

PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

§ 821. Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to listed chemicals.

(Pub. L. 91–513, title II, § 301, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 103–200, § 3(a), Dec. 17, 1993, 107 Stat. 2336; Pub. L. 108–447, div. B, title VI, § 633(b), Dec. 8, 2004, 118 Stat. 2922.)

AMENDMENTS

2004—Pub. L. 108–447 substituted ''listed chemicals'' for ''the registration and control of regulated persons and of regulated transactions''.

1993—Pub. L. 103–200 inserted before period at end ''and to the registration and control of regulated persons and of regulated transactions''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

§ 822. Persons required to register

(a) Period of registration

(1) Every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.

(b) Authorized activities

Persons registered by the Attorney General under this subchapter to manufacture, distribute, or dispense controlled substances or list I chemicals are authorized to possess, manufacture, distribute, or dispense such substances or chemicals (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this subchapter.

(c) Exceptions

The following persons shall not be required to register and may lawfully possess any controlled substance or list I chemical under this subchapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance or list I chemical if such agent or employee is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance or list I chemical is in the usual course of his business or employment.

(3) An ultimate user who possesses such substance for a purpose specified in section 802(25)[1] of this title.

(d) Waiver

The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

(e) Separate registration

A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances or list I chemicals.

(f) Inspection

The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

(Pub. L. 91–513, title II, § 302, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 98–473, title II, § 510, Oct. 12, 1984, 98 Stat. 2072; Pub. L. 103–200, § 3(b), Dec. 17, 1993, 107 Stat. 2336.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (b) and (c), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Section 802(25) of this title, referred to in subsec. (c)(3), was redesignated section 802(26) of this title by Pub. L. 98–473, title II, § 507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99–570, title I, § 1003(b)(2), Oct. 27, 1986, 100 Stat. 3207–6.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–200, § 3(b)(1), inserted ''or list I chemical'' after ''controlled substance'' in two places.

Subsec. (b). Pub. L. 103–200, § 3(b)(2), inserted ''or list I chemicals'' after ''controlled substances'' and ''or chemicals'' after ''such substances''.

[1] See References in Text note below.

Subsec. (c). Pub. L. 103–200, § 3(b)(3), inserted ''or list I chemical'' after ''controlled substance'' wherever appearing.

Subsec. (e). Pub. L. 103–200, § 3(b)(4), inserted ''or list I chemicals'' after ''controlled substances''.

1984—Subsec. (a). Pub. L. 98–473 designated existing provisions as par. (1), struck out provisions relating to dispensing controlled substances, and added par. (2).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

PROVISIONAL REGISTRATION

Section 703 of Pub. L. 91–513, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a)(1) Any person who—

''(A) is engaged in manufacturing, distributing, or dispensing any controlled substance on the day before the effective date of section 302 [this section], and

''(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section 360 of this title] or under section 4722 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4722 of Title 26],

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 303 [section 823 of this title] for the manufacture, distribution, or dispensing (as the case may be) of controlled substances.

''(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 [section 360 of this title] or under such section 4722 [section 4722 of Title 26] (as the case may be) shall be his registration number for purposes of section 303 of this title [section 823 of this title].

''(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

''(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

''(1) the date on which such person has registered with the Attorney General under section 303 [section 823 of this title] or has had his registration denied under such section, or

''(2) such date as may be prescribed by the Attorney General for registration of manufacturers, distributors, or dispensers, as the case may be,

whichever occurs first.''

§ 823. Registration requirements

(a) Manufacturers of controlled substances in schedule I or II

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(b) Distributors of controlled substances in schedule I or II

The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(c) Limits of authorized activities

Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 826 of this title.

(d) Manufacturers of controlled substances in schedule III, IV, or V

The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(e) Distributors of controlled substances in schedule III, IV, or V

The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(f) Research by practitioners; pharmacies; research applications; construction of Article 7 of the Convention on Psychotropic Substances

The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedule II, III, IV, or V and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration or such modification of registration if the Attorney General determines that the issuance of such registration or modification would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 824(a) of this title. Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this subchapter.

(g) Practitioners dispensing narcotic drugs for narcotic treatment; annual registration; separate registration; qualifications; waiver

(1) Except as provided in paragraph (2), practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment (or both)

(A) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;

(B) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (i) security of stocks of narcotic drugs for such treatment, and (ii) the maintenance of records (in accordance with section 827 of this title) on such drugs; and

(C) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(2)(A) Subject to subparagraphs (D) and (J), the requirements of paragraph (1) are waived in the case of the dispensing (including the prescribing), by a practitioner, of narcotic drugs in schedule III, IV, or V or combinations of such drugs if the practitioner meets the conditions specified in subparagraph (B) and the narcotic drugs or combinations of such drugs meet the conditions specified in subparagraph (C).

(B) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to a practitioner are that, before the initial dispensing of narcotic drugs in schedule III, IV, or V or combinations of such drugs to patients for maintenance or detoxification treatment, the practitioner submit to the Secretary a notification of the intent of the practitioner to begin dispensing the drugs or combinations for such purpose, and that the notification contain the following certifications by the practitioner:

(i) The practitioner is a qualifying physician (as defined in subparagraph (G)).

(ii) With respect to patients to whom the practitioner will provide such drugs or combinations of drugs, the practitioner has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

(iii) The total number of such patients of the practitioner at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. A second notification under this clause shall contain the certifications required by clauses (i) and (ii) of this subparagraph. The Secretary may by regulation change such total number.

(C) For purposes of subparagraph (A), the conditions specified in this subparagraph with respect to narcotic drugs in schedule III, IV, or V or combinations of such drugs are as follows:

(i) The drugs or combinations of drugs have, under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] or section 262 of title 42, been approved for use in maintenance or detoxification treatment.

(ii) The drugs or combinations of drugs have not been the subject of an adverse determination. For purposes of this clause, an adverse determination is a determination published in the Federal Register and made by the Secretary, after consultation with the Attorney General, that the use of the drugs or combinations of drugs for maintenance or detoxification treatment requires additional standards respecting the qualifications of practitioners to provide such treatment, or requires standards respecting the quantities of the drugs that may be provided for unsupervised use.

(D)(i) A waiver under subparagraph (A) with respect to a practitioner is not in effect unless (in addition to conditions under subparagraphs (B) and (C)) the following conditions are met:

(I) The notification under subparagraph (B) is in writing and states the name of the practitioner.

(II) The notification identifies the registration issued for the practitioner pursuant to subsection (f) of this section.

(III) If the practitioner is a member of a group practice, the notification states the names of the other practitioners in the practice and identifies the registrations issued for the other practitioners pursuant to subsection (f) of this section.

(ii) Upon receiving a notification under subparagraph (B), the Attorney General shall assign the practitioner involved an identification number under this paragraph for inclusion with the registration issued for the practitioner pursuant to subsection (f) of this section. The identification number so assigned shall be appropriate to preserve the confidentiality of patients for whom the practitioner has dispensed narcotic drugs under a waiver under subparagraph (A).

(iii) Not later than 45 days after the date on which the Secretary receives a notification under subparagraph (B), the Secretary shall make a determination of whether the practitioner involved meets all requirements for a waiver under subparagraph (B). If the Secretary fails to make such determination by the end of the such 45-day period, the Attorney General shall assign the physician an identification number described in clause (ii) at the end of such period.

(E)(i) If a practitioner is not registered under paragraph (1) and, in violation of the conditions specified in subparagraphs (B) through (D), dispenses narcotic drugs in schedule III, IV, or V or combinations of such drugs for maintenance treatment or detoxification treatment, the Attorney General may, for purposes of section 824(a)(4) of this title, consider the practitioner to have committed an act that renders the registration of the practitioner pursuant to subsection (f) of this section to be inconsistent with the public interest.

(ii)(I) Upon the expiration of 45 days from the date on which the Secretary receives a notification under subparagraph (B), a practitioner who in good faith submits a notification under subparagraph (B) and reasonably believes that the conditions specified in subparagraphs (B) through (D) have been met shall, in dispensing narcotic drugs in schedule III, IV, or V or combinations of such drugs for maintenance treatment or detoxification treatment, be considered to have a waiver under subparagraph (A) until notified otherwise by the Secretary, except that such a practitioner may commence to prescribe or dispense such narcotic drugs for such purposes prior to the expiration of such 45-day period if it facilitates the treatment of an individual patient and both the Secretary and the Attorney General are notified by the practitioner of the intent to commence prescribing or dispensing such narcotic drugs.

(II) For purposes of subclause (I), the publication in the Federal Register of an adverse determination by the Secretary pursuant to subparagraph (C)(ii) shall (with respect to the narcotic drug or combination involved) be considered to be a notification provided by the Secretary to practitioners, effective upon the expiration of the 30-day period beginning on the date on which the adverse determination is so published.

(F)(i) With respect to the dispensing of narcotic drugs in schedule III, IV, or V or combinations of such drugs to patients for maintenance or detoxification treatment, a practitioner may, in his or her discretion, dispense such drugs or combinations for such treatment under a registration under paragraph (1) or a waiver under subparagraph (A) (subject to meeting the applicable conditions).

(ii) This paragraph may not be construed as having any legal effect on the conditions for obtaining a registration under paragraph (1), including with respect to the number of patients who may be served under such a registration.

(G) For purposes of this paragraph:

(i) The term ''group practice'' has the meaning given such term in section 1395nn(h)(4) of title 42.

(ii) The term ''qualifying physician'' means a physician who is licensed under State law and who meets one or more of the following conditions:

(I) The physician holds a subspecialty board certification in addiction psychiatry from the American Board of Medical Specialties.

(II) The physician holds an addiction certification from the American Society of Addiction Medicine.

(III) The physician holds a subspecialty board certification in addiction medicine from the American Osteopathic Association.

(IV) The physician has, with respect to the treatment and management of opiate-dependent patients, completed not less than eight hours of training (through classroom situations, seminars at professional society meetings, electronic communications, or otherwise) that is provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Secretary determines is appropriate for purposes of this subclause.

(V) The physician has participated as an investigator in one or more clinical trials leading to the approval of a narcotic drug in schedule III, IV, or V for maintenance or detoxification treatment, as demonstrated by a statement submitted to the Secretary by the sponsor of such approved drug.

(VI) The physician has such other training or experience as the State medical licensing board (of the State in which the physician will provide maintenance or detoxification treatment) considers to demonstrate the ability of the physician to treat and manage opiate-dependent patients.

(VII) The physician has such other training or experience as the Secretary considers to demonstrate the ability of the physician to treat and manage opiate-dependent patients. Any criteria of the Secretary under this subclause shall be established by regulation. Any such criteria are effective only for 3 years after the date on which the criteria are promulgated, but may be extended for such additional discrete 3-year periods as the Secretary considers appropriate for purposes of this subclause. Such an extension of criteria may only be effectuated through a statement published in the Federal Register by the Secretary during the 30-day period preceding the end of the 3-year period involved.

(H)(i) In consultation with the Administrator of the Drug Enforcement Administration, the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the National Institute on Drug Abuse, and the Commissioner of Food and Drugs, the Secretary shall issue regulations (through notice and comment rulemaking) or issue practice guidelines to address the following:

(I) Approval of additional credentialing bodies and the responsibilities of additional credentialing bodies.

(II) Additional exemptions from the requirements of this paragraph and any regulations under this paragraph.

Nothing in such regulations or practice guidelines may authorize any Federal official or employee to exercise supervision or control over the practice of medicine or the manner in which medical services are provided.

(ii) Not later than 120 days after October 17, 2000, the Secretary shall issue a treatment improvement protocol containing best practice guidelines for the treatment and maintenance of opiate-dependent patients. The Secretary shall develop the protocol in consultation with the Director of the National Institute on Drug Abuse, the Administrator of the Drug Enforcement Administration, the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration and other substance abuse disorder professionals. The protocol shall be guided by science.

(I) During the 3-year period beginning on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribing such drug, or combination of such drugs, to patients for maintenance or detoxification treatment in accordance with this paragraph unless, before the expiration of that 3-year period, the State enacts a law prohibiting a practitioner from dispensing such drugs or combinations of drug.[1]

(J)(i) This paragraph takes effect the date referred to in subparagraph (I), and remains in effect thereafter.

(ii) For purposes relating to clause (iii), the Secretary and the Attorney General may, during the 3-year period beginning on December 29, 2006, make determinations in accordance with the following:

(I) The Secretary may make a determination of whether treatments provided under waivers under subparagraph (A) have been effective forms of maintenance treatment and detoxification treatment in clinical settings; may make a determination of whether such waivers have significantly increased (relative to the beginning of such period) the availability of maintenance treatment and detoxification treatment; and may make a determination of whether such waivers have adverse consequences for the public health.

(II) The Attorney General may make a determination of the extent to which there have been violations of the numerical limitations established under subparagraph (B) for the number of individuals to whom a practitioner may provide treatment; may make a determination of whether waivers under subpara-

[1] So in original. Probably should be ''combinations of drugs.''.

graph (A) have increased (relative to the beginning of such period) the extent to which narcotic drugs in schedule III, IV, or V or combinations of such drugs are being dispensed or possessed in violation of this chapter; and may make a determination of whether such waivers have adverse consequences for the public health.

(iii) If, before the expiration of the period specified in clause (ii), the Secretary or the Attorney General publishes in the Federal Register a decision, made on the basis of determinations under such clause, that subparagraph (B)(iii) should be applied by limiting the total number of patients a practitioner may treat to 30, then the provisions in such subparagraph (B)(iii) permitting more than 30 patients shall not apply, effective 60 days after the date on which the decision is so published. The Secretary shall in making any such decision consult with the Attorney General, and shall in publishing the decision in the Federal Register include any comments received from the Attorney General for inclusion in the publication. The Attorney General shall in making any such decision consult with the Secretary, and shall in publishing the decision in the Federal Register include any comments received from the Secretary for inclusion in the publication.

(h) Applicants for distribution of list I chemicals

The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under clause (iv) or (v) of section 802(39)(A) of this title. In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance by the applicant with applicable Federal, State, and local law;

(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) such other factors as are relevant to and consistent with the public health and safety.

(Pub. L. 91–513, title II, §303, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 93–281, §3, May 14, 1974, 88 Stat. 124; Pub. L. 95–633, title I, §109, Nov. 10, 1978, 92 Stat. 3773; Pub. L. 98–473, title II, §511, Oct. 12, 1984, 98 Stat. 2073; Pub. L. 103–200, §3(c), Dec. 17, 1993, 107 Stat. 2336; Pub. L. 106–310, div. B, title XXXV, §3502(a), Oct. 17, 2000, 114 Stat. 1222; Pub. L. 107–273, div. B, title II, §2501, Nov. 2, 2002, 116 Stat. 1803; Pub. L. 109–56, §1(a), (b), Aug. 2, 2005, 119 Stat. 591; Pub. L. 109–177, title VII, §712(a)(3), Mar. 9, 2006, 120 Stat. 263; Pub. L. 109–469, title XI, §1102, Dec. 29, 2006, 120 Stat. 3540; Pub. L. 110–425, §3(b), Oct. 15, 2008, 122 Stat. 4824.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a) to (f) and (g)(2), are set out in section 812(c) of this title.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (g)(2)(C)(i), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

This chapter, referred to in subsec. (g)(2)(J)(ii)(II), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

2008—Subsec. (f). Pub. L. 110–425, in introductory provisions, inserted ''and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet'' after ''schedule II, III, IV, or V'' and substituted ''or such modification of registration if the Attorney General determines that the issuance of such registration or modification'' for ''if he determines that the issuance of such registration''.

2006—Subsec. (g)(2)(B)(iii). Pub. L. 109–469, §1102(1), substituted ''unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. A second notification under this clause shall contain the certifications required by clauses (i) and (ii) of this subparagraph. The'' for ''except that the''.

Subsec. (g)(2)(J)(i). Pub. L. 109–469, §1102(2)(A), substituted ''thereafter.'' for ''thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).''

Subsec. (g)(2)(J)(ii). Pub. L. 109–469, §1102(2)(B), substituted ''December 29, 2006'' for ''October 17, 2000'' in introductory provisions.

Subsec. (g)(2)(J)(iii). Pub. L. 109–469, §1102(2)(C), substituted ''subparagraph (B)(iii) should be applied by limiting the total number of patients a practitioner may treat to 30, then the provisions in such subparagraph (B)(iii) permitting more than 30 patients shall not apply, effective'' for ''this paragraph should not remain in effect, this paragraph ceases to be in effect''.

Subsec. (h). Pub. L. 109–177 substituted ''clause (iv) or (v) of section 802(39)(A) of this title'' for ''section 802(39)(A)(iv) of this title'' in introductory provisions.

2005—Subsec. (g)(2)(B)(iii). Pub. L. 109–56, §1(b), substituted ''The total'' for ''In any case in which the practitioner is not in a group practice, the total''.

Subsec. (g)(2)(B)(iv). Pub. L. 109–56, §1(a), struck out cl. (iv) which read as follows: ''In any case in which the practitioner is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of practitioners in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.''

2002—Subsec. (g)(2)(I). Pub. L. 107–273, §2501(1), which directed the substitution of ''on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribing such drug, or combination of such drugs,'' for ''on October 17, 2000, a State may not preclude a practitioner from dispensing or prescribing drugs in schedule III, IV, or V, or combinations of such drugs,'', was executed by making the substitution for the phrase which in the original began

with ''on the date of the enactment of the Drug Addiction Treatment Act of 2000,'' rather than the editorial translation ''on October 17, 2000,'' to reflect the probable intent of Congress.

Subsec. (g)(2)(J)(i). Pub. L. 107–273, § 2501(2), which directed the substitution of ''the date referred to in subparagraph (I),'' for ''October 17, 2000,'' was executed by making the substitution for text which in the original read ''the date of the enactment of the Drug Addiction Treatment Act of 2000,'' rather than the editorial translation ''October 17, 2000,'' to reflect the probable intent of Congress.

2000—Subsec. (g). Pub. L. 106–310 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), practitioners who dispense'' for ''Practitioners who dispense'', redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1) and redesignated former subpars. (A) and (B) of former par. (2) as cls. (i) and (ii), respectively, of subpar. (B) of par. (1), and added par. (2).

1993—Subsec. (h). Pub. L. 103–200 added subsec. (h).

1984—Subsec. (f). Pub. L. 98–473 amended subsec. (f) generally, substituting provisions relating to registration authority of Attorney General respecting dispensation or conduct of research with controlled research, and separate authority of Secretary respecting registration, for provisions relating to general registration requirements respecting dispensation or conduct of research with controlled or nonnarcotic controlled substances.

1978—Subsec. (f). Pub. L. 95–633 inserted provision relating to the construction of the Convention on Psychotropic Substances.

1974—Subsec. (g). Pub. L. 93–281 added subsec. (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–56, § 1(c), Aug. 2, 2005, 119 Stat. 591, provided that: ''This section [amending this section] shall take effect on the date of enactment of this Act [Aug. 2, 2005].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

PROVISIONAL REGISTRATION

For provisional registration of persons engaged in manufacturing, distributing, or dispensing of controlled substances on the day before the effective date of section 822 of this title who are registered on such date under section 360 of this title or section 4722 of Title 26, Internal Revenue Code, see section 703 of Pub. L. 91–513, set out as a note under section 822 of this title.

§ 824. Denial, revocation, or suspension of registration

(a) Grounds

A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance or a list I chemical may be suspended or revoked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance or a list I chemical;

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or list I chemicals or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of title 42.

A registration pursuant to section 823(g)(1) of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(g)(1) of this title.

(b) Limits of revocation or suspension

The Attorney General may limit revocation or suspension of a registration to the particular controlled substance or list I chemical with respect to which grounds for revocation or suspension exist.

(c) Service of show cause order; proceedings

Before taking action pursuant to this section, or pursuant to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(d) Suspension of registration in cases of imminent danger

The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. A failure to comply with a standard referred to in section 823(g)(1) of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. A suspension under this subsection shall

continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(e) Suspension and revocation of quotas

The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 826 of this title.

(f) Disposition of controlled substances or list I chemicals

In the event the Attorney General suspends or revokes a registration granted under section 823 of this title, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title. All right, title, and interest in such controlled substances or list I chemicals shall vest in the United States upon a revocation order becoming final.

(g) Seizure or placement under seal of controlled substances or list I chemicals

The Attorney General may, in his discretion, seize or place under seal any controlled substances or list I chemicals owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances or list I chemicals shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance or list I chemical seized or placed under seal of the procedures to be followed to secure the return of the controlled substance or list I chemical and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance or list I chemical seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance or chemical was seized or placed under seal.

(Pub. L. 91–513, title II, §304, Oct. 27, 1970, 84 Stat. 1255; Pub. L. 93–281, §4, May 14, 1974, 88 Stat. 125; Pub. L. 98–473, title II, §§304, 512, 513, Oct. 12, 1984, 98 Stat. 2050, 2073; Pub. L. 100–93, §8(j), Aug. 18, 1987, 101 Stat. 695; Pub. L. 103–200, §3(d), Dec. 17, 1993, 107 Stat. 2337; Pub. L. 103–322, title XXXIII, §330024(e), Sept. 13, 1994, 108 Stat. 2151; Pub. L. 106–310, div. B, title XXXV, §3502(b), Oct. 17, 2000, 114 Stat. 1227.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(1), (2), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II of this chapter, referred to in subsec. (a)(1), (2), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–310, §3502(b)(1), substituted ''section 823(g)(1) of this title'' for ''section 823(g) of this title'' in two places in concluding provisions.

Subsec. (d). Pub. L. 106–310, §3502(b)(2), substituted ''section 823(g)(1) of this title'' for ''section 823(g) of this title''.

1994—Subsec. (g). Pub. L. 103–322 inserted ''or chemical'' after ''such substance'' in last sentence.

1993—Subsec. (a). Pub. L. 103–200, §3(d)(1), inserted ''or a list I chemical'' after ''controlled substance'' in introductory provisions and par. (2) and inserted ''or list I chemicals'' after ''controlled substances'' in par. (3).

Subsec. (b). Pub. L. 103–200, §3(d)(2), inserted ''or list I chemical'' after ''controlled substance''.

Subsec. (f). Pub. L. 103–200, §3(d)(3), inserted ''or list I chemicals'' after ''controlled substances'' wherever appearing.

Subsec. (g). Pub. L. 103–200, §3(d)(4), inserted ''or list I chemicals'' after ''controlled substances'' in two places and ''or list I chemical'' after ''controlled substance'' wherever appearing.

1987—Subsec. (a)(5). Pub. L. 100–93 added par. (5).

1984—Subsec. (a)(3). Pub. L. 98–473, §512(1), inserted provisions relating to suspension, etc., recommended by competent State authority.

Subsec. (a)(4). Pub. L. 98–473, §512(2), added par. (4).

Subsec. (f). Pub. L. 98–473, §304, inserted provisions relating to vesting of right, title, and interest in the United States.

Subsec. (g). Pub. L. 98–473, §513, added subsec. (g).

1974—Subsec. (a). Pub. L. 93–281, §4(a), provided for revocation or suspension of a registration pursuant to section 823(g) of this title for failure of a registrant to comply with standards referred to in such section 823(g).

Subsec. (d). Pub. L. 93–281, §4(b), substituted ''A suspension under this subsection'' for ''Such suspension'' in third sentence.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–322 effective 120 days after Dec. 17, 1993, see section 330024(f) of Pub. L. 103–322, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–93 effective at end of fourteen-day period beginning Aug. 18, 1987, and inapplicable to administrative proceedings commenced before end of such period, see section 15(a) of Pub. L. 100–93, set out as a note under section 1320a–7 of Title 42, The Public Health and Welfare.

PROVISIONAL REGISTRATION

Applicability of this section to provisional registrations, see section 703 of Pub. L. 91–513, set out as a note under section 822 of this title.

§ 825. Labeling and packaging

(a) Symbol

It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 321(k) of this title) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances.

(b) Unlawful distribution without identifying symbol

It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 321(m) of this title) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a) of this section.

(c) Warning on label

The Secretary shall prescribe regulations under section 353(b) of this title which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient.

(d) Containers to be securely sealed

It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General.

(Pub. L. 91–513, title II, § 305, Oct. 27, 1970, 84 Stat. 1256.)

REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in subsecs. (c) and (d), are set out in section 812(c) of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, but with Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 826. Production quotas for controlled substances

(a) Establishment of total annual needs

The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

(b) Individual production quotas; revised quotas

The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a) of this section. The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II or for ephedrine, pseudoephedrine, or phenylpropanolamine shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

(c) Manufacturing quotas for registered manufacturers

On or before October 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

(d) Quotas for registrants who have not manufactured controlled substance during one or more preceding years

The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance or ephedrine, pseudoephedrine, or phenylpropanolamine during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

(e) Quota increases

At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II or for ephedrine, pseudoephedrine, or phenylpropanolamine may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney Gen-

eral shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

(f) Incidental production exception

Notwithstanding any other provisions of this subchapter, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II or ephedrine, pseudoephedrine, or phenylpropanolamine as incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled substance or of ephedrine, pseudoephedrine, or phenylpropanolamine with respect to which its manufacturer is duly registered under this subchapter. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances or chemicals.

(g) Reference to ephedrine, pseudoephedrine, or phenylpropanolamine

Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

(Pub. L. 91–513, title II, § 306, Oct. 27, 1970, 84 Stat. 1257; Pub. L. 94–273, § 3(16), Apr. 21, 1976, 90 Stat. 377; Pub. L. 109–177, title VII, § 713, Mar. 9, 2006, 120 Stat. 264.)

REFERENCES IN TEXT

Schedules I and II, referred to in text, are set out in section 812(c) of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–177, § 713(1), inserted ''and for ephedrine, pseudoephedrine, and phenylpropanolamine'' after ''for each basic class of controlled substance in schedules I and II''.

Subsec. (b). Pub. L. 109–177, § 713(2), inserted ''or for ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''for each basic class of controlled substance in schedule I or II''.

Subsec. (c). Pub. L. 109–177, § 713(3), inserted ''and for ephedrine, pseudoephedrine, and phenylpropanolamine'' after ''for the basic classes of controlled substances in schedules I and II''.

Subsec. (d). Pub. L. 109–177, § 713(4), inserted ''or ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''that basic class of controlled substance''.

Subsec. (e). Pub. L. 109–177, § 713(5), inserted ''or for ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''for a basic class of controlled substance in schedule I or II''.

Subsec. (f). Pub. L. 109–177, § 713(6), inserted ''or ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''controlled substances in schedules I and II'', ''or of ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''the manufacture of a controlled substance'', and ''or chemicals'' after ''such incidentally produced substances''.

Subsec. (g). Pub. L. 109–177, § 713(7), added subsec. (g).

1976—Subsec. (c). Pub. L. 94–273 substituted ''October'' for ''July''.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, but with Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91–513, set out as a note under section 801 of this title.

COORDINATION WITH UNITED STATES TRADE REPRESENTATIVE

Pub. L. 109–177, title VII, § 718, Mar. 9, 2006, 120 Stat. 267, provided that: ''In implementing sections 713 through 717 and section 721 of this title [amending this section and sections 830, 842, 952, 960, and 971 of this title], the Attorney General shall consult with the United States Trade Representative to ensure implementation complies with all applicable international treaties and obligations of the United States.''

§ 827. Records and reports of registrants

(a) Inventory

Except as provided in subsection (c) of this section—

(1) every registrant under this subchapter shall, on May 1, 1971, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this subchapter manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after May 1, 1971, every registrant under this subchapter manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

(b) Availability of records

Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as may be required by, regulations of the Attorney General, (2) shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General.

(c) Nonapplicability

The foregoing provisions of this section shall not apply—

(1)(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or

(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;

(2)(A) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 355(i) or 360b(j) of this title;

(B) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this subchapter.

Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.

(d) Periodic reports to Attorney General

(1) Every manufacturer registered under section 823 of this title shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this subchapter the person or establishment (unless exempt from registration under section 822(d) of this title) to whom such sale, delivery, or other disposal was made.

(2) Each pharmacy with a modified registration under section 823(f) of this title that authorizes the dispensing of controlled substances by means of the Internet shall report to the Attorney General the controlled substances it dispenses, in the amount specified, and in such time and manner as the Attorney General by regulation shall require, except that the Attorney General, under this paragraph, may not require any pharmacy to report any information other than the total quantity of each controlled substance that the pharmacy has dispensed each month. For purposes of this paragraph, no reporting shall be required unless the pharmacy has met 1 of the following thresholds in the month for which the reporting is required:

(A) 100 or more prescriptions dispensed.

(B) 5,000 or more dosage units of all controlled substances combined.

(e) Reporting and recordkeeping requirements of drug conventions

In addition to the reporting and recordkeeping requirements under any other provision of this subchapter, each manufacturer registered under section 823 of this title shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this subchapter on manufacturers subject to the requirements of this subsection.

(f) Investigational uses of drugs; procedures

Regulations under sections 355(i) and 360(j) of this title, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

(g) Change of address

Every registrant under this subchapter shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.

(h) Reporting requirements for GHB

In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 355 of this title, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

(6) That section 830(b)(3) of this title (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.

(Pub. L. 91–513, title II, § 307, Oct. 27, 1970, 84 Stat. 1258; Pub. L. 93–281, § 5, May 14, 1974, 88 Stat. 125; Pub. L. 95–633, title I, §§ 104, 110, Nov. 10, 1978, 92 Stat. 3772, 3773; Pub. L. 98–473, title II, §§ 514, 515, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 106–172, § 4, Feb. 18, 2000, 114 Stat. 9; Pub. L. 110–425, § 3(c), Oct. 15, 2008, 122 Stat. 4824.)

REFERENCES IN TEXT

Schedules II, III, IV, and V, referred to in subsec. (c), are set out in section 812(c) of this title.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–425 designated existing provisions as par. (1) and added par. (2).

2000—Subsec. (h). Pub. L. 106–172 added subsec. (h).

1984—Subsec. (c)(1)(A). Pub. L. 98–473, § 514(a), substituted "to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual" for "with respect to any narcotic controlled substance in schedule II, III, IV, or V, to the prescribing or administering of such substance by a practitioner in the lawful course of his professional practice unless such substance was prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual".

Subsec. (c)(1)(B). Pub. L. 98–473, § 514(b), substituted "to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual" for "with respect to nonnarcotic controlled substances in schedule II, III, IV, or V, to any practitioner who dispenses such substances to his patients, unless the practitioner is regularly engaged in charging his patients, either separately or together with charges for other professional services, for substances so dispensed".

Subsec. (g). Pub. L. 98–473, § 515, added subsec. (g).

1978—Subsec. (c). Pub. L. 95–633, § 110, inserted provision following par. (3) relating to the construction of the Convention on Psychotropic Substances.

Subsecs. (e), (f). Pub. L. 95–633 added subsec. (e) and redesignated former subsec. (e) as (f).

1974—Subsec. (c)(1)(A). Pub. L. 93–281 substituted "any narcotic controlled substance" for "narcotic controlled substances" and made section applicable to any narcotic controlled substance prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 828. Order forms

(a) Unlawful distribution of controlled substances

It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section.

(b) Nonapplicability of provisions

Nothing in subsection (a) of this section shall apply to—

(1) the exportation of such substances from the United States in conformity with subchapter II of this chapter;

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a) of this section.

(c) Preservation and availability

(1) Every person who in pursuance of an order required under subsection (a) of this section distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

(2) Every person who gives an order required under subsection (a) of this section shall, at or before the time of giving such order, make or

cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

(d) Issuance

(1) The Attorney General shall issue forms pursuant to subsections (a) and (c)(2) of this section only to persons validly registered under section 823 of this title (or exempted from registration under section 822(d) of this title). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith.

(e) Unlawful acts

It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research.

(Pub. L. 91–513, title II, § 308, Oct. 27, 1970, 84 Stat. 1259.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (a), are set out in section 812(c) of this title.

§ 829. Prescriptions

(a) Schedule II substances

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act [21 U.S.C. 353(b)]. Prescriptions shall be retained in conformity with the requirements of section 827 of this title. No prescription for a controlled substance in schedule II may be refilled.

(b) Schedule III and IV substances

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act [21 U.S.C. 353(b)]. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(c) Schedule V substances

No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

(d) Non-prescription drugs with abuse potential

Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

(e) Controlled substances dispensed by means of the Internet

(1) No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

(2) As used in this subsection:

(A) The term ''valid prescription'' means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by—

(i) a practitioner who has conducted at least 1 in-person medical evaluation of the patient; or

(ii) a covering practitioner.

(B)(i) The term ''in-person medical evaluation'' means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

(ii) Nothing in clause (i) shall be construed to imply that 1 in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

(C) The term ''covering practitioner'' means, with respect to a patient, a practitioner who conducts a medical evaluation (other than an in-person medical evaluation) at the request of a practitioner who—

(i) has conducted at least 1 in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous 24 months; and

(ii) is temporarily unavailable to conduct the evaluation of the patient.

(3) Nothing in this subsection shall apply to—

(A) the delivery, distribution, or dispensing of a controlled substance by a practitioner engaged in the practice of telemedicine; or

(B) the dispensing or selling of a controlled substance pursuant to practices as determined by the Attorney General by regulation, which shall be consistent with effective controls against diversion.

(Pub. L. 91–513, title II, § 309, Oct. 27, 1970, 84 Stat. 1260; Pub. L. 110–425, § 2, Oct. 15, 2008, 122 Stat. 4820.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (a), (b), (d), and (e)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules II, III, IV, and V, referred to in subsecs. (a) to (c), are set out in section 812(c) of this title.

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–425 added subsec. (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECT OF SCHEDULING ON PRESCRIPTIONS

Pub. L. 101–647, title XIX, § 1902(c), Nov. 29, 1990, 104 Stat. 4852, provided that: ''Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section [Nov. 29, 1990] may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).''

§ 830. Regulation of listed chemicals and certain machines

(a) Record of regulated transactions

(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction for two years after the date of the transaction.

(2) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer. Such record shall be available for inspection and copying by the Attorney General.

(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identity for purposes of this paragraph.

(b) Reports to Attorney General

(1) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

(A) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this subchapter;

(B) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

(C) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person; and

(D) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under subparagraph (A) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under subparagraph (B) unless the transaction is approved by the Attorney General. The Attorney General shall make available to regulated persons guidance documents describing transactions and circumstances for which reports are required under subparagraph (A) and subparagraph (C).

(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 802(39)(A)(iv) of this title.

(3) MAIL ORDER REPORTING.—(A) As used in this paragraph:

(i) The term ''drug product'' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act[1] [21 U.S.C. 301 et seq.] for distribution in the United States.

(ii) The term ''valid prescription'' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.

(B) Each regulated person who engages in a transaction with a nonregulated person or who engages in an export transaction which—

(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

(C) The data required for such reports shall include—

(i) the name of the purchaser;

(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.

(D) Except as provided in subparagraph (E), the following distributions to a nonregulated

[1] See References in Text note below.

person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):

(i) Distributions of sample packages of drug products when such packages contain not more than two solid dosage units or the equivalent of two dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day period.

(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 802(49) of this title, except that this clause does not apply to sales of scheduled listed chemical products at retail.

(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.

(iv) Distributions of drug products pursuant to a valid prescription.

(v) Exports which have been reported to the Attorney General pursuant to section 954 or 971 of this title or which are subject to a waiver granted under section 971(f)(2) of this title.

(vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this subchapter or subchapter II of this chapter.

(E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this subchapter or subchapter II of this chapter. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 971(c)(1) of this title, and shall have the right to an expedited hearing as provided in section 971(c)(2) of this title.

(c) Confidentiality of information obtained by Attorney General; non-disclosure; exceptions

(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

(2) Information referred to in paragraph (1) may be disclosed only—

(A) to an officer or employee of the United States engaged in carrying out this subchapter, subchapter II of this chapter, or the customs laws;

(B) when relevant in any investigation or proceeding for the enforcement of this subchapter, subchapter II of this chapter, or the customs laws;

(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

(D) to a State or local official or employee in conjunction with the enforcement of controlled substances laws or chemical control laws.

(3) The Attorney General shall—

(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).

(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

(5) Notwithstanding paragraph (4), a civil action may not be brought under such paragraph against investigative or law enforcement personnel of the Drug Enforcement Administration.

(d) Scheduled listed chemicals; restrictions on sales quantity; requirements regarding nonliquid forms

With respect to ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product—

(1) the quantity of such base sold at retail in such a product by a regulated seller, or a distributor required to submit reports by subsection (b)(3) may not, for any purchaser, exceed a daily amount of 3.6 grams, without regard to the number of transactions; and

(2) such a seller or distributor may not sell such a product in nonliquid form (including gel caps) at retail unless the product is packaged in blister packs, each blister containing not more than 2 dosage units, or where the use of blister packs is technically infeasible, the product is packaged in unit dose packets or pouches.

(e) Scheduled listed chemicals; behind-the-counter access; logbook requirement; training of sales personnel; privacy protections

(1) Requirements regarding retail transactions

(A) In general

Each regulated seller shall ensure that, subject to subparagraph (F), sales by such seller of a scheduled listed chemical product at retail are made in accordance with the following:

(i) In offering the product for sale, the seller places the product such that customers do not have direct access to the product before the sale is made (in this paragraph referred to as ''behind-the-counter'' placement). For purposes of this paragraph, a behind-the-counter placement of a product includes circumstances in which the product is stored in a locked

cabinet that is located in an area of the facility involved to which customers do have direct access.

(ii) The seller delivers the product directly into the custody of the purchaser.

(iii) The seller maintains, in accordance with criteria issued by the Attorney General, a written or electronic list of such sales that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the dates and times of the sales (which list is referred to in this subsection as the ''logbook''), except that such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than 60 milligrams of pseudoephedrine.

(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does not sell such a product unless the sale is made in accordance with the following:

(I) The prospective purchaser—

(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after March 9, 2006); and

(bb) signs the written logbook and enters in the logbook his or her name, address, and the date and time of the sale, or for transactions involving an electronic logbook, the purchaser provides a signature using one of the following means:

(AA) Signing a device presented by the seller that captures signatures in an electronic format. Such device shall display the notice described in clause (v). Any device used shall preserve each signature in a manner that clearly links that signature to the other electronically-captured logbook information relating to the prospective purchaser providing that signature.

(BB) Signing a bound paper book. Such bound paper book shall include, for such purchaser, either (aaa) a printed sticker affixed to the bound paper book at the time of sale which either displays the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale, or a unique identifier which can be linked to that electronic information, or (bbb) a unique identifier which can be linked to that information and which is written into the book by the seller at the time of sale. The purchaser shall sign adjacent to the printed sticker or written unique identifier related to that sale. Such bound paper book shall display the notice described in clause (v).

(CC) Signing a printed document that includes, for such purchaser, the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale. Such document shall be printed by the seller at the time of the sale. Such document shall contain a clearly identified signature line for a purchaser to sign. Such printed document shall display the notice described in clause (v). Each signed document shall be inserted into a binder or other secure means of document storage immediately after the purchaser signs the document.

(II) The seller enters in the logbook the name of the product and the quantity sold. Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

(III) The logbook maintained by the seller includes the prospective purchaser's name, address, and the date and time of the sale, as follows:

(aa) If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct.

(bb) If the seller enters the information, the prospective purchaser must verify that the information is correct.

(cc) Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

(v) The written or electronic logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements or misrepresentations in the logbook, or supplying false information or identification that results in the entry of false statements or misrepresentations, may subject the purchasers to criminal penalties under section 1001 of title 18, which notice specifies the maximum fine and term of imprisonment under such section.

(vi) Regardless of whether the logbook entry is written or electronic, the seller maintains each entry in the logbook for not fewer than 2 years after the date on which the entry is made.

(vii) In the case of individuals who are responsible for delivering such products into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products, the seller has submitted to the Attorney General a self-certification that all such individuals have, in accordance with criteria under subparagraph (B)(ii), undergone training provided by the seller to ensure that the individuals understand the requirements that apply under this subsection and subsection (d).

(viii) The seller maintains a copy of such certification and records demonstrating

that individuals referred to in clause (vii) have undergone the training.

(ix) If the seller is a mobile retail vendor:

(I) The seller complies with clause (i) by placing the product in a locked cabinet.

(II) The seller does not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.

(B) Additional provisions regarding certifications and training

(i) In general

A regulated seller may not sell any scheduled listed chemical product at retail unless the seller has submitted to the Attorney General the self-certification referred to in subparagraph (A)(vii). The certification is not effective for purposes of the preceding sentence unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, the certification includes a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements.

(ii) Issuance of criteria; self-certification

The Attorney General shall by regulation establish criteria for certifications under this paragraph. The criteria shall—

(I) provide that the certifications are self-certifications provided through the program under clause (iii);

(II) provide that a separate certification is required for each place of business at which a regulated seller sells scheduled listed chemical products at retail; and

(III) include criteria for training under subparagraph (A)(vii).

(iii) Program for regulated sellers

The Attorney General shall establish a program regarding such certifications and training in accordance with the following:

(I) The program shall be carried out through an Internet site of the Department of Justice and such other means as the Attorney General determines to be appropriate.

(II) The program shall inform regulated sellers that section 1001 of title 18 applies to such certifications.

(III) The program shall make available to such sellers an explanation of the criteria under clause (ii).

(IV) The program shall be designed to permit the submission of the certifications through such Internet site.

(V) The program shall be designed to automatically provide the explanation referred to in subclause (III), and an acknowledgement that the Department has received a certification, without requiring direct interactions of regulated sellers with staff of the Department (other than the provision of technical assistance, as appropriate).

(iv) Availability of certification to State and local officials

Promptly after receiving a certification under subparagraph (A)(vii), the Attorney General shall make available a copy of the certification to the appropriate State and local officials.

(C) Privacy protections

In order to protect the privacy of individuals who purchase scheduled listed chemical products, the Attorney General shall by regulation establish restrictions on disclosure of information in logbooks under subparagraph (A)(iii). Such regulations shall—

(i) provide for the disclosure of the information as appropriate to the Attorney General and to State and local law enforcement agencies; and

(ii) prohibit accessing, using, or sharing information in the logbooks for any purpose other than to ensure compliance with this subchapter or to facilitate a product recall to protect public health and safety.

(D) False statements or misrepresentations by purchasers

For purposes of section 1001 of title 18, entering information in the logbook under subparagraph (A)(iii) shall be considered a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.

(E) Good faith protection

A regulated seller who in good faith releases information in a logbook under subparagraph (A)(iii) to Federal, State, or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(F) Inapplicability of requirements to certain sales

Subparagraph (A) does not apply to the sale at retail of a scheduled listed chemical product if a report on the sales transaction is required to be submitted to the Attorney General under subsection (b)(3).

(G) Certain measures regarding theft and diversion

A regulated seller may take reasonable measures to guard against employing individuals who may present a risk with respect to the theft and diversion of scheduled listed chemical products, which may include, notwithstanding State law, asking applicants for employment whether they have been convicted of any crime involving or related to such products or controlled substances.

(2) Mail-order reporting; verification of identity of purchaser; 30-day restriction on quantities for individual purchasers

Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General is subject to the following:

(A) The person shall, prior to shipping the product, confirm the identity of the pur-

chaser in accordance with procedures established by the Attorney General. The Attorney General shall by regulation establish such procedures.

(B) The person may not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.

(3) Exemptions for certain products

Upon the application of a manufacturer of a scheduled listed chemical product, the Attorney General may by regulation provide that the product is exempt from the provisions of subsection (d) and paragraphs (1) and (2) of this subsection if the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine.

(Pub. L. 91–513, title II, §310, as added Pub. L. 95–633, title II, §202(a), Nov. 10, 1978, 92 Stat. 3774; amended Pub. L. 100–690, title VI, §6052(a), Nov. 18, 1988, 102 Stat. 4312; Pub. L. 103–200, §§2(c), 10, Dec. 17, 1993, 107 Stat. 2336, 2341; Pub. L. 104–237, title II, §208, title IV, §402, Oct. 3, 1996, 110 Stat. 3104, 3111; Pub. L. 106–310, div. B, title XXXVI, §3652, Oct. 17, 2000, 114 Stat. 1239; Pub. L. 109–177, title VII, §§711(a)(2)(B), (b)(1), (c)(1), (2), (d), 716(b)(2), Mar. 9, 2006, 120 Stat. 257, 261, 267; Pub. L. 110–415, §2, Oct. 14, 2008, 122 Stat. 4349.)

REFERENCES IN TEXT

The Food, Drug, and Cosmetic Act, referred to in subsec. (b)(3)(A)(i), probably means the Federal Food, Drug, and Cosmetic Act, act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

This subchapter, referred to in subsecs. (b)(3)(D)(vi), (E) and (e)(1)(C)(ii), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II of this chapter, referred to in subsecs. (b)(3)(D)(iv), (E) and (c)(2)(A), (B), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

2008—Subsec. (e)(1)(A)(iv) to (vi). Pub. L. 110–415 added cls. (iv) to (vi) and struck out former cls. (iv) to (vi) which related to procedures for sales subject to the logbook requirement.

2006—Subsec. (b)(3)(D)(ii). Pub. L. 109–177, §711(c)(2), inserted '', except that this clause does not apply to sales of scheduled listed chemical products at retail'' before period at end.

Pub. L. 109–177, §711(a)(2)(B), substituted ''section 802(49)'' for ''section 802(46)''.

Subsec. (b)(3)(D)(v). Pub. L. 109–177, §716(b)(2), substituted ''section 971(f)(2)'' for ''section 971(e)(2)''.

Subsec. (d). Pub. L. 109–177, §711(b)(1), added subsec. (d).

Subsec. (e)(1). Pub. L. 109–177, §711(b)(1), added subsec. heading and par. (1).

Subsec. (e)(2). Pub. L. 109–177, §711(c)(1), added par. (2).

Subsec. (e)(3). Pub. L. 109–177, §711(d), added par. (3).

2000—Subsec. (b)(3). Pub. L. 106–310 added subpars. (A), (D), and (E), redesignated former subpars. (A) and (B) as (B) and (C), respectively, and inserted ''or who engages in an export transaction'' after ''nonregulated person'' in introductory provisions of subpar. (B).

1996—Subsec. (a)(1). Pub. L. 104–237, §208, substituted ''for two years after the date of the transaction.'' for the dash after ''record of the transaction'' and struck out subpars. (A) and (B) which read as follows:

''(A) for 4 years after the date of the transaction, if the listed chemical is a list I chemical or if the transaction involves a tableting machine or an encapsulating machine; and

''(B) for 2 years after the date of the transaction, if the listed chemical is a list II chemical.''

Subsec. (b)(3). Pub. L. 104–237, §402, added par. (3).

1993—Subsec. (a)(1). Pub. L. 103–200, §2(c)(1), substituted ''list I chemical'' for ''precursor chemical'' in subpar. (A) and ''a list II chemical'' for ''an essential chemical'' in subpar. (B).

Subsec. (b). Pub. L. 103–200, §10, designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, in concluding provisions, substituted ''subparagraph (A)'' for ''paragraph (1)'' in two places, ''subparagraph (B)'' for ''paragraph (2)'', and ''subparagraph (C)'' for ''paragraph (3)'', and added par. (2).

Subsec. (c)(2)(D). Pub. L. 103–200, §2(c)(2), substituted ''chemical control laws'' for ''precursor chemical laws''.

1988—Pub. L. 100–690 amended section generally, substituting provisions relating to regulation of listed chemicals and certain machines for provisions relating to reporting by any person who distributes, sells, or imports any piperidine.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, §711(b)(2), Mar. 9, 2006, 120 Stat. 261, provided that: ''With respect to subsections (d) and (e)(1) of section 310 of the Controlled Substances Act [21 U.S.C. 830(d), (e)(1)], as added by paragraph (1) of this subsection:

''(A) Such subsection (d) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].

''(B) Such subsection (e)(1) applies on and after September 30, 2006.''

Pub. L. 109–177, title VII, §711(c)(3), Mar. 9, 2006, 120 Stat. 261, provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] apply on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE; TIME TO SUBMIT PIPERIDINE REPORT; REQUIRED INFORMATION

Section 203(a) of title II of Pub. L. 95–633 provided that:

''(1) Except as provided under paragraph (2), the amendments made by this title [enacting this section and amending sections 841 to 843 of this title] shall take effect on the date of the enactment of this Act [Nov. 10, 1978].

''(2) Any person required to submit a report under section 310(a)(1) of the Controlled Substances Act [subsec. (a)(1) of this section] respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act [Nov. 10, 1978] may submit such report any time up to 97 days after such date of enactment.

''(3) Until otherwise provided by the Attorney General by regulation, the information required to be re-

ported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) [subsec. (a)(1) of this section] with respect to the person's distribution, sale, or importation of piperidine shall—

''(A) be the information described in subparagraphs (A) and (B) of such section, and

''(B) except as provided in paragraph (2) of this subsection, be reported not later than seven days after the date of such distribution, sale, or importation.''

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of this section effective Jan. 1, 1981.

REGULATIONS FOR PIPERIDINE REPORTING

Section 203(b) of Pub. L. 95–633 required the Attorney General to publish proposed interim regulations for piperidine reporting under section 830(a) of this title not later than 30 days after enactment, and final interim regulations not later than 75 days after enactment, such final interim regulations to be effective on and after the ninety-first day after enactment.

REPORT TO PRESIDENT AND CONGRESS ON EFFECTIVENESS OF TITLE II OF PUB. L. 95–633

Section 203(c) of Pub. L. 95–633 required the Attorney General to analyze and evaluate the impact and effectiveness of the amendments made by title II of Pub. L. 95–633, and report to the President and Congress not later than Mar. 1, 1980.

§ 831. Additional requirements relating to online pharmacies and telemedicine

(a) In general

An online pharmacy shall display in a visible and clear manner on its homepage a statement that it complies with the requirements of this section with respect to the delivery or sale or offer for sale of controlled substances and shall at all times display on the homepage of its Internet site a declaration of compliance in accordance with this section.

(b) Licensure

Each online pharmacy shall comply with the requirements of State law concerning the licensure of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or offers to deliver, distribute, or dispense controlled substances by means of the Internet, pursuant to applicable licensure requirements, as determined by each such State.

(c) Internet pharmacy site disclosure information

Each online pharmacy shall post in a visible and clear manner on the homepage of each Internet site it operates, or on a page directly linked thereto in which the hyperlink is also visible and clear on the homepage, the following information for each pharmacy that delivers, distributes, or dispenses controlled substances pursuant to orders made on, through, or on behalf of, that website:

(1) The name and address of the pharmacy as it appears on the pharmacy's Drug Enforcement Administration certificate of registration.

(2) The pharmacy's telephone number and email address.

(3) The name, professional degree, and States of licensure of the pharmacist-in-charge, and a telephone number at which the pharmacist-in-charge can be contacted.

(4) A list of the States in which the pharmacy is licensed to dispense controlled substances.

(5) A certification that the pharmacy is registered under this part to deliver, distribute, or dispense by means of the Internet controlled substances.

(6) The name, address, telephone number, professional degree, and States of licensure of any practitioner who has a contractual relationship to provide medical evaluations or issue prescriptions for controlled substances, through referrals from the website or at the request of the owner or operator of the website, or any employee or agent thereof.

(7) The following statement, unless revised by the Attorney General by regulation: ''This online pharmacy will only dispense a controlled substance to a person who has a valid prescription issued for a legitimate medical purpose based upon a medical relationship with a prescribing practitioner. This includes at least one prior in-person medical evaluation or medical evaluation via telemedicine in accordance with applicable requirements of section 309.''.

(d) Notification

(1) In general

Thirty days prior to offering a controlled substance for sale, delivery, distribution, or dispensing, the online pharmacy shall notify the Attorney General, in such form and manner as the Attorney General shall determine, and the State boards of pharmacy in any States in which the online pharmacy offers to sell, deliver, distribute, or dispense controlled substances.

(2) Contents

The notification required under paragraph (1) shall include—

(A) the information required to be posted on the online pharmacy's Internet site under subsection (c) and shall notify the Attorney General and the applicable State boards of pharmacy, under penalty of perjury, that the information disclosed on its Internet site under subsection (c) is true and accurate;

(B) the online pharmacy's Internet site address and a certification that the online pharmacy shall notify the Attorney General of any change in the address at least 30 days in advance; and

(C) the Drug Enforcement Administration registration numbers of any pharmacies and practitioners referred to in subsection (c), as applicable.

(3) Existing online pharmacies

An online pharmacy that is already operational as of the effective date of this section, shall notify the Attorney General and applicable State boards of pharmacy in accordance with this subsection not later than 30 days after such date.

(e) Declaration of compliance

On and after the date on which it makes the notification under subsection (d), each online

pharmacy shall display on the homepage of its Internet site, in such form as the Attorney General shall by regulation require, a declaration that it has made such notification to the Attorney General.

(f) Reports

Any statement, declaration, notification, or disclosure required under this section shall be considered a report required to be kept under this part.

(g) Notice and designations concerning Indian tribes

(1) In general

For purposes of sections 802(52) and 882(c)(6)(B) of this title, the Secretary shall notify the Attorney General, at such times and in such manner as the Secretary and the Attorney General determine appropriate, of the Indian tribes or tribal organizations with which the Secretary has contracted or compacted under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] for the tribes or tribal organizations to provide pharmacy services.

(2) Designations

(A) In general

The Secretary may designate a practitioner described in subparagraph (B) as an Internet Eligible Controlled Substances Provider. Such designations shall be made only in cases where the Secretary has found that there is a legitimate need for the practitioner to be so designated because the population served by the practitioner is in a sufficiently remote location that access to medical services is limited.

(B) Practitioners

A practitioner described in this subparagraph is a practitioner who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] with the Indian Health Service.

(h) Special registration for telemedicine

(1) In general

The Attorney General may issue to a practitioner a special registration to engage in the practice of telemedicine for purposes of section 802(54)(E) of this title if the practitioner, upon application for such special registration—

(A) demonstrates a legitimate need for the special registration; and

(B) is registered under section 823(f) of this title in the State in which the patient will be located when receiving the telemedicine treatment, unless the practitioner—

(i) is exempted from such registration in all States under section 822(d) of this title; or

(ii) is an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract and is registered under section 823(f) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(f) of this title.

(2) Regulations

The Attorney General shall, with the concurrence of the Secretary, promulgate regulations specifying the limited circumstances in which a special registration under this subsection may be issued and the procedures for obtaining such a special registration.

(3) Denials

Proceedings to deny an application for registration under this subsection shall be conducted in accordance with section 824(c) of this title.

(i) Reporting of telemedicine by VHA during medical emergency situations

(1) In general

Any practitioner issuing a prescription for a controlled substance under the authorization to conduct telemedicine during a medical emergency situation described in section 802(54)(F) of this title shall report to the Secretary of Veterans Affairs the authorization of that emergency prescription, in accordance with such requirements as the Secretary of Veterans Affairs shall, by regulation, establish.

(2) To Attorney General

Not later than 30 days after the date that a prescription described in subparagraph (A) is issued, the Secretary of Veterans Affairs shall report to the Attorney General the authorization of that emergency prescription.

(j) Clarification concerning prescription transfers

Any transfer between pharmacies of information relating to a prescription for a controlled substance shall meet the applicable requirements under regulations promulgated by the Attorney General under this chapter.

(Pub. L. 91–513, title II, § 311, as added Pub. L. 110–425, § 3(d)(1), Oct. 15, 2008, 122 Stat. 4825.)

REFERENCES IN TEXT

Section 309, referred to in subsec. (c)(7), is section 309 of Pub. L. 91–513, which is classified to section 829 of this title.

For effective date of this section, referred to in subsec. (d)(3), see Effective Date note below.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (g)(1), (2)(B), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

This chapter, referred to in subsec. (j), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

EFFECTIVE DATE

Section effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as an Effective Date of 2008 Amendment note under section 802 of this title.

PART D—OFFENSES AND PENALTIES

§ 841. Prohibited acts A

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(viii) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. Notwithstanding section 3583 of title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(B) In the case of a violation of subsection (a) of this section involving—

(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 5 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount

of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

(viii) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(C) In the case of a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam, except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

(D) In the case of less than 50 kilograms of marihuana, except in the case of 50 or more marihuana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil, such person shall, except as provided in paragraphs (4) and (5) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(E)(i) Except as provided in subparagraphs (C) and (D), in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the

greater of twice that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 4 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.

(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 844 of this title and section 3607 of title 18.

(5) Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

(A) the amount authorized in accordance with this section;

(B) the amount authorized in accordance with the provisions of title 18;

(C) $500,000 if the defendant is an individual; or

(D) $1,000,000 if the defendant is other than an individual;

or both.

(6) Any person who violates subsection (a) of this section, or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(A) creates a serious hazard to humans, wildlife, or domestic animals,

(B) degrades or harms the environment or natural resources, or

(C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with title 18 or imprisoned not more than five years, or both.

(7) PENALTIES FOR DISTRIBUTION.—

(A) IN GENERAL.—Whoever, with intent to commit a crime of violence, as defined in section 16 of title 18 (including rape), against an individual, violates subsection (a) of this section by distributing a controlled substance or controlled substance analogue to that individual without that individual's knowledge, shall be imprisoned not more than 20 years and fined in accordance with title 18.

(B) DEFINITION.—For purposes of this paragraph, the term ''without that individual's knowledge'' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.

(c) Offenses involving listed chemicals

Any person who knowingly or intentionally—

(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this subchapter;

(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this subchapter; or

(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 830 of this title, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be fined in accordance with title 18 or imprisoned not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical, or both.

(d) Boobytraps on Federal property; penalties; "boobytrap" defined

(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for

not more than 10 years or fined under title 18, or both.

(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years or fined under title 18, or both.

(3) For the purposes of this subsection, the term ''boobytrap'' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

(e) Ten-year injunction as additional penalty

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) Wrongful distribution or possession of listed chemicals

(1) Whoever knowingly distributes a listed chemical in violation of this subchapter (other than in violation of a recordkeeping or reporting requirement of section 830 of this title) shall, except to the extent that paragraph (12), (13), or (14) of section 842(a) of this title applies, be fined under title 18 or imprisoned not more than 5 years, or both.

(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 830 of this title have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18 or imprisoned not more than one year, or both.

(g) Internet sales of date rape drugs

(1) Whoever knowingly uses the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that—

(A) the drug would be used in the commission of criminal sexual conduct; or

(B) the person is not an authorized purchaser;

shall be fined under this subchapter or imprisoned not more than 20 years, or both.

(2) As used in this subsection:

(A) The term ''date rape drug'' means—

(i) gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4–butanediol;

(ii) ketamine;

(iii) flunitrazepam; or

(iv) any substance which the Attorney General designates, pursuant to the rulemaking procedures prescribed by section 553 of title 5, to be used in committing rape or sexual assault.

The Attorney General is authorized to remove any substance from the list of date rape drugs pursuant to the same rulemaking authority.

(B) The term ''authorized purchaser'' means any of the following persons, provided such person has acquired the controlled substance in accordance with this chapter:

(i) A person with a valid prescription that is issued for a legitimate medical purpose in the usual course of professional practice that is based upon a qualifying medical relationship by a practitioner registered by the Attorney General. A ''qualifying medical relationship'' means a medical relationship that exists when the practitioner has conducted at least 1 medical evaluation with the authorized purchaser in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other heath[1] professionals. The preceding sentence shall not be construed to imply that 1 medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

(ii) Any practitioner or other registrant who is otherwise authorized by their registration to dispense, procure, purchase, manufacture, transfer, distribute, import, or export the substance under this chapter.

(iii) A person or entity providing documentation that establishes the name, address, and business of the person or entity and which provides a legitimate purpose for using any ''date rape drug'' for which a prescription is not required.

(3) The Attorney General is authorized to promulgate regulations for record-keeping and reporting by persons handling 1,4–butanediol in order to implement and enforce the provisions of this section. Any record or report required by such regulations shall be considered a record or report required under this chapter.

(h) Offenses involving dispensing of controlled substances by means of the Internet

(1) In general

It shall be unlawful for any person to knowingly or intentionally—

(A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this subchapter; or

(B) aid or abet (as such terms are used in section 2 of title 18) any activity described in subparagraph (A) that is not authorized by this subchapter.

(2) Examples

Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

(A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 823(f) of this title (unless exempt from such registration);

(B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the

[1] So in original. Probably should be ''health''.

Internet in violation of section 829(e) of the title;

(C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by sections[2] 823(f) or 829(e) of this title;

(D) offering to fill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire; and

(E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 831 of this title.

(3) Inapplicability

(A) This subsection does not apply to—

(i) the delivery, distribution, or dispensation of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter;

(ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

(iii) except as provided in subparagraph (B), any activity that is limited to—

(I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of title 47); or

(II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of title 47 shall not constitute such selection or alteration of the content of the communication.

(B) The exceptions under subclauses (I) and (II) of subparagraph (A)(iii) shall not apply to a person acting in concert with a person who violates paragraph (1).

(4) Knowing or intentional violation

Any person who knowingly or intentionally violates this subsection shall be sentenced in accordance with subsection (b).

(Pub. L. 91–513, title II, § 401, Oct. 27, 1970, 84 Stat. 1260; Pub. L. 95–633, title II, § 201, Nov. 10, 1978, 92 Stat. 3774; Pub. L. 96–359, § 8(c), Sept. 26, 1980, 94 Stat. 1194; Pub. L. 98–473, title II, §§ 224(a), 502, 503(b)(1), (2), Oct. 12, 1984, 98 Stat. 2030, 2068, 2070; Pub. L. 99–570, title I, §§ 1002, 1003(a), 1004(a), 1005(a), 1103, title XV, § 15005, Oct. 27, 1986, 100 Stat. 3207–2, 3207–5, 3207–6, 3207–11, 3702–192; Pub. L. 100–690, title VI, §§ 6055, 6254(h), 6452(a), 6470(g), (h), 6479, Nov. 18, 1988, 102 Stat. 4318, 4367, 4371, 4378, 4381; Pub. L. 101–647, title X, § 1002(e), title XII, § 1202, title XXXV, § 3599K, Nov. 29, 1990, 104 Stat. 4828, 4830, 4932; Pub. L. 103–322, title IX, § 90105(a), (c), title XVIII, § 180201(b)(2)(A), Sept. 13, 1994, 108 Stat. 1987, 1988, 2047; Pub. L. 104–237, title II, § 206(a), title III, § 302(a), Oct. 3, 1996, 110 Stat. 3103, 3105; Pub. L. 104–305, § 2(a), (b)(1), Oct. 13, 1996, 110 Stat. 3807; Pub. L. 105–277, div. E, § 2(a), Oct. 21, 1998, 112 Stat. 2681–759; Pub. L. 106–172, §§ 3(b)(1), 5(b), 9, Feb. 18, 2000, 114 Stat. 9, 10, 13; Pub. L. 107–273, div. B, title III, § 3005(a), title IV, § 4002(d)(2)(A), Nov. 2, 2002, 116 Stat. 1805, 1809; Pub. L. 109–177, title VII, §§ 711(f)(1)(B), 732, Mar. 9, 2006, 120 Stat. 262, 270; Pub. L. 109–248, title II, § 201, July 27, 2006, 120 Stat. 611; Pub. L. 110–425, § 3(e), (f), Oct. 15, 2008, 122 Stat. 4828, 4829.)

[2] So in original. Probably should be "section".

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (b)(1), (c)(1), (2), (f)(1), (g)(1), and (h)(1), (3)(A)(i), was in the original "this title", meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Schedules I, II, III, IV, and V, referred to in subsec. (b), are set out in section 812(c) of this title.

Subchapter II of this chapter, referred to in subsec. (b)(1), was in the original "title III", meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

Section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Prohibition Act of 2000, referred to in subsec. (b)(1)(C), is section 3(a)(1)(B) of Pub. L. 106–172, which is set out in a note under section 812 of this title.

This chapter, referred to in subsec. (g)(2)(B), (3), was in the original "this Act", meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(1)(D). Pub. L. 110–425, § 3(e)(1)(A), struck out "or in the case of any controlled substance in schedule III (other than gamma hydroxybutyric acid), or 30 milligrams of flunitrazepam" after "hashish oil".

Subsec. (b)(1)(E). Pub. L. 110–425, § 3(e)(1)(B), added subpar. (E).

Subsec. (b)(2). Pub. L. 110–425, § 3(e)(2), substituted "5 years" for "3 years", "10 years" for "6 years", and "after a prior conviction for a felony drug offense has become final," for "after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final,".

Subsec. (b)(3). Pub. L. 110–425, § 3(e)(3), substituted "4 years" for "2 years" and "after a prior conviction for a felony drug offense has become final," for "after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final," and inserted at end "Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment."

Subsec. (h). Pub. L. 110–425, § 3(f), added subsec. (h).

2006—Subsec. (b)(5). Pub. L. 109–177, § 732, inserted ''or manufacturing'' after ''cultivating'' in introductory provisions.

Subsec. (f)(1). Pub. L. 109–177, § 711(f)(1)(B), inserted '', except to the extent that paragraph (12), (13), or (14) of section 842(a) of this title applies,'' after ''shall''.

Subsec. (g). Pub. L. 109–248 added subsec. (g).

2002—Subsec. (b)(1)(A), (B). Pub. L. 107–273, § 3005(a), substituted ''Notwithstanding section 3583 of title 18, any sentence'' for ''Any sentence'' in concluding provisions.

Subsec. (b)(1)(C), (D). Pub. L. 107–273, § 3005(a), substituted ''Notwithstanding section 3583 of title 18, any sentence'' for ''Any sentence''.

Subsec. (d)(1). Pub. L. 107–273, § 4002(d)(2)(A)(i), substituted ''or fined under title 18, or both'' for ''and shall be fined not more than $10,000''.

Subsec. (d)(2). Pub. L. 107–273, § 4002(d)(2)(A)(ii), substituted ''or fined under title 18, or both'' for ''and shall be fined not more than $20,000''.

2000—Subsec. (b)(1)(C). Pub. L. 106–172, § 3(b)(1)(A), inserted ''gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000),'' after ''schedule I or II,'' in first sentence.

Subsec. (b)(1)(D). Pub. L. 106–172, § 3(b)(1)(B), substituted ''(other than gamma hydroxybutyric acid), or 30'' for '', or 30''.

Subsec. (b)(7)(A). Pub. L. 106–172, § 5(b), inserted ''or controlled substance analogue'' after ''distributing a controlled substance''.

Subsecs. (c) to (g). Pub. L. 106–172, § 9, redesignated subsecs. (d) to (g) as (c) to (f), respectively.

1998—Subsec. (b)(1). Pub. L. 105–277 in subpar. (A)(viii) substituted ''50 grams'' and ''500 grams'' for ''100 grams'' and ''1 kilogram'', respectively, and in subpar. (B)(viii) substituted ''5 grams'' and ''50 grams'' for ''10 grams'' and ''100 grams'', respectively.

1996—Subsec. (b)(1)(C). Pub. L. 104–305, § 2(b)(1)(A), inserted '', or 1 gram of flunitrazepam,'' after ''schedule I or II''.

Subsec. (b)(1)(D). Pub. L. 104–305, § 2(b)(1)(B), inserted ''or 30 milligrams of flunitrazepam,'' after ''schedule III,''.

Subsec. (b)(7). Pub. L. 104–305, § 2(a), added par. (7).

Subsec. (d). Pub. L. 104–237, § 302(a), in concluding provisions, substituted ''not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,'' for ''not more than 10 years,''.

Subsec. (f). Pub. L. 104–237, § 206(a), inserted ''manufacture, exportation,'' after ''distribution,'' and struck out ''regulated'' after ''engaging in any''.

1994—Subsec. (b). Pub. L. 103–322, § 180201(b)(2)(A), inserted ''849,'' before ''859,'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 103–322, §§ 90105(c), 180201(b)(2)(A), in concluding provisions, inserted ''849,'' before ''859,'' and struck out ''For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this subchapter or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.'' before ''Any sentence under this subparagraph''.

Subsec. (b)(1)(B). Pub. L. 103–322, § 90105(a), in sentence in concluding provisions beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

Subsec. (b)(1)(C). Pub. L. 103–322, § 90105(a), in sentence beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

Subsec. (b)(1)(D). Pub. L. 103–322, § 90105(a), in sentence beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

1990—Subsec. (b). Pub. L. 101–647, § 1002(e)(1), substituted ''section 859, 860, or 861'' for ''section 845, 845a, or 845b'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101–647, § 1002(e)(1), substituted ''section 859, 860, or 861'' for ''section 845, 845a, or 845b'' in concluding provisions.

Subsec. (b)(1)(A)(ii)(IV). Pub. L. 101–647, § 3599K, substituted ''any of the substances'' for ''any of the substance''.

Subsec. (b)(1)(A)(viii). Pub. L. 101–647, § 1202, substituted ''or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' for ''or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

Subsec. (b)(1)(B)(ii)(IV). Pub. L. 101–647, § 3599K, substituted ''any of the substances'' for ''any of the substance''.

Subsec. (c). Pub. L. 101–647, § 1002(e)(2), directed amendment of subsec. (c) by substituting ''section 859, 860, or 861 of this title'' for ''section 845, 845a, or 845b of this title''. Subsec. (c) was previously repealed by Pub. L. 98–473, § 224(a)(2), as renumbered by Pub. L. 99–570, § 1005(a), effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment. See 1984 Amendment note and Effective Date of 1984 Amendment note below.

1988—Subsec. (b)(1)(A). Pub. L. 100–690, §§ 6452(a), 6470(g), 6479(1), inserted '', or 1,000 or more marihuana plants regardless of weight'' in cl. (vii), added cl. (viii), substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final'' in second sentence, and added provisions relating to sentencing for a person who violates this subpar. or section 485, 485a, or 485b of this title after two or more prior convictions for a felony drug offense have become final and defining ''felony drug offense''.

Subsec. (b)(1)(B). Pub. L. 100–690, §§ 6470(h), 6479(2), inserted '', or 100 or more marihuana plants regardless of weight'' in cl. (vii) and added cl. (viii).

Subsec. (b)(1)(D). Pub. L. 100–690, § 6479(3), substituted ''50 or more marihuana plants'' for ''100 or more marihuana plants''.

Subsec. (b)(6). Pub. L. 100–690, § 6254(h), added par. (6).

Subsec. (d). Pub. L. 100–690, § 6055(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Any person who knowingly or intentionally—

''(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this subchapter, or

''(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this subchapter,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both.''

Subsecs. (f), (g). Pub. L. 100–690, § 6055(b), added subsecs. (f) and (g).

1986—Pub. L. 99–570, § 1005(a), amended Pub. L. 98–473, § 224(a). See 1984 Amendment note below.

Subsec. (b). Pub. L. 99–570, § 1103(a), substituted '', 845a, or 845b'' for ''or 845a'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 99–570, § 1002(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''In the case of a violation of subsection (a) of this section involving—

''(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

''(I) coca leaves;

''(II) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

''(III) a substance chemically identical thereto;

''(ii) a kilogram or more of any other controlled substance in schedule I or II which is a narcotic drug;

''(iii) 500 grams or more of phencyclidine (PCP); or

''(iv) 5 grams or more of lysergic acid diethylamide (LSD);

such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both''.

Subsec. (b)(1)(B). Pub. L. 99–570, § 1002(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A) and (C),, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than $125,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $250,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.''

Subsec. (b)(1)(C). Pub. L. 99–570, § 1002(2), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' in two places.

Pub. L. 99–570, §§ 1002(1), 1003(a)(1), redesignated former subpar. (C) as (D), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $50,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual'' for ''a fine of not more than $100,000'', and inserted ''except in the case of 100 or more marihuana plants regardless of weight,''.

Subsec. (b)(2). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' in two places.

Pub. L. 99–570, § 1003(a)(2), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $25,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual'' for ''a fine of not more than $50,000''.

Subsec. (b)(3). Pub. L. 99–570, § 1003(a)(3), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual'' for ''a fine of not more than $10,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual'' for ''a fine of not more than $20,000''.

Subsec. (b)(4). Pub. L. 99–570, § 1003(a)(4), which directed the substitution of ''1(D)'' for ''1(C)'' was executed by substituting ''(1)(D)'' for ''(1)(C)'' as the probable intent of Congress.

Subsec. (b)(5). Pub. L. 99–570, § 1003(a)(5), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''Notwithstanding paragraph (1), any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be fined not more than—

''(A) $500,000 if such person is an individual; and

''(B) $1,000,000 if such person is not an individual.''

Subsec. (c). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' wherever appearing, effective Nov. 1, 1987, the effective date of the repeal of subsec. (c) by Pub. L. 98–473, § 224(a)(2). See 1984 Amendment note below.

Pub. L. 99–570, § 1103(b), substituted '', 845a, or 845b'' for ''845a'' in two places.

Subsec. (d). Pub. L. 99–570, § 1003(a)(6), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $15,000''.

Subsec. (e). Pub. L. 99–570, § 15005, added subsec. (e).

1984—Subsec. (b). Pub. L. 98–473, § 503(b)(1), inserted reference to section 845a of this title in provisions preceding par. (1)(A).

Pub. L. 98–473, § 224(a)(1)–(3), (5), which directed amendment of this subsection effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was repealed by Pub. L. 99–570, § 1005(a), and the remaining pars. (4) and (6) of Pub. L. 98–473, § 224(a), were redesignated as pars. (1) and (2), respectively.

Subsec. (b)(1)(A). Pub. L. 98–473, § 502(1)(A), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(1)(B). Pub. L. 98–473, § 502(1)(A), (B), redesignated former subpar. (A) as (B), substituted ''except as provided in subparagraphs (A) and (C),'' for ''which is a narcotic drug'', ''$125,000'' for ''$25,000'', and ''$250,000'' for ''$50,000'', and inserted references to laws of a State and a foreign country. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 98–473, § 502(1)(A), (C), redesignated former subpar. (B) as (C), substituted ''less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil'' for ''a controlled substance in schedule I or II which is not a narcotic drug'', ''and (5)'' for '', (5), and (6)'', ''$50,000'' for ''$15,000'', and ''$100,000'' for ''$30,000'', and inserted references to laws of a State and a foreign country.

Subsec. (b)(2). Pub. L. 98–473, § 502(2), substituted ''$25,000'' for ''$10,000'' and ''$50,000'' for ''$20,000'', and inserted references to laws of a State or of a foreign country.

Subsec. (b)(3). Pub. L. 98–473, § 502(3), substituted ''$10,000'' for ''$5,000'' and ''$20,000'' for ''$10,000'', and inserted references to laws of a State or of a foreign country.

Subsec. (b)(4). Pub. L. 98–473, § 502(4), substituted ''(1)(C)'' for ''(1)(B)''.

Pub. L. 98–473, § 224(a)(1), as renumbered by Pub. L. 99–570, § 1005(a), substituted ''in section 844 of this title and section 3607 of title 18'' for ''in subsections (a) and (b) of section 844 of this title''.

Subsec. (b)(5). Pub. L. 98–473, § 502(5), (6), added par. (5) and struck out former par. (5) which related to penalties for manufacturing, etc., phencyclidine.

Subsec. (b)(6). Pub. L. 98–473, § 502(5), struck out par. (6) which related to penalties for violations involving a quantity of marihuana exceeding 1,000 pounds.

Subsec. (c). Pub. L. 98–473, § 224(a)(2), as renumbered by Pub. L. 99–570, § 1005(a), struck out subsec. (c) which read as follows: ''A special parole term imposed under this section or section 845, 845a, or 845b of this title may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or section 845, 845a, or 845b of this title shall be in addition to, and not in lieu of, any other parole provided for by law.''

Pub. L. 98–473, § 503(b)(2), inserted reference to section 845a of this title in two places.

1980—Subsec. (b)(1)(B). Pub. L. 96–359, § 8(c)(1), inserted reference to par. (6) of this subsection.

Subsec. (b)(6). Pub. L. 96–359, § 8(c)(2), added par. (6).

1978—Subsec. (b)(1)(B). Pub. L. 95–633, § 201(1), inserted '', except as provided in paragraphs (4) and (5) of this subsection,'' after ''such person shall''.

Subsec. (b)(5). Pub. L. 95–633, § 201(2), added par. (5).

Subsec. (d). Pub. L. 95–633, § 201(3), added subsec. (d).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6055 of Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 1004(b) of Pub. L. 99–570 provided that: ''The amendments made by this section [amending this section and sections 845, 845a, 960, and 962 of this title] shall take effect on the date of the taking effect of section 3583 of title 18, United States Code [Nov. 1, 1987].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(a) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95–633 set out as an Effective Date note under section 830 of this title.

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsec. (d) of this section effective Jan. 1, 1981.

§ 842. Prohibited acts B

(a) Unlawful acts

It shall be unlawful for any person—

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 829 of this title;

(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 825 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 825 of this title;

(5) to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this subchapter or subchapter II of this chapter;

(6) to refuse any entry into any premises or inspection authorized by this subchapter or subchapter II of this chapter;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 824(f) or 881 of this title or to remove or dispose of substances so placed under seal;

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this subchapter or subchapter II of this chapter, any information acquired in the course of an inspection authorized by this subchapter concerning any method or process which as a trade secret is entitled to protection, or to use to his own advantage or reveal (other than as authorized by section 830 of this title) any information that is confidential under such section;

(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 830(a)(3) of this title.[1]

(10) negligently to fail to keep a record or make a report under section 830 of this title;

(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this subchapter or subchapter II of this chapter, with reckless disregard for the illegal uses to which such a laboratory supply will be put;

(12) who is a regulated seller, or a distributor required to submit reports under subsection (b)(3) of section 830 of this title—

(A) to sell at retail a scheduled listed chemical product in violation of paragraph (1) of subsection (d) of such section, knowing at the time of the transaction involved (independent of consulting the logbook under subsection (e)(1)(A)(iii) of such section) that the transaction is a violation; or

[1] So in original. Probably should be ''section 830(a)(3) of this title;''.

(B) to knowingly or recklessly sell at retail such a product in violation of paragraph (2) of such subsection (d);

(13) who is a regulated seller to knowingly or recklessly sell at retail a scheduled listed chemical product in violation of subsection (e) of such section; or

(14) who is a regulated seller or an employee or agent of such seller to disclose, in violation of regulations under subparagraph (C) of section 830(e)(1) of this title, information in logbooks under subparagraph (A)(iii) of such section, or to refuse to provide such a logbook to Federal, State, or local law enforcement authorities.

As used in paragraph (11), the term ''laboratory supply'' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.

(b) Manufacture

It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II, or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical, which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 826 of this title; or

(2) in excess of a quota assigned to him pursuant to section 826 of this title.

(c) Penalties

(1)(A) Except as provided in subparagraph (B) of this paragraph and paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 to enforce this paragraph.

(B) In the case of a violation of paragraph (5) or (10) of subsection (a) of this section, the civil penalty shall not exceed $10,000.

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) of this paragraph, be sentenced to imprisonment of not more than one year or a fine under title 18, or both.

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine under title 18, or both.

(C) In addition to the penalties set forth elsewhere in this subchapter or subchapter II of this chapter, any business that violates paragraph (11) of subsection (a) of this section shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

(4)(A) If a regulated seller, or a distributor required to submit reports under section 830(b)(3) of this title, violates paragraph (12) of subsection (a) of this section, or if a regulated seller violates paragraph (13) of such subsection, the Attorney General may by order prohibit such seller or distributor (as the case may be) from selling any scheduled listed chemical product. Any sale of such a product in violation of such an order is subject to the same penalties as apply under paragraph (2).

(B) An order under subparagraph (A) may be imposed only through the same procedures as apply under section 824(c) of this title for an order to show cause.

(Pub. L. 91–513, title II, § 402, Oct. 27, 1970, 84 Stat. 1262; Pub. L. 95–633, title II, § 202(b)(1), (2), Nov. 10, 1978, 92 Stat. 3776; Pub. L. 100–690, title VI, § 6056, Nov. 18, 1988, 102 Stat. 4318; Pub. L. 104–237, title II, § 205, Oct. 3, 1996, 110 Stat. 3103; Pub. L. 105–277, div. A, § 101(b) [title I, § 117], Oct. 21, 1998, 112 Stat. 2681–50, 2681–68; Pub. L. 107–273, div. B, title IV, § 4002(b)(16), (d)(2)(B), Nov. 2, 2002, 116 Stat. 1808, 1809; Pub. L. 109–177, title VII, §§ 711(f)(1)(A), (2), 714, Mar. 9, 2006, 120 Stat. 262–264.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (b), are set out in section 812(c) of this title.

AMENDMENTS

2006—Subsec. (a)(12) to (14). Pub. L. 109–177, § 711(f)(1)(A), added pars. (12) to (14).

Subsec. (b). Pub. L. 109–177, § 714, inserted '', or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical,'' after ''manufacture a controlled substance in schedule I or II'' in introductory provisions.

Subsec. (c)(4). Pub. L. 109–177, § 711(f)(2), added par. (4).

2002—Subsec. (c)(2)(A). Pub. L. 107–273, § 4002(d)(2)(B)(i), substituted ''under title 18'' for ''of not more than $25,000''.

Subsec. (c)(2)(B). Pub. L. 107–273, § 4002(d)(2)(B)(ii), substituted ''under title 18'' for ''of $50,000''.

Subsec. (c)(2)(C). Pub. L. 107–273, § 4002(b)(16), realigned margins.

1998—Subsec. (a)(5). Pub. L. 105–277, § 101(b) [title I, § 117(1)], inserted ''negligently'' before ''fail''.

Subsec. (a)(10). Pub. L. 105–277, § 101(b) [title I, § 117(2)], inserted ''negligently'' before ''to fail''.

Subsec. (c)(1). Pub. L. 105–277, § 101(b) [title I, § 117(3)], designated existing provisions as subpar. (A), inserted ''subparagraph (B) of this paragraph and'' before ''paragraph (2)'', and added subpar. (B).

1996—Subsec. (a). Pub. L. 104–237, § 205(a), added par. (11) and closing provisions.

Subsec. (c)(2)(C). Pub. L. 104–237, § 205(b), added subpar. (C).

1988—Subsec. (a)(8). Pub. L. 100–690, § 6056(a), inserted '', or to use to his own advantage or reveal (other than as authorized by section 830 of this title) any information that is confidential under such section'' after ''protection''.

Subsec. (a)(9). Pub. L. 100–690, § 6056(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''to distribute or sell piperidine in violation of regulations established under section 830(a)(2) of this title, respecting presentation of identification.''

Subsec. (a)(10). Pub. L. 100–690, § 6056(d), added par. (10).

Subsec. (c)(2)(C). Pub. L. 100–690, § 6056(c), struck out subpar. (C) which read as follows: ''Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) of this section with respect to a refusal or failure to make a report required under section 830(a) of this title (relating to piperidine reporting).''

1978—Subsec. (a)(9). Pub. L. 95–633, § 202(b)(1), added par. (9).

Subsec. (c)(2)(C). Pub. L. 95–633, § 202(b)(2), added subpar. (C).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95–633 set out as an Effective Date note under section 830 of this title.

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsecs. (a)(9) and (c)(2)(C) of this section effective Jan. 1, 1981.

§ 843. Prohibited acts C

(a) Unlawful acts

It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 828 of this title;

(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II of this chapter, or (B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present identification under section 830(a) of this title;

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance;

(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II of this chapter;

(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II of this chapter or, in the case of an exportation, in violation of this subchapter or subchapter II of this chapter or of the laws of the country to which it is exported;

(8) to create a chemical mixture for the purpose of evading a requirement of section 830 of this title or to receive a chemical mixture created for that purpose; or

(9) to distribute, import, or export a list I chemical without the registration required by this subchapter or subchapter II of this chapter.

(b) Communication facility

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II of this chapter. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term ''communication facility'' means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

(c) Advertisement

(1) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement know-

ing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule[1] I controlled substance. As used in this section the term ''advertisement'' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule[1] I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule[1] I controlled substance. The term ''advertisement'' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule[1] I controlled substance.

(2)(A) It shall be unlawful for any person to knowingly or intentionally use the Internet, or cause the Internet to be used, to advertise the sale of, or to offer to sell, distribute, or dispense, a controlled substance where such sale, distribution, or dispensing is not authorized by this subchapter or by the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.].

(B) Examples of activities that violate subparagraph (A) include, but are not limited to, knowingly or intentionally causing the placement on the Internet of an advertisement that refers to or directs prospective buyers to Internet sellers of controlled substances who are not registered with a modification under section 823(f) of this title.

(C) Subparagraph (A) does not apply to material that either—

(i) merely advertises the distribution of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter; or

(ii) merely advocates the use of a controlled substance or includes pricing information without attempting to facilitate an actual transaction involving a controlled substance.

(d) Penalties

(1) Except as provided in paragraph (2), any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine under title 18, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine under title 18, or both.

(2) Any person who, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a) of this section, shall be sentenced to a term of imprisonment of not more than 10 years, a fine under title 18, or both; except that if any person commits such a violation after one or more prior convictions of that person—

(A) for a violation of paragraph (6) or (7) of subsection (a) of this section;

(B) for a felony under any other provision of this subchapter or subchapter II of this chapter; or

(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine under title 18, or both.

(e) Additional penalties

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) Injunctions

(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section, section 842 of this title, or 856[2] of this title.

(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 842 of this title.

(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Pub. L. 91–513, title II, § 403, Oct. 27, 1970, 84 Stat. 1263; Pub. L. 95–633, title II, § 202(b)(3), Nov. 10, 1978, 92 Stat. 3776; Pub. L. 98–473, title II, § 516, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 99–570, title I, § 1866(a), Oct. 27, 1986, 100 Stat. 3207–54; Pub. L. 100–690, title VI, § 6057, Nov. 18, 1988, 102 Stat. 4319; Pub. L. 103–200, § 3(g), Dec. 17, 1993, 107 Stat. 2337; Pub. L. 103–322, title IX, § 90106, Sept. 13, 1994, 108 Stat. 1988; Pub. L. 104–237, title II, §§ 203(a), 206(b), Oct. 3, 1996, 110 Stat. 3102, 3103; Pub. L. 107–273, div. B, title IV, § 4002(d)(2)(C), Nov. 2, 2002, 116 Stat. 1810; Pub. L. 108–21, title VI, § 608(d), Apr. 30, 2003, 117 Stat. 691; Pub. L. 110–425, § 3(g), Oct. 15, 2008, 122 Stat. 4830.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsecs. (a)(1) and (c)(1), are set out in section 812(c) of this title.

This subchapter, referred to in subsec. (c)(2)(A), (C)(i), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (c)(2)(A), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified

[1] So in original. Probably should not be capitalized.

[2] So in original. Probably should be preceded by ''section''.

principally to subchapter II (§ 951 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

The Federal Rules of Civil Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–425 designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (f)(1). Pub. L. 108–21 substituted ''this section, section 842 of this title, or 856 of this title'' for ''this section or section 842 of this title''.

2002—Subsec. (d). Pub. L. 107–273 substituted ''under title 18, or both;'' for ''of not more than $30,000, or both;'' in two places and ''under title 18, or both.'' for ''of not more than $60,000, or both.'' in two places.

1996—Subsec. (d). Pub. L. 104–237, § 203(a), inserted par. (1) designation, substituted ''Except as provided in paragraph (2), any person'' for ''Any person'', and added par. (2).

Subsec. (e). Pub. L. 104–237, § 206(b)(1), inserted ''manufacture, exportation,'' after ''distribution,'' and struck out ''regulated'' after ''engaging in any''.

Subsec. (f). Pub. L. 104–237, § 206(b)(2), added subsec. (f).

1994—Subsecs. (c) to (e). Pub. L. 103–322 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1993—Subsec. (a)(6), (7). Pub. L. 103–200, § 3(g)(1), amended pars. (6) and (7) generally. Prior to amendment, pars. (6) and (7) read as follows:

''(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this subchapter;

''(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this subchapter; or''.

Subsec. (a)(9). Pub. L. 103–200, § 3(g)(2), (3), added par. (9).

1988—Subsec. (a)(4)(B). Pub. L. 100–690, § 6057(a)(1), substituted ''a listed chemical'' for ''piperidine''.

Subsec. (a)(6) to (8). Pub. L. 100–690, § 6057(a)(2)–(4), added pars. (6) to (8).

Subsec. (d). Pub. L. 100–690, § 6057(b), added subsec. (d).

1986—Subsec. (a)(2). Pub. L. 99–570 substituted a semicolon for the period at end.

1984—Subsec. (a)(2). Pub. L. 98–473 added applicability to dispensing, acquiring, or obtaining a controlled substance, and applicability to an expired number.

1978—Subsec. (a)(4). Pub. L. 95–633, § 202(b)(3), designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, except as otherwise provided, see section 203(a) of Pub. L. 95–633, set out as an Effective Date note under section 830 of this title.

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsec. (a)(4)(B) of this section effective Jan. 1, 1981.

§ 844. Penalties for simple possession

(a) Unlawful acts; penalties

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 823 of this title or section 958 of this title if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration. It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000, or both, except that if he commits such offense after a prior conviction under this subchapter or subchapter II of this chapter, or a prior conviction for any drug, narcotic, or chemical offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500, except, further, that if he commits such offense after two or more prior convictions under this subchapter or subchapter II of this chapter, or two or more prior convictions for any drug, narcotic, or chemical offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000. Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and

the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram. Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

(b) Repealed. Pub. L. 98–473, title II, § 219(a), Oct. 12, 1984, 98 Stat. 2027

(c) "Drug, narcotic, or chemical offense" defined

As used in this section, the term ''drug, narcotic, or chemical offense'' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this subchapter.

(Pub. L. 91–513, title II, § 404, Oct. 27, 1970, 84 Stat. 1264; Pub. L. 98–473, title II, § 219, Oct. 12, 1984, 98 Stat. 2027; Pub. L. 99–570, title I, § 1052, Oct. 27, 1986, 100 Stat. 3207–8; Pub. L. 100–690, title VI, §§ 6371, 6480, Nov. 18, 1988, 102 Stat. 4370, 4382; Pub. L. 101–647, title XII, § 1201, title XIX, § 1907, Nov. 29, 1990, 104 Stat. 4829, 4854; Pub. L. 104–237, title II, § 201(a), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 104–305, § 2(c), Oct. 13, 1996, 110 Stat. 3808; Pub. L. 109–177, title VII, § 711(e)(1), Mar. 9, 2006, 120 Stat. 262.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–177 inserted after second sentence ''It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service.''

1996—Subsec. (a). Pub. L. 104–305 inserted ''Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both.'' after ''mixture or substance exceeds 1 gram.''

Pub. L. 104–237, § 201(a)(1), inserted after first sentence ''It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 823 of this title or section 958 of this title if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration.'' and substituted ''drug, narcotic, or chemical'' for ''drug or narcotic'' in two places.

Subsec. (c). Pub. L. 104–237, § 201(a)(2), substituted ''drug, narcotic, or chemical'' for ''drug or narcotic''.

1990—Subsec. (a). Pub. L. 101–647, § 1907, inserted subsec. (a) designation.

Pub. L. 101–647, § 1201, substituted ''shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000'' for ''shall be fined under title 18 or imprisoned not less than 5 years and not more than 20 years, or both''.

1988—Subsec. (a). Pub. L. 100–690, § 6480(1)(A)–(C), struck out ''but not more than $5,000'' after ''$1,000'', ''but not more than $10,000'' after ''$2,500'', and ''but not more than $25,000'' after ''$5,000'' in second sentence.

Pub. L. 100–690, § 6371, inserted provisions relating to increased penalties in cases of certain serious crack possession offenses, making offenders subject to fines under title 18 or imprisonment to terms not less than 5 years nor more than 20 years, or both.

1986—Subsec. (a). Pub. L. 99–570 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $5,000, or both, except that if he commits such offense after a prior conviction or convictions under this subsection have become final, he shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000 or both.''

Subsec. (b). Pub. L. 99–570, in amending subsec. (b) generally, substituted ''Upon the discharge of such person and dismissal of the proceedings'' for ''Upon the dismissal of such person and discharge of the proceedings'' in par. (2).

Subsec. (c). Pub. L. 99–570, in amending section generally, added subsec. (c).

1984—Pub. L. 98–473 struck out subsec. (a) designation and struck out subsec. (b) which related to probation before judgment and expunging of records for first offense.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, § 711(e)(2), Mar. 9, 2006, 120 Stat. 262, provided that: ''The amendment made by paragraph (1) [amending this section] applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 844a. Civil penalty for possession of small amounts of certain controlled substances

(a) In general

Any individual who knowingly possesses a controlled substance that is listed in section 841(b)(1)(A) of this title in violation of section 844 of this title in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

(b) Income and net assets

The income and net assets of an individual shall not be relevant to the determination

whether to assess a civil penalty under this section or to prosecute the individual criminally. However, in determining the amount of a penalty under this section, the income and net assets of an individual shall be considered.

(c) Prior conviction

A civil penalty may not be assessed under this section if the individual previously was convicted of a Federal or State offense relating to a controlled substance.

(d) Limitation on number of assessments

A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

(e) Assessment

A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(f) Compromise

The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(g) Judicial review

If the Attorney General issues an order pursuant to subsection (e) of this section after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined de novo, and shall include the right of a trial by jury, the right to counsel, and the right to confront witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

(h) Civil action

If an individual does not request a hearing pursuant to subsection (e) of this section and the Attorney General issues an order pursuant to such subsection, or if an individual does not under subsection (g) of this section seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28. Such interest shall accrue from the expiration of the 30-day period described in subsection (g) of this section. In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(i) Limitation

The Attorney General may not under this subsection[1] commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a) of this section.

(j) Expungement procedures

The Attorney General shall dismiss the proceedings under this section against an individual upon application of such individual at any time after the expiration of 3 years if—

(1) the individual has not previously been assessed a civil penalty under this section;

(2) the individual has paid the assessment;

(3) the individual has complied with any conditions imposed by the Attorney General;

(4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and

(5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.

(Pub. L. 91–513, title II, § 405, formerly Pub. L. 100–690, title VI, § 6486, Nov. 18, 1988, 102 Stat. 4384, renumbered § 405 of Pub. L. 91–513, and amended Pub. L. 101–647, title X, § 1002(g)(1), (2), Nov. 29, 1990, 104 Stat. 4828.)

PRIOR PROVISIONS

A prior section 405 of Pub. L. 91–513 was renumbered section 418 and is classified to section 859 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647, § 1002(g)(2)(A), made technical amendments to references to sections 841(b)(1)(A) and 844 of this title to correct references to corresponding provisions of original act.

Subsecs. (c), (j)(4). Pub. L. 101–647, § 1002(g)(2)(B), (C), struck out ''as defined in section 802 of this title'' after ''controlled substance''.

§§ 845 to 845b. Transferred

CODIFICATION

Section 845, Pub. L. 91–513, title II, § 405, Oct. 27, 1970, 84 Stat. 1265, as amended, which related to distribution of controlled substances to persons under age twenty-one, was renumbered § 418 of Pub. L. 91–513 by Pub. L. 101–647, title X, § 1002(a)(1), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 859 of this title.

Section 845a, Pub. L. 91–513, title II, § 405A, as added Pub. L. 98–473, title II, § 503(a), Oct. 12, 1984, 98 Stat. 2069, and amended, which related to distribution or manufacturing of controlled substances in or near schools and colleges, was renumbered § 419 of Pub. L.

[1] So in original. Probably should be ''section''.

91–513 by Pub. L. 101–647, title X, § 1002(b), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 860 of this title.

Section 845b, Pub. L. 91–513, title II, § 405B, as added Pub. L. 99–570, title I, § 1102, Oct. 27, 1986, 100 Stat. 3207–10, and amended, which related to employment or use of persons under 18 years of age in drug operations, was renumbered § 420 of Pub. L. 91–513 by Pub. L. 101–647, title X, § 1002(c), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 861 of this title.

§ 846. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 91–513, title II, § 406, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 100–690, title VI, § 6470(a), Nov. 18, 1988, 102 Stat. 4377.)

AMENDMENTS

1988—Pub. L. 100–690 substituted ''shall be subject to the same penalties as those prescribed for the offense'' for ''is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense''.

§ 847. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub. L. 91–513, title II, § 407, Oct. 27, 1970, 84 Stat. 1265.)

§ 848. Continuing criminal enterprise

(a) Penalties; forfeitures

Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 30 years and which may be up to life imprisonment, to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title.

(b) Life imprisonment for engaging in continuing criminal enterprise

Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a) of this section, if—

(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

(2)(A) the violation referred to in subsection (c)(1) of this section involved at least 300 times the quantity of a substance described in subsection 841(b)(1)(B) of this title, or

(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 841(b)(1)(B) of this title.

(c) "Continuing criminal enterprise" defined

For purposes of subsection (a) of this section, a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this subchapter or subchapter II of this chapter the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this subchapter or subchapter II of this chapter—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

(d) Suspension of sentence and probation prohibited

In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and the Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), shall not apply.

(e) Death penalty

(1) In addition to the other penalties set forth in this section—

(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) of this title or section 960(b)(1) of this title who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

(B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this subchapter or subchapter II of this chapter who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

(2) As used in paragraph (1)(B), the term ''law enforcement officer'' means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

(g)[1] to (p) Repealed. Pub. L. 109–177, title II, §221(2), Mar. 9, 2006, 120 Stat. 231

(q) Repealed. Pub. L. 109–177, title II, §§221(4), 222(c), Mar. 9, 2006, 120 Stat. 231, 232

(r) Repealed. Pub. L. 109–177, title II, §221(3), Mar. 9, 2006, 120 Stat. 231

(s) Special provision for methamphetamine

For the purposes of subsection (b), in the case of continuing criminal enterprise involving methamphetamine or its salts, isomers, or salts of isomers, paragraph (2)(A) shall be applied by substituting ''200'' for ''300'', and paragraph (2)(B) shall be applied by substituting ''$5,000,000'' for ''$10 million dollars''.

(Pub. L. 91–513, title II, §408, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98–473, title II, §§224(b), formerly §224(c), 305, Oct. 12, 1984, 98 Stat. 2030, 2050; Pub. L. 99–570, title I, §§1005(b)(2), 1252, 1253, Oct. 27, 1986, 100 Stat. 3207–6, 3207–14; Pub. L. 100–690, title VI, §6481, title VII, §7001, Nov. 18, 1988, 102 Stat. 4382, 4387; Pub. L. 103–322, title XXXIII, §§330003(e), 330009(d), 330014, Sept. 13, 1994, 108 Stat. 2141, 2143, 2146; Pub. L. 104–132, title I, §108, title IX, §903(b), Apr. 24, 1996, 110 Stat. 1226, 1318; Pub. L. 109–177, title II, §§221, 222(c), title VII, §733, Mar. 9, 2006, 120 Stat. 231, 232, 270.)

REFERENCES IN TEXT

Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), referred to in subsec. (d), is act July 15, 1932, ch. 492, 47 Stat. 696, as amended, which is not classified to the Code.

AMENDMENTS

2006—Subsec. (e)(2). Pub. L. 109–177, §221(1), substituted ''(1)(B)'' for ''(1)(b)''.

Subsecs. (g) to (p). Pub. L. 109–177, §221(2), struck out subsecs. (g) to (p) which related to hearing and sentencing procedures in death penalty cases and sentencing in capital cases in which the death penalty is not sought or imposed.

Subsec. (q). Pub. L. 109–177, §§221(4), 222(c), struck out subsec. (q) which related to appeal in capital cases and counsel for financially unable defendants.

Subsec. (r). Pub. L. 109–177, §221(3), struck out subsec. (r) which provided for refusal by State and Federal correctional employees to participate in executions.

Subsec. (s). Pub. L. 109–177, §733, added subsec. (s).

1996—Subsec. (q)(9). Pub. L. 104–132, §108, amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.''

Subsec. (q)(10). Pub. L. 104–132, §903(b), amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9).''

1994—Subsec. (b)(2)(A). Pub. L. 103–322, §330003(e), substituted ''subsection (c)(1) of this section'' for ''subsection (d)(1) of this section''.

Subsec. (n)(11). Pub. L. 103–322, §330014, made technical amendment to reference to section 859 of this title to correct reference to corresponding section of original act.

Subsec. (q)(8). Pub. L. 103–322, §330009(d), substituted ''applications for writ'' for ''applications, for writ''.

1988—Subsec. (a). Pub. L. 100–690, §6481(a), increased minimum term of imprisonment for first violations to 20 from 10 years and for subsequent violations to 30 from 20 years.

Subsecs. (c), (d). Pub. L. 100–690, §6481(b), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

Subsec. (e). Pub. L. 100–690, §7001(a)(2), added subsec. (e). Former subsec. (e) redesignated (d).

Pub. L. 100–690, §7001(a)(1), which directed redesignation of former subsec. (e) as (f), could not be executed because of prior redesignation of former subsec. (e) as (d) by Pub. L. 100–690, §6481(b), which resulted in there not being a subsec. (f).

Subsecs. (g) to (r). Pub. L. 100–690, §7001(b), added subsecs. (g) to (r).

1986—Subsec. (a). Pub. L. 99–570, §1252, substituted ''to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,'' for ''to a fine of not more than $100,000,'' and ''to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,'' for ''to a fine of not more than $200,000,''.

Subsecs. (b) to (e). Pub. L. 99–570, §1253, added subsec. (b) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively, which resulted in there not being a subsec. (c).

1984—Subsec. (a). Pub. L. 98–473, §305, struck out par. (1) designation, substituted references to section 853 of this title for references to paragraph (2) in two places, and struck out par. (2) which related to forfeitures to the United States by any person convicted under par. (1).

Subsec. (d). Pub. L. 98–473, §305(b), struck out subsec. (d) relating to jurisdiction of courts of the United States.

Subsec. (e). Pub. L. 98–473, §224(b), as renumbered by Pub. L. 99–570, §1005(b)(2), which directed the amendment of subsec. (c) of this section by striking out ''and section 4202 of title 18 of the United States Code'', was executed by striking out that language in subsec. (e) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99–570, §1253, which redesignated subsec. (c) as (e). See 1986 Amendment note above.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 903(b) of Pub. L. 104–132 effective as to cases commenced or appeals perfected on or after Apr. 24, 1996, see section 903(c) of Pub. L. 104–132, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(b) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

GAO STUDY OF COST OF EXECUTIONS

Section 7002 of title VII of Pub. L. 100–690, directed Comptroller General to conduct a study of cost of exe-

[1] So in original. Section does not contain a subsec. (f), see 1988 Amendment note below.

cutions and report to Congress, prior to repeal by Pub. L. 104–66, title I, § 1091(d), Dec. 21, 1995, 109 Stat. 722.

§ 849. Transportation safety offenses

(a) Definitions

In this section—

''safety rest area'' means a roadside facility with parking facilities for the rest or other needs of motorists.

''truck stop'' means a facility (including any parking lot appurtenant thereto) that—

(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49), operating in commerce (as defined in that section); and

(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

(b) First offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b)[1] of this section) subject to—

(1) twice the maximum punishment authorized by section 841(b) of this title; and

(2) twice any term of supervised release authorized by section 841(b) of this title for a first offense.

(c) Subsequent offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a)[2] of this section have become final is subject to—

(1) 3 times the maximum punishment authorized by section 841(b) of this title; and

(2) 3 times any term of supervised release authorized by section 841(b) of this title for a first offense.

(Pub. L. 91–513, title II, § 409, as added Pub. L. 103–322, title XVIII, § 180201(b)(1), Sept. 13, 1994, 108 Stat. 2046.)

PRIOR PROVISIONS

A prior section 849, Pub. L. 91–513, title II, § 409, Oct. 27, 1970, 84 Stat. 1266; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, related to dangerous special drug offender sentencing, prior to repeal by Pub. L. 98–473, title II, §§ 219(a), 235(a)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, eff. Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal.

§ 850. Information for sentencing

Except as otherwise provided in this subchapter or section 242a(a)[1] of title 42, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this subchapter or subchapter II of this chapter.

(Pub. L. 91–513, title II, § 410, Oct. 27, 1970, 84 Stat. 1269.)

REFERENCES IN TEXT

Section 242a of title 42, referred to in text, was repealed by Pub. L. 106–310, div. B, title XXXII, § 3201(b)(1), Oct. 17, 2000, 114 Stat. 1190.

§ 851. Proceedings to establish prior convictions

(a) Information filed by United States Attorney

(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) Affirmation or denial of previous conviction

If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c) Denial; written response; hearing

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1) of this section. The hearing shall be before the court without a jury and either party may introduce evidence. Except as other-

[1] So in original. Probably should be subsection ''(c)''.

[2] So in original. Probably should be subsection ''(b)''.

[1] See References in Text note below.

wise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

(d) Imposition of sentence

(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(e) Statute of limitations

No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section which occurred more than five years before the date of the information alleging such prior conviction.

(Pub. L. 91–513, title II, § 411, Oct. 27, 1970, 84 Stat. 1269.)

§ 852. Application of treaties and other international agreements

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.

(Pub. L. 91–513, title II, § 412, as added Pub. L. 95–633, title I, § 107(a), Nov. 10, 1978, 92 Stat. 3773.)

EFFECTIVE DATE

Section effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as a note under section 801a of this title.

§ 853. Criminal forfeitures

(a) Property subject to criminal forfeiture

Any person convicted of a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II of this chapter, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) Meaning of term "property"

Property subject to criminal forfeiture under this section includes—

(1) real property, including things growing on, affixed to, and found in land; and

(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

(c) Third party transfers

All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(d) Rebuttable presumption

There is a rebuttable presumption at trial that any property of a person convicted of a felony under this subchapter or subchapter II of this chapter is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

(1) such property was acquired by such person during the period of the violation of this subchapter or subchapter II of this chapter or within a reasonable time after such period; and

(2) there was no likely source for such property other than the violation of this subchapter or subchapter II of this chapter.

(e) Protective orders

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of this subchapter or subchapter II of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than fourteen days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(4) ORDER TO REPATRIATE AND DEPOSIT.—

(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p) of this section, shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.

(f) Warrant of seizure

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (e) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(g) Execution

Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(h) Disposition of property

Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

(i) Authority of the Attorney General

With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this subchapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, in accordance with the provisions of section 881(e) of this title, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(j) Applicability of civil forfeiture provisions

Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 881(d) of this title shall apply to a criminal forfeiture under this section.

(k) Bar on intervention

Except as provided in subsection (n) of this section, no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(*l*) Jurisdiction to enter orders

The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(m) Depositions

In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(n) Third party interests

(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such

petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(*o*) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(p) Forfeiture of substitute property

(1) In general

Paragraph (2) of this subsection shall apply, if any property described in subsection (a) of this section, as a result of any act or omission of the defendant—

(A) cannot be located upon the exercise of due diligence;

(B) has been transferred or sold to, or deposited with, a third party;

(C) has been placed beyond the jurisdiction of the court;

(D) has been substantially diminished in value; or

(E) has been commingled with other property which cannot be divided without difficulty.

(2) Substitute property

In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

(3) Return of property to jurisdiction

In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.

(q) Restitution for cleanup of clandestine laboratory sites

The court, when sentencing a defendant convicted of an offense under this subchapter or subchapter II of this chapter involving the manufacture, the possession, or the possession with intent to distribute, of amphetamine or methamphetamine, shall—

(1) order restitution as provided in sections 3612 and 3664 of title 18;

(2) order the defendant to reimburse the United States, the State or local government concerned, or both the United States and the State or local government concerned for the costs incurred by the United States or the State or local government concerned, as the case may be, for the cleanup associated with the manufacture of amphetamine or methamphetamine by the defendant, or on premises or in property that the defendant owns, resides, or does business in; and

(3) order restitution to any person injured as a result of the offense as provided in section 3663A of title 18.

(Pub. L. 91–513, title II, § 413, as added and amended Pub. L. 98–473, title II, §§ 303, 2301(d)–(f), Oct. 12, 1984, 98 Stat. 2044, 2192, 2193; Pub. L. 99–570, title I, §§ 1153(b), 1864, Oct. 27, 1986, 100 Stat. 3207–13, 3207–54; Pub. L. 104–237, title II, § 207, Oct. 3, 1996, 110 Stat. 3104; Pub. L. 106–310, div. B, title XXXVI, § 3613(a), Oct. 17, 2000, 114 Stat. 1229; Pub. L. 107–56, title III, § 319(d), Oct. 26, 2001, 115 Stat. 314; Pub. L. 109–177, title VII, § 743(a), Mar. 9, 2006, 120 Stat. 272; Pub. L. 111–16, § 5, May 7, 2009, 123 Stat. 1608.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (e)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (m), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2009—Subsec. (e)(2). Pub. L. 111–16 substituted ''fourteen days'' for ''ten days''.

2006—Subsec. (q). Pub. L. 109–177, § 743(a)(1), inserted '', the possession, or the possession with intent to distribute,'' after ''manufacture'' in introductory provisions.

Subsec. (q)(2). Pub. L. 109–177, § 743(a)(2), inserted '', or on premises or in property that the defendant owns, resides, or does business in'' after ''by the defendant''.

2001—Subsec. (e)(4). Pub. L. 107–56, § 319(d)(2), added par. (4).

Subsec. (p). Pub. L. 107–56, § 319(d)(1), inserted heading and amended text of subsec. (p) generally. Prior to amendment, text read as follows: ''If any of the property described in subsection (a) of this section, as a result of any act or omission of the defendant—

''(1) cannot be located upon the exercise of due diligence;

''(2) has been transferred or sold to, or deposited with, a third party;

''(3) has been placed beyond the jurisdiction of the court;

''(4) has been substantially diminished in value; or

''(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).''

2000—Subsec. (q). Pub. L. 106–310, § 3613(a)(1), (2), in introductory provisions, inserted ''amphetamine or'' before ''methamphetamine'' and substituted ''shall'' for ''may''.

Subsec. (q)(2). Pub. L. 106–310, § 3613(a)(2), (3), inserted '', the State or local government concerned, or both the United States and the State or local government concerned'' after ''to reimburse the United States'', ''or the State or local government concerned, as the case may be,'' after ''costs incurred by the United States'', and ''amphetamine or'' before ''methamphetamine''.

Subsec. (q)(3). Pub. L. 106–310, § 3613(a)(4), substituted ''section 3663A of title 18'' for ''section 3663 of title 18''.

1996—Subsec. (q). Pub. L. 104–237 added subsec. (q).

1986—Subsec. (c). Pub. L. 99–570, § 1864(1), substituted ''subsection (n)'' for ''subsection (*o*)''.

Subsec. (f). Pub. L. 99–570, § 1864(2), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (i)(1). Pub. L. 99–570, § 1864(3), substituted ''this subchapter'' for ''this chapter''.

Subsec. (k). Pub. L. 99–570, § 1864(1), (4), which directed the substitution of ''subsection (n)'' for ''subsection (*o*)'' in ''the second subsection (h)'', and directed the redesignation of ''the second subsection (h)'' as subsection (k), were executed to this subsection because the ''second subsection (h)'' had been editorially redesignated subsec. (k) to reflect the probable intent of Congress. See 1984 Amendment note below.

Subsec. (p). Pub. L. 99–570, § 1153(b), which directed that ''section 413 of title II of the Comprehensive Drug

Abuse Prevention and Control Act of 1975'' be amended ''by redesignating subsection '(p)' as subsection '(q)' '' and adding subsec. (p) was executed to this section, which is section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as the probable intent of Congress, by adding a subsec. (p) in view of the prior redesignation of subsec. (p) as (*o*) by Pub. L. 98–473, § 2301(e)(2). See 1984 Amendment note below.

1984—Subsec. (a). Pub. L. 98–473, § 2301(d), inserted ''In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.''

Subsec. (d). Pub. L. 98–473, § 2301(e), struck out subsec. (d) which related to forfeiture of property other than that described in subsec. (a) and the conditions therefor, and redesignated former subsec. (e) as (d).

Subsecs. (e) to (p). Pub. L. 98–473, § 2301(e)(2), which directed that this section be amended by redesignating subsecs. (e), (f), (g), (h), (i), (*l*), (m), (n), (*o*), and (p) as subsecs. (d), (e), (f), (g), (h), (i), (j), (h), (*l*), (m), (n), and (*o*), respectively, was executed by redesignating subsecs. (e) to (p) as (d) to (*o*), respectively, to give effect to the probable intent of Congress.

Subsec. (n)(1). Pub. L. 98–473, § 2301(f), struck out ''for at least seven successive court days'' after ''to dispose of the property''.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of Title 11, Bankruptcy.

SAVINGS CLAUSE

Pub. L. 109–177, title VII, § 743(b), Mar. 9, 2006, 120 Stat. 273, provided that: ''Nothing in this section [amending this section] shall be interpreted or construed to amend, alter, or otherwise affect the obligations, liabilities and other responsibilities of any person under any Federal or State environmental laws.''

§ 853a. Transferred

CODIFICATION

Section, Pub. L. 100–690, title V, § 5301, Nov. 18, 1988, 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors, was renumbered section 421 of the Controlled Substances Act by Pub. L. 101–647, title X, § 1002(d)(1), Nov. 29, 1990, 104 Stat. 4827, and is classified to section 862 of this title.

§ 854. Investment of illicit drug profits

(a) Prohibition

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this subchapter or subchapter II of this chapter punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this subchapter or subchapter II of this chapter after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) Penalty

Whoever violates this section shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

(c) "Enterprise" defined

As used in this section, the term ''enterprise'' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

(d) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(Pub. L. 91–513, title II, § 414, as added Pub. L. 98–473, title II, § 303, Oct. 12, 1984, 98 Stat. 2049.)

§ 855. Alternative fine

In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(Pub. L. 91–513, title II, § 415, as added Pub. L. 98–473, title II, § 2302, Oct. 12, 1984, 98 Stat. 2193.)

§ 856. Maintaining drug-involved premises

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Criminal penalties

Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.

(c) Violation as offense against property

A violation of subsection (a) of this section shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18.

(d) Civil penalites

(1) Any person who violates subsection (a) of this section shall be subject to a civil penalty of not more than the greater of—

(A) $250,000; or

(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

(e) Declaratory and injunctive remedies

Any person who violates subsection (a) of this section shall be subject to declaratory and injunctive remedies as set forth in section 843(f) of this title.

(Pub. L. 91–513, title II, § 416, as added Pub. L. 99–570, title I, § 1841(a), Oct. 27, 1986, 100 Stat. 3207–52; amended Pub. L. 106–310, div. B, title XXXVI, § 3613(e), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 108–21, title VI, § 608(b)(1), (2), (c), Apr. 30, 2003, 117 Stat. 691.)

AMENDMENTS

2003—Pub. L. 108–21, § 608(b)(2), substituted ''Maintaining drug-involved premises'' for ''Establishment of manufacturing operations'' in section catchline.

Subsec. (a)(1). Pub. L. 108–21, § 608(b)(1)(A), substituted ''open, lease, rent, use, or maintain any place, whether permanently or temporarily,'' for ''open or maintain any place''.

Subsec. (a)(2). Pub. L. 108–21, § 608(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.''

Subsecs. (d), (e). Pub. L. 108–21, § 608(c), added subsecs. (d) and (e).

2000—Subsec. (c). Pub. L. 106–310 added subsec. (c).

§ 857. Repealed. Pub. L. 101–647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859

Section, Pub. L. 99–570, title I, § 1822, Oct. 27, 1986, 100 Stat. 3207–51; Pub. L. 100–690, title VI, § 6485, Nov. 18, 1988, 102 Stat. 4384; Pub. L. 101–647, title XXIV, § 2401(b), Nov. 29, 1990, 104 Stat. 4859, related to interstate and foreign sale and transportation of drug paraphernalia.

Subsec. (a), which related to unlawful acts, was repealed.

Subsecs. (b) to (f) were redesignated as subsecs. (b) to (f) of section 422 of the Controlled Substances Act by section 2401(b) of Pub. L. 101–647 and transferred to section 863(b) to (f) of this title.

EFFECTIVE DATE

Section 1823 of Pub. L. 99–570 which provided that subtitle O (§§ 1821–1823) of title I of Pub. L. 99–570, enacting this section and provisions set out as a note under section 801 of this title, was to become effective 90 days after Oct. 27, 1986, was repealed by Pub. L. 101–647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859.

§ 858. Endangering human life while illegally manufacturing controlled substance

Whoever, while manufacturing a controlled substance in violation of this subchapter, or attempting to do so, or transporting or causing to be transported materials, including chemicals, to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18 or imprisoned not more than 10 years, or both.

(Pub. L. 91–513, title II, § 417, as added Pub. L. 100–690, title VI, § 6301(a), Nov. 18, 1988, 102 Stat. 4370.)

§ 859. Distribution to persons under age twenty-one

(a) First offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title, and (2) at least twice any term of supervised release authorized by section 841(b) of this title, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction under subsection (a) of this section (or under section 333(b) of this title as in effect prior to May 1, 1971) has become final, is subject to (1) three times the maximum punishment authorized by section 841(b) of this title, and (2) at least three times any term of supervised release authorized by section 841(b) of this title, for a second or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(Pub. L. 91–513, title II, § 418, formerly § 405, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98–473, title II, §§ 224(b), 503(b)(3), Oct. 12, 1984, 98 Stat. 2030, 2070; Pub. L. 99–570, title I, §§ 1004(a), 1005(b)(1), 1105(a), (b), Oct. 27, 1986, 100 Stat. 3207–6, 3207–11; Pub. L. 100–690, title VI, §§ 6452(b), 6455, 6456, Nov. 18, 1988, 102 Stat. 4371, 4372; renumbered § 418 and amended Pub. L. 101–647, title X, §§ 1002(a), 1003(a), title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4828, 4932.)

CODIFICATION

Section was classified to section 845 of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647, § 1003(a)(1), substituted ''subject to (1) twice the maximum punishment authorized by section 841(b) of this title'' for ''punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title''.

Pub. L. 101–647, § 1002(a)(2)(A), substituted ''section 860'' for ''section 845a''.

Subsec. (b). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1003(a)(2), substituted ''subject to (1) three times the maximum punishment authorized by section 841(b) of this title'' for ''punishable by (1) a

term of imprisonment, or a fine, or both, up to three times that authorized by section 841(b) of this title''.

Pub. L. 101–647, § 1002(a)(2)(B), substituted ''section 860'' for ''section 845a''.

1988—Subsec. (a). Pub. L. 100–690, § 6455, inserted at end ''The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.''

Subsec. (b). Pub. L. 100–690, § 6452(b), struck out ''or subsequent'' after ''Second'' in heading, and in text struck out ''or convictions'' after ''a prior conviction'', and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Pub. L. 100–690, § 6456, struck out ''The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

1986—Subsec. (a). Pub. L. 99–570, § 1105(a), inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

Subsec. (b). Pub. L. 99–570, § 1105(b), inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

1984—Subsecs. (a), (b). Pub. L. 98–473, § 503(b)(3), substituted ''Except as provided in section 845a of this title, any'' for ''Any''.

Pub. L. 98–473, § 224(b), which directed amendment of this section effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was repealed by Pub. L. 99–570, § 1005(b)(1).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

§ 860. Distribution or manufacturing in or near schools and colleges

(a) Penalty

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b) of this section) subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offenders

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) of this section has become final is punishable (1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 841(b) of this title for a first offense, and (2) at least three times any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(c) Employing children to distribute drugs near schools or playgrounds

Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 841 of this title.

(d) Suspension of sentence; probation; parole

In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

(e) Definitions

For the purposes of this section—

(1) The term ''playground'' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open

to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2) The term ''youth center'' means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) The term ''video arcade facility'' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4) The term ''swimming pool'' includes any parking lot appurtenant thereto.

(Pub. L. 91–513, title II, § 419, formerly § 405A, as added Pub. L. 98–473, title II, § 503(a), Oct. 12, 1984, 98 Stat. 2069; amended Pub. L. 99–570, title I, §§ 1004(a), 1104, 1105(c), 1841(b), 1866(b), (c), Oct. 27, 1986, 100 Stat. 3207–6, 3207–11, 3207–52, 3207–55; Pub. L. 99–646, § 28, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 100–690, title VI, §§ 6452(b)(1), 6457, 6458, Nov. 18, 1988, 102 Stat. 4371, 4373; renumbered § 419 and amended Pub. L. 101–647, title X, §§ 1002(b), 1003(b), title XII, § 1214, title XV, § 1502, title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4833, 4836, 4932; Pub. L. 103–322, title XIV, § 140006, title XXXII, § 320107, title XXXIII, § 330009(a), Sept. 13, 1994, 108 Stat. 2032, 2111, 2143.)

CODIFICATION

Section was classified to section 845a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, § 320107, substituted ''playground, or housing facility owned by a public housing authority, or within'' for ''playground, or within''.

Subsec. (b). Pub. L. 103–322, §§ 320107, 330009(a), substituted ''playground, or housing facility owned by a public housing authority, or within'' for ''playground, or within'' and inserted a period at end of penultimate sentence.

Subsecs. (c) to (e). Pub. L. 103–322, § 140006, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1990—Subsec. (a). Pub. L. 101–647, § 1502(1), inserted ''or a playground,'' after ''university,'' and struck out ''playground,'' after ''within 100 feet of a''.

Pub. L. 101–647, § 1214(1)(C), substituted ''a person shall be sentenced under this subsection to a term of imprisonment of not less than one year'' for ''a term of imprisonment under this subsection shall be not less than one year''.

Pub. L. 101–647, § 1214(1)(B), inserted ''A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection.''

Pub. L. 101–647, § 1214(1)(A), which directed the amendment of par. (1) by striking out '', or a fine, or both,'' could not be executed because those words did not appear. See note below.

Pub. L. 101–647, § 1003(b)(1), which directed the substitution of ''subject to (1) twice the maximum punishment authorized by section 841(b) of this title'' for ''punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title'', was executed by making the substitution for ''punishable (1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 841(b) of this title'' to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1502(2), inserted ''or a playground,'' after ''university,'' and struck out ''playground,'' after ''within 100 feet of a''.

Pub. L. 101–647, § 1214(2)(B), inserted after first sentence ''A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years''.

Subsec. (b)(1)(B). Pub. L. 101–647, § 1214(2)(A), which directed the amendment of subpar. (B) by striking '', or a fine up to three times that'' through ''or both'', could not be executed because the language did not appear after execution of the intervening amendment by Pub. L. 101–647, § 1003(b)(2). See below.

Pub. L. 101–647, § 1003(b)(2), substituted ''three times the maximum punishment authorized by section 841(b) of this title for a first offense'' for ''a term of imprisonment of up to three times that authorized by section 841(b) of this title for a first offense, or a fine up to three times that authorized by section 841(b) of this title for a first offense, or both''.

Subsec. (c). Pub. L. 101–647, § 1214(3), inserted ''mandatory minimum'' after ''In the case of any'', struck out ''subsection (b) of'' after ''imposed under'', and substituted ''An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section'' for ''An individual convicted under subsection (b) of this section shall not be eligible for parole under chapter 311 of title 18 until the individual has served the minimum sentence required by such subsection''.

1988—Subsec. (a). Pub. L. 100–690, §§ 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'' and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university''.

Subsec. (b). Pub. L. 100–690, §§ 6452(b)(1), 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'', and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university'', substituted ''a prior conviction'' for ''a prior conviction or convictions'', and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (d). Pub. L. 100–690, § 6458(b), added subsec. (d).

1986—Subsec. (a). Pub. L. 99–570, §§ 1104(a), (b), 1105(c), 1841(b)(1), inserted ''or section 856 of this title'' and ''or manufacturing'', substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school'', struck out ''involving the same controlled substance and schedule'' after ''for a first offense'', and inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

Subsec. (b). Pub. L. 99–646 which directed that ''parole'' be inserted after ''(2) at least three times any special'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, § 1166(b), which directed that ''term of supervised release'' be substituted for ''special term'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, §§1104(a), 1841(b)(2), inserted reference to section 856 of this title, inserted ''or manufacturing'' after ''distributing'' and substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school''.

Pub. L. 99–570, §1104(c), amended cls. (1) and (2) generally. Prior to amendment, cls. (1) and (2) read as follows: ''(1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special term authorized by section 841(b) of this title for a second or subsequent offense involving the same controlled substance and schedule.''

Subsec. (c). Pub. L. 99–570, §1866(c), substituted reference to chapter 311 of title 18 for reference to section 4202 of that title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

§ 860a. Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside

Whoever violates section 841(a)(1) of this title by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.

(Pub. L. 91–513, title II, §419a, as added Pub. L. 109–177, title VII, §734(a), Mar. 9, 2006, 120 Stat. 270.)

§ 861. Employment or use of persons under 18 years of age in drug operations

(a) Unlawful acts

It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this subchapter or subchapter II of this chapter;

(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this subchapter or subchapter II of this chapter by any Federal, State, or local law enforcement official; or

(3) receive a controlled substance from a person under 18 years of age, other than an immediate family member, in violation of this subchapter or subchapter II of this chapter.

(b) Penalty for first offense

Any person who violates subsection (a) of this section is subject to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

(c) Penalty for subsequent offenses

Any person who violates subsection (a) of this section after a prior conviction under subsection (a) of this section has become final, is subject to three times the maximum punishment otherwise authorized and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(d) Penalty for providing or distributing controlled substance to underage person

Any person who violates subsection (a)(1) or (2) of this section[1]

(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

(e) Suspension of sentence; probation; parole

In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18[2] until the individual has served the mandatory term of imprisonment as enhanced by this section.

(f) Distribution of controlled substance to pregnant individual

Except as authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this subchapter. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e) of this section.

(Pub. L. 91–513, title II, §420, formerly §405B, as added Pub. L. 99–570, title I, §1102, Oct. 27, 1986, 100 Stat. 3207–10; amended Pub. L. 100–690, title VI, §§6452(b)(1), 6459, 6470(d), Nov. 18, 1988, 102 Stat. 4371, 4373, 4378; renumbered §420 and amended Pub. L. 101–647, title X, §§1002(c), 1003(c), title XXXV, §3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4932.)

REFERENCES IN TEXT

Section 4202 of title 18, referred to in subsec. (e), which, as originally enacted in Title 18, Crimes and Criminal Procedure, related to eligibility of prisoners for parole, was repealed and a new section 4202 enacted

[1] So in original. Probably should be followed by a dash.

[2] See References in Text note below.

as part of the repeal and enactment of a new chapter 311 (§ 4201 et seq.) of Title 18, by Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 219. For provisions relating to the eligibility of prisoners for parole, see section 4205 of Title 18. Pub. L. 98–473, title II, §§ 218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, as amended, provided that, effective on the first day of the first calendar month beginning 36 months after Oct. 12, 1984 (Nov. 1, 1987), chapter 311 of Title 18 is repealed, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances. See Effective Date note set out under section 3551 of Title 18.

CODIFICATION

Section was classified to section 845b of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–647, § 1003(c)(1), which directed the substitution of ''is subject to twice the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1003(c)(2), which directed the substitution of ''is subject to three times the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

1988—Subsec. (a)(3). Pub. L. 100–690, § 6459, added par. (3).

Subsec. (c). Pub. L. 100–690, § 6452(b)(1), struck out ''or convictions'' after ''a prior conviction'' and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (e). Pub. L. 100–690, § 6470(d), struck out ''required by section 841(b) of this title'' after ''mandatory term of imprisonment''.

§ 862. Denial of Federal benefits to drug traffickers and possessors

(a) Drug traffickers

(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall—

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) Drug possessors

(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall—

(A) upon the first conviction for such an offense and at the discretion of the court—

(i) be ineligible for any or all Federal benefits for up to one year;

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service; or

(iv) any combination of clause (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) Suspension of period of ineligibility

The period of ineligibility referred to in subsections (a) and (b) of this section shall be suspended if the individual—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B) has otherwise been rehabilitated; or

(C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

(d) Definitions

As used in this section—

(1) the term ''Federal benefit''—

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term ''veterans benefit'' means all benefits provided to veterans, their families,

or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(e) Inapplicability of this section to Government witnesses

The penalties provided by this section shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.

(f) Indian provision

Nothing in this section shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subsection shall exempt any individual Indian from the sanctions provided for in this section, provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subsection (d)(1)(B) or (d)(2) of this section.

(g) Presidential report

(1) On or before May 1, 1989, the President shall transmit to the Congress a report—

(A) delineating the role of State courts in implementing this section;

(B) describing the manner in which Federal agencies will implement and enforce the requirements of this section;

(C) detailing the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of Federal benefits; and

(D) recommending any modifications to improve the administration of this section or otherwise achieve the goal of discouraging the trafficking and possession of controlled substances.

(2) No later than September 1, 1989, the Congress shall consider the report of the President and enact such changes as it deems appropriate to further the goals of this section.

(h) Effective date

The denial of Federal benefits set forth in this section shall take effect for convictions occurring after September 1, 1989.

(Pub. L. 91–513, title II, § 421, formerly Pub. L. 100–690, title V, § 5301, Nov. 18, 1988, 102 Stat. 4310; renumbered § 421 of Pub. L. 91–513 and amended Pub. L. 101–647, title X, § 1002(d), Nov. 29, 1990, 104 Stat. 4827.)

CODIFICATION

Section was classified to section 853a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Pub. L. 101–647, § 1002(d)(1), renumbered section 853a of this title as this section.

Subsec. (a)(1). Pub. L. 101–647, § 1002(d)(2), struck out ''(as such terms are defined for purposes of the Controlled Substances Act)'' after ''controlled substances'' in introductory provisions.

§ 862a. Denial of assistance and benefits for certain drug-related convictions

(a) In general

An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 802(6) of this title) shall not be eligible for—

(1) assistance under any State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or

(2) benefits under the food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977 [7 U.S.C. 2012(*l*)]) or any State program carried out under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.].

(b) Effects on assistance and benefits for others

(1) Program of temporary assistance for needy families

The amount of assistance otherwise required to be provided under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] to the family members of an individual to whom subsection (a) of this section applies shall be reduced by the amount which would have otherwise been made available to the individual under such part.

(2) Benefits under the Food Stamp Act of 1977

The amount of benefits otherwise required to be provided to a household under the food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977 [7 U.S.C. 2012(*l*)]), or any State program carried out under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], shall be determined by considering the individual to whom subsection (a) of this section applies not to be a member of such household, except that the income and resources of the individual shall be considered to be income and resources of the household.

(c) Enforcement

A State that has not exercised its authority under subsection (d)(1)(A) of this section shall require each individual applying for assistance or benefits referred to in subsection (a) of this section, during the application process, to state, in writing, whether the individual, or any member of the household of the individual, has been convicted of a crime described in subsection (a) of this section.

(d) Limitations

(1) State elections

(A) Opt out

A State may, by specific reference in a law enacted after August 22, 1996, exempt any or all individuals domiciled in the State from the application of subsection (a) of this section.

(B) Limit period of prohibition

A State may, by law enacted after August 22, 1996, limit the period for which subsection (a) of this section shall apply to any or all individuals domiciled in the State.

(2) Inapplicability to convictions occurring on or before August 22, 1996

Subsection (a) of this section shall not apply to a conviction if the conviction is for conduct occurring on or before August 22, 1996.

(e) "State" defined

For purposes of this section, the term "State" has the meaning given it—

(1) in section 419(5) of the Social Security Act [42 U.S.C. 619(5)], when referring to assistance provided under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], and

(2) in section 3(s) of the Food Stamp Act of 1977 [7 U.S.C. 2012(s)], when referring to the food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977 [7 U.S.C. 2012(*l*)]) or any State program carried out under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.].

(f) Rule of interpretation

Nothing in this section shall be construed to deny the following Federal benefits:

(1) Emergency medical services under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(2) Short-term, noncash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of communicable diseases if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Prenatal care.

(5) Job training programs.

(6) Drug treatment programs.

(Pub. L. 104–193, title I, § 115, Aug. 22, 1996, 110 Stat. 2180; Pub. L. 105–33, title V, § 5516(a), Aug. 5, 1997, 111 Stat. 620; Pub. L. 110–234, title IV, § 4115(c)(2)(C), May 22, 2008, 122 Stat. 1109; Pub. L. 110–246, § 4(a), title IV, § 4115(c)(2)(C), June 18, 2008, 122 Stat. 1664, 1871.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (b)(1), (e)(1), and (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food Stamp Act of 1977, referred to in subsecs. (a)(2), (b)(2), and (e)(2), subsequently renamed the Food and Nutrition Act of 2008, is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2008—Subsecs. (a)(2), (b)(2). Pub. L. 110–246, § 4115(c)(2)(C)(i), substituted "section 3(*l*)" for "section 3(h)".

Subsec. (e)(2). Pub. L. 110–246, § 4115(c)(2)(C), substituted "section 3(s)" for "section 3(m)" and "section 3(*l*)" for "section 3(h)".

1997—Subsec. (d)(2). Pub. L. 105–33 substituted "a conviction if the conviction is for conduct" for "convictions".

CHANGE OF NAME

References to the food stamp program established under the Food Stamp Act of 1977, now known as the Food and Nutrition Act of 2008, considered to refer to the supplemental nutrition assistance program established under that Act, see section 4002(c) of Pub. L. 110–246, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4115(c)(2)(C) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 5518(d) of title V of Pub. L. 105–33 provided that: "The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104–193] that have not become part of another statute [chapter 1 (§§ 5501–5518) of subtitle F of title V of Pub. L. 105–33, amending this section, sections 601 to 603, 604 to 608, 609 to 611, and 612 to 617 of Title 42, The Public Health and Welfare, and provisions set out as notes under section 612c of Title 7, Agriculture, and sections 601 and 613 of Title 42] shall take effect as if the amendments had been included in the provision at the time the provision became law."

EFFECTIVE DATE

Section effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

§ 862b. Sanctioning for testing positive for controlled substances

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

(Pub. L. 104–193, title IX, § 902, Aug. 22, 1996, 110 Stat. 2347.)

CODIFICATION

Section was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

§ 863. Drug paraphernalia

(a) In general

It is unlawful for any person—

(1) to sell or offer for sale drug paraphernalia;

(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Penalties

Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined under title 18.

(c) Seizure and forfeiture

Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) "Drug paraphernalia" defined

The term ''drug paraphernalia'' means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this subchapter. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana,[1] cocaine, hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) Matters considered in determination of what constitutes drug paraphernalia

In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) Exemptions

This section shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

(Pub. L. 91–513, title II, § 422, as added and amended Pub. L. 101–647, title XXIV, § 2401(a)–(c), Nov. 29, 1990, 104 Stat. 4858, 4859; Pub. L. 106–310, div. B, title XXXVI, § 3614, Oct. 17, 2000, 114 Stat. 1230.)

CODIFICATION

The text of section 857(b) to (f) of this title, which was transferred to subsecs. (b) to (f) of this section by Pub. L. 101–647, § 2401(b), was based on Pub. L. 99–570, title I, § 1822(b)–(f), Oct. 27, 1986, 100 Stat. 3207–51; Pub. L. 100–690, title VI, § 6485, Nov. 18, 1988, 102 Stat. 4384.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–310 inserted ''methamphetamine,'' after ''PCP,'' in introductory provisions.

1990—Subsec. (b). Pub. L. 101–647, § 2401(c)(1), substituted ''fined under title 18'' for ''fined not more than $100,000''.

Pub. L. 101–647, § 2401(b), redesignated subsec. (b) of section 857 of this title as subsec. (b) of this section. See Codification note above.

Subsecs. (c) to (e). Pub. L. 101–647, § 2401(b), redesignated subsecs. (c) to (e) of section 857 of this title as subsecs. (c) to (e) of this section. See Codification note above.

Subsec. (f). Pub. L. 101–647, § 2401(c)(2), made technical amendment to reference to ''This section'' to correct reference to corresponding provision of original act.

Pub. L. 101–647, § 2401(b), redesignated subsec. (f) of section 857 of this title as subsec. (f) of this section. See Codification note above.

§ 864. Anhydrous ammonia

(a) It is unlawful for any person—

(1) to steal anhydrous ammonia, or

(2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be

[1] So in original. Probably should be ''marihuana,''.

used to manufacture a controlled substance in violation of this part.

(b) Any person who violates subsection (a) of this section shall be imprisoned or fined, or both, in accordance with section 843(d) of this title as if such violation were a violation of a provision of section 843 of this title.

(Pub. L. 91–513, title II, § 423, as added Pub. L. 106–310, div. B, title XXXVI, § 3653(a), Oct. 17, 2000, 114 Stat. 1240.)

§ 864a. Grants to reduce production of methamphetamines from anhydrous ammonia

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means—

(A) a producer of agricultural commodities;

(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or

(C) a person in the trade or business of—

(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or

(ii) aerial and ground application of an agricultural chemical.

(2) Nurse tank

The term ''nurse tank'' shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) Grant authority

The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) Grant amount

The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and

(2) the number of fertilizer nurse tanks of the eligible entity.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to make grants under this section $15,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 110–234, title XIV, § 14203, May 22, 2008, 122 Stat. 1458; Pub. L. 110–246, § 4(a), title XIV, § 14203, June 18, 2008, 122 Stat. 1664, 2220.)

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Controlled Substances Act which comprises this subchapter.

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

DEFINITION OF ''SECRETARY''

''Secretary'' as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 865. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs

(a) Enhanced prison sentence

The sentence of imprisonment imposed on a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), involving methamphetamine or any listed chemical that is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33),[1] shall, if the offense is committed under the circumstance described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

(b) Circumstances

For purposes of subsection (a), the circumstance described in this subsection is that the offense described in subsection (a) was committed by a person who—

(1) was enrolled in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

(2) committed the offense while entering the United States, using such lane, system, or program.

(c) Permanent ineligibility

Any person whose term of imprisonment is increased under subsection (a) shall be permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

(Pub. L. 109–177, title VII, § 731, Mar. 9, 2006, 120 Stat. 270.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§ 951 et seq.) of this

[1] So in original. A second closing parenthesis probably should precede the comma.

chapter. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

CODIFICATION

Section was enacted as part of the USA PATRIOT Improvement and Reauthorization Act of 2005 and also as part of the Combat Methamphetamine Epidemic Act of 2005, and not as part of the Controlled Substances Act which comprises this subchapter.

PART E—ADMINISTRATIVE AND ENFORCEMENT PROVISIONS

§ 871. Attorney General

(a) Delegation of functions

The Attorney General may delegate any of his functions under this subchapter to any officer or employee of the Department of Justice.

(b) Rules and regulations

The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.

(c) Acceptance of devises, bequests, gifts, and donations

The Attorney General may accept in the name of the Department of Justice any form of devise, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

(Pub. L. 91–513, title II, § 501, Oct. 27, 1970, 84 Stat. 1270.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

§ 871a. Semiannual reports to Congress

(a) In general

The Attorney General shall, on a semiannual basis, submit to the congressional committees and organizations specified in subsection (b) reports that—

(1) describe the allocation of the resources of the Drug Enforcement Administration and the Federal Bureau of Investigation for the investigation and prosecution of alleged violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] involving methamphetamine; and

(2) the measures being taken to give priority in the allocation of such resources to such violations involving—

(A) persons alleged to have imported into the United States substantial quantities of methamphetamine or scheduled listed chemicals (as defined pursuant to the amendment made by section 711(a)(1));[1]

(B) persons alleged to have manufactured methamphetamine; and

(C) circumstances in which the violations have endangered children.

(b) Congressional committees

The congressional committees and organizations referred to in subsection (a) are—

(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.

(Pub. L. 109–177, title VII, § 736, Mar. 9, 2006, 120 Stat. 271.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

Section 711(a)(1), referred to in subsec. (a)(2)(A), is section 711(a)(1) of Pub. L. 109–177, which amended section 802 of this title.

CODIFICATION

Section was enacted as part of the USA PATRIOT Improvement and Reauthorization Act of 2005 and also as part of the Combat Methamphetamine Epidemic Act of 2005, and not as part of the Controlled Substances Act which comprises this subchapter.

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

§ 872. Education and research programs of Attorney General

(a) Authorization

The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this subchapter. Such programs may include—

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this subchapter, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of

[1] See References in Text note below.

controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 811 of this title.

(b) Contracts

The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 5 of title 41.

(c) Identification of research populations; authorization to withhold

The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(d) Affect of treaties and other international agreements on confidentiality

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.

(e) Use of controlled substances in research

The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

(f) Program to curtail diversion of precursor and essential chemicals

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances.

(Pub. L. 91–513, title II, § 502, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 95–633, title I, § 108(a), Nov. 10, 1978, 92 Stat. 3773; Pub. L. 100–690, title VI, § 6060, Nov. 18, 1988, 102 Stat. 4320.)

AMENDMENTS

1988—Subsec. (f). Pub. L. 100–690 added subsec. (f).

1978—Subsecs. (d), (e). Pub. L. 95–633 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES

Pub. L. 106–310, div. B, title XXXVI, § 3623, Oct. 17, 2000, 114 Stat. 1231, provided that:

''(a) IN GENERAL.—

''(1) REQUIREMENT.—The Administrator of the Drug Enforcement Administration shall carry out the programs described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.

''(2) DURATION.—The duration of any program under that subsection may not exceed 3 years.

''(b) COVERED PROGRAMS.—The programs described in this subsection are as follows:

''(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.—A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.

''(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.—A program of basic clandestine laboratory certification training, which shall provide information and training—

''(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and

''(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.

''(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.—A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling such personnel to provide recertification and awareness training relating to clandestine laboratories to additional State and local law enforcement personnel.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:

''(1) $1,500,000 to carry out the program described in subsection (b)(1).

''(2) $3,000,000 to carry out the program described in subsection (b)(2).

''(3) $1,000,000 to carry out the program described in subsection (b)(3).''

EDUCATIONAL PROGRAM FOR POLICE DEPARTMENTS

Pub. L. 104–305, § 4, Oct. 13, 1996, 110 Stat. 3809, provided that: ''The Attorney General may—

''(1) create educational materials regarding the use of controlled substances (as that term is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]) in the furtherance of rapes and sexual assaults; and

''(2) disseminate those materials to police departments throughout the United States.''

STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION

Pub. L. 104–237, title II, § 202, Oct. 3, 1996, 110 Stat. 3101, provided that:

''(a) STUDY.—The Attorney General of the United States shall conduct a study on possible measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine. Nothing in this section shall preclude the Attorney General from taking any action the Attorney General already is authorized to take with regard to the regulation of listed chemicals under current law.

''(b) REPORT.—Not later than January 1, 1998, the Attorney General shall submit a report to the Congress of its findings pursuant to the study conducted under subsection (a) on the need for and advisability of preventive measures.

''(c) CONSIDERATIONS.—In developing recommendations under subsection (b), the Attorney General shall consider—

''(1) the use of red phosphorous, iodine, hydrochloric gas, and other agents in the illegal manufacture of methamphetamine;

''(2) the use of red phosphorous, iodine, hydrochloric gas, and other agents for legitimate, legal purposes, and the impact any regulations may have on these legitimate purposes; and

''(3) comments and recommendations from law enforcement, manufacturers of such chemicals, and the consumers of such chemicals for legitimate, legal purposes.''

§ 872a. Public-private education program

(a) Advisory panel

The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) Continuation of current efforts

The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

(Pub. L. 104–237, title V, § 503, Oct. 3, 1996, 110 Stat. 3112.)

CODIFICATION

Section was enacted as part of the Comprehensive Methamphetamine Control Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

§ 873. Cooperative arrangements

(a) Cooperation of Attorney General with local, State, and Federal agencies

The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes;

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

(C) establishing cooperative investigative efforts to control diversion; and

(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this chapter.[1]

(b) Requests by Attorney General for assistance from Federal agencies or instrumentalities

When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this subchapter; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential.

(c) Descriptive and analytic reports by Attorney General to State agencies of distribution patterns of schedule II substances having highest rates of abuse

The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.

(d) Grants by Attorney General

(1) The Attorney General may make grants, in accordance with paragraph (2), to State and

[1] See References in Text note below.

local governments to assist in meeting the costs of—

(A) collecting and analyzing data on the diversion of controlled substances,

(B) conducting investigations and prosecutions of such diversions,

(C) improving regulatory controls and other authorities to control such diversions,

(D) programs to prevent such diversions,

(E) preventing and detecting forged prescriptions, and

(F) training law enforcement and regulatory personnel to improve the control of such diversions.

(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

(3) To carry out this subsection there is authorized to be appropriated $6,000,000 for fiscal year 1985 and $6,000,000 for fiscal year 1986.

(Pub. L. 91–513, title II, § 503, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 96–359, § 8(a) Sept. 26, 1980, 94 Stat. 1194; Pub. L. 98–473, title II, § 517, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 99–570, title I, § 1868, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, § 85, Nov. 10, 1986, 100 Stat. 3620.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(7), was in the original as added by Pub. L. 99–646 ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended. In the subsec. (a)(7) added by Pub. L. 99–570, the reference was ''this title'', meaning title II of Pub. L. 91–513 which is popularly known as the ''Controlled Substances Act'' and is classified principally to this subchapter. For complete classification of this Act and title II to the Code, see Short Title note set out under section 801 of this title and Tables.

Schedule II, referred to in subsec. (c), is set out in section 812(c) of this title.

AMENDMENTS

1986—Subsec. (a)(7). Pub. L. 99–570 and Pub. L. 99–646 made substantially identical amendment, adding par. (7).

1984—Subsec. (a)(6). Pub. L. 98–473, § 517(a), added par. (6).

Subsec. (d). Pub. L. 98–473, § 517(b), added subsec. (d).

1980—Subsec. (c). Pub. L. 96–359 added subsec. (c).

ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS

Pub. L. 107–306, title VIII, § 826, Nov. 27, 2002, 116 Stat. 2429, provided that:

''(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

''(b) SUBMITTAL DATE.—The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947 [50 U.S.C. 415b], as added by section 811 of this Act.

''(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

''(1) the Committees on Appropriations of the Senate and House of Representatives; and

''(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).''

COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING

Pub. L. 106–310, div. B, title XXXVI, § 3625, Oct. 17, 2000, 114 Stat. 1233, provided that:

''(a) ACTIVITIES.—In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may—

''(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;

''(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;

''(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;

''(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;

''(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237) [see Short Title of 1996 Amendments note set out under section 801 of this title];

''(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;

''(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTRANS) of the Administration;

''(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and

''(9) carry out such other activities as the Administrator considers appropriate.

''(b) ADDITIONAL POSITIONS AND PERSONNEL.—

''(1) IN GENERAL.—In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.

''(2) PARTICULAR POSITIONS.—In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Drug Enforce-

ment Administration for each fiscal year after fiscal year 1999, $9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which $3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and for employing personnel in positions established under subsection (b)(2).''

NATIONAL DRUG INTELLIGENCE CENTER

Pub. L. 108–487, title I, § 104(e), Dec. 23, 2004, 118 Stat. 3942, provided that:

''(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a) [118 Stat. 3941], $42,322,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2006, and funds provided for procurement purposes shall remain available until September 30, 2007.

''(2) TRANSFER OF FUNDS.—The Director of National Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

''(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

''(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.''

Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–177, title I, § 104(e), Dec. 13, 2003, 117 Stat. 2602.

Pub. L. 107–306, title I, § 104(e), Nov. 27, 2002, 116 Stat. 2387.

Pub. L. 107–108, title I, § 104(e), Dec. 28, 2001, 115 Stat. 1396.

Pub. L. 106–567, title I, § 104(e), Dec. 27, 2000, 114 Stat. 2834.

Pub. L. 106–120, title I, § 104(e), Dec. 3, 1999, 113 Stat. 1609.

Pub. L. 105–272, title I, § 104(e), Oct. 20, 1998, 112 Stat. 2398.

Pub. L. 105–107, title I, § 104(e), Nov. 20, 1997, 111 Stat. 2250.

Pub. L. 104–293, title I, § 104(d), Oct. 11, 1996, 110 Stat. 3464.

Pub. L. 103–139, title VIII, § 8056, Nov. 11, 1993, 107 Stat. 1452, provided that: ''During the current fiscal year and thereafter, there is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided*, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 102–396, title IX, § 9078, Oct. 6, 1992, 106 Stat. 1919.

§ 874. Advisory committees

The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of $100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(Pub. L. 91–513, title II, § 504, Oct. 27, 1970, 84 Stat. 1272.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 875. Administrative hearings

(a) Power of Attorney General

In carrying out his functions under this subchapter, the Attorney General may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States.

(b) Procedures applicable

Except as otherwise provided in this subchapter, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5 of title 5.

(Pub. L. 91–513, title II, § 505, Oct. 27, 1970, 84 Stat. 1272.)

§ 876. Subpenas

(a) Authorization of use by Attorney General

In any investigation relating to his functions under this subchapter with respect to controlled substances, listed chemicals, tableting machines, or encapsulating machines, the Attorney General may subpena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) Service

A subpena issued under this section may be served by any person designated in the subpena to serve it. Service upon a natural person may

be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

(c) Enforcement

In the case of contumacy by or refusal to obey a subpena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

(Pub. L. 91–513, title II, § 506, Oct. 27, 1970, 84 Stat. 1272; Pub. L. 100–690, title VI, § 6058, Nov. 18, 1988, 102 Stat. 4319.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690 inserted ''listed chemicals, tableting machines, or encapsulating machines,'' after ''with respect to controlled substances,''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

§ 877. Judicial review

All final determinations, findings, and conclusions of the Attorney General under this subchapter shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

(Pub. L. 91–513, title II, § 507, Oct. 27, 1970, 84 Stat. 1273.)

§ 878. Powers of enforcement personnel

(a) Any officer or employee of the Drug Enforcement Administration or any State or local law enforcement officer designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this subchapter; and

(5) perform such other law enforcement duties as the Attorney General may designate.

(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5.

(Pub. L. 91–513, title II, § 508, Oct. 27, 1970, 84 Stat. 1273; Pub. L. 96–132, § 16(b), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 99–570, title I, § 1869, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, § 86, Nov. 10, 1986, 100 Stat. 3620.)

AMENDMENTS

1986—Pub. L. 99–570 and Pub. L. 99–646 amended section substantially identically designating existing provisions as subsec. (a) and adding subsec. (b), with the exception of the amendment of subsec. (a) for which Pub. L. 99–570 directed the insertion of ''or (with respect to offenses under this subchapter or subchapter II of this chapter) any State or local law enforcement officer'' and Pub. L. 99–646 directed the insertion of ''or any State or local law enforcement officer'', the latter of which was executed to reflect the probable intent of Congress.

1979—Pub. L. 96–132 substituted ''Drug Enforcement Administration'' for ''Bureau of Narcotics and Dangerous Drugs''.

§ 879. Search warrants

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate judge issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(Pub. L. 91–513, title II, § 509, Oct. 27, 1970, 84 Stat. 1274; Pub. L. 93–481, § 3, Oct. 26, 1974, 88 Stat. 1455; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

AMENDMENTS

1974—Pub. L. 93–481 struck out designation ''(a)'' before ''A search warrant'', and struck out subsec. (b) which permitted officers authorized to execute search warrants to break open and enter premises under certain circumstances and which required that such officers identify themselves and give reasons and authority for their entry after such entry.

CHANGE OF NAME

''United States magistrate judge'' substituted in text for ''United States magistrate'' pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 880. Administrative inspections and warrants

(a) "Controlled premises" defined

As used in this section, the term ''controlled premises'' means—

(1) places where original or other records or documents required under this subchapter are kept or required to be kept, and

(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from registration under section 822(d) of this title or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained.

(b) Grant of authority; scope of inspections

(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this subchapter and otherwise facilitating the carrying out of his functions under this subchapter, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as ''inspectors'') designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this subchapter;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs, listed chemicals, and other substances or materials, containers, and labeling found therein, and, except as provided in paragraph (4) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this subchapter; and

(C) to inventory any stock of any controlled substance or listed chemical therein and obtain samples of any such substance or chemical.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

(c) Situations not requiring warrants

A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpena issued in accordance with section 876 of this title, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

(d) Administrative inspection warrants; issuance; execution; probable cause

Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate judge, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this subchapter or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term ''probable cause'' means a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate judge and establishing the grounds for issuing the warrant. If the judge or magistrate judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or

magistrate judge allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate judge, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(4) The judge or magistrate judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(Pub. L. 91–513, title II, § 510, Oct. 27, 1970, 84 Stat. 1274; Pub. L. 101–647, title XXXV, § 3599M, Nov. 29, 1990, 104 Stat. 4932; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–200, § 6, Dec. 17, 1993, 107 Stat. 2339.)

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–200, § 6(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempted from registration under section 822(d) of this title) may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances.''

Subsec. (b)(3)(B). Pub. L. 103–200, § 6(2)(A), inserted '', listed chemicals,'' after ''unfinished drugs''.

Subsec. (b)(3)(C). Pub. L. 103–200, § 6(2)(B), inserted ''or listed chemical'' after ''controlled substance'' and ''or chemical'' after ''such substance''.

1990—Subsec. (b)(3)(B). Pub. L. 101–647 substituted ''paragraph (4)'' for ''paragraph (5)''.

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, wherever appearing in subsec. (d) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

§ 881. Forfeitures

(a) Subject property

The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance or listed chemical in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1), (2), or (9).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9).

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment.

(8) All controlled substances which have been possessed in violation of this subchapter.

(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired, imported, or exported, in violation of this subchapter or subchapter II of this chapter.

(10) Any drug paraphernalia (as defined in section 863 of this title).

(11) Any firearm (as defined in section 921 of title 18) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.

(b) Seizure procedures

Any property subject to forfeiture to the United States under this section may be seized by the Attorney General in the manner set forth in section 981(b) of title 18.

(c) Custody of Attorney General

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) Other laws and proceedings applicable

The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Disposition of forfeited property

(1) Whenever property is civilly or criminally forfeited under this subchapter the Attorney General may—

(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

(B) except as provided in paragraph (4), sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

(D) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General); or

(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(i) has been agreed to by the Secretary of State;

(ii) is authorized in an international agreement between the United States and the foreign country; and

(iii) is made to a country which, if applicable, has been certified under section 2291j(b) of title 22.

(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this subchapter shall be used to pay—

(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A), except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, such moneys and proceeds.

(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this subchapter, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

(i) such use will be the principal use of the property; and

(ii) title to the property reverts to the United States in the event that the property is used otherwise.

(f) Forfeiture and destruction of schedule I and II substances

(1) All controlled substances in schedule I or II that are possessed, transferred, sold, or offered for sale in violation of the provisions of this sub-

chapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) of this section which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I or II, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) of this section which cannot be separated safely from such raw materials or products under such circumstances as the Attorney General may deem necessary.

(g) Plants

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) Vesting of title in United States

All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) Stay of civil forfeiture proceedings

The provisions of section 981(g) of title 18 regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section.

(j) Venue

In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(*l*)[1] Agreement between Attorney General and Postal Service for performance of functions

The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

(Pub. L. 91–513, title II, § 511, Oct. 27, 1970, 84 Stat. 1276; Pub. L. 95–633, title III, § 301(a), Nov. 10, 1978, 92 Stat. 3777; Pub. L. 96–132, § 14, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 98–473, title II, §§ 306, 309, 518, Oct. 12, 1984, 98 Stat. 2050, 2051, 2075; Pub. L. 99–570, title I, §§ 1006(c), 1865, 1992, Oct. 27, 1986, 100 Stat. 3207–7, 3207–54, 3207–59; Pub. L. 99–646, § 74, Nov. 10, 1986, 100 Stat. 3618; Pub. L. 100–690, title V, § 5105, title VI, §§ 6059, 6074, 6075, 6077(a), (b), 6253, Nov. 18, 1988, 102 Stat. 4301, 4319, 4323–4325, 4363; Pub. L. 101–189, div. A, title XII, § 1215(a), Nov. 29, 1989, 103 Stat. 1569; Pub. L. 101–647, title XX, §§ 2003, 2004, 2007, 2008, Nov. 29, 1990, 104 Stat. 4855, 4856; Pub. L. 102–239, § 2, Dec. 17, 1991, 105 Stat. 1912; Pub. L. 103–447, title I, § 102(d), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 104–237, title II, § 201(b), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 106–185, §§ 2(c)(2), 5(b), 8(b), Apr. 25, 2000, 114 Stat. 210, 214, 216; Pub. L. 107–273, div. B, title IV, § 4002(e)(3), Nov. 2, 2002, 116 Stat. 1810.)

REFERENCES IN TEXT

Subchapter II of this chapter, referred to in subsec. (a)(9), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

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

Schedules I and II, referred to in subsecs. (f) and (g), are set out in section 812(c) of this title.

AMENDMENTS

2002—Subsec. (a)(10). Pub. L. 107–273 substituted ''section 863 of this title'' for ''section 1822 of the Mail Order Drug Paraphernalia Control Act''.

2000—Subsec. (a)(4). Pub. L. 106–185, § 2(c)(2), struck out before period at end '', except that—

''(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter;

''(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

''(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner''.

Subsec. (a)(6). Pub. L. 106–185, § 2(c)(2), struck out before period at end '', except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner''.

[1] So in original. No subsec. (k) has been enacted.

Subsec. (a)(7). Pub. L. 106–185, §2(c)(2), struck out before period at end ", except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner".

Subsec. (b). Pub. L. 106–185, §5(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, subsec. (b) authorized the Attorney General to seize property under this subchapter upon process issued pursuant to the Supplemental Rules for Certain Admirality and Maritime claims and to seize it without process in certain described circumstances.

Subsec. (i). Pub. L. 106–185, §8(b), inserted heading and amended text of subsec. (i) generally. Prior to amendment, text read as follows: "The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter, or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter, which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding."

1996—Subsec. (a)(2), (6). Pub. L. 104–237, §201(b)(1), inserted "or listed chemical" after "controlled substance".

Subsec. (a)(9). Pub. L. 104–237, §201(b)(2), substituted "possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired," for "possessed, distributed, or intended to be distributed," and struck out "a felony provision of" after "in violation of".

1994—Subsec. (e)(1)(E)(iii). Pub. L. 103–447 substituted "section 2291j(b) of title 22" for "section 2291(h) of title 22".

1991—Subsec. (e)(1)(B). Pub. L. 102–239, §2(1), substituted "except as provided in paragraph (4), sell" for "sell".

Subsec. (e)(4). Pub. L. 102–239, §2(2), added par. (4).

1990—Subsec. (a)(10). Pub. L. 101–647, §2007, added par. (10).

Subsec. (a)(11). Pub. L. 101–647, §2008, added par. (11).

Subsec. (e)(1)(B). Pub. L. 101–647, §2003, inserted ", by public sale or any other commercially feasible means," after "sell".

Subsec. (f). Pub. L. 101–647, §2004, inserted "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) of this section which cannot be separated safely from such raw materials or products" after "this subchapter" in pars. (1) and (2).

1989—Subsec. (e)(3)(B). Pub. L. 101–189 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies."

1988—Subsec. (a)(3). Pub. L. 100–690, §6059(b), inserted reference to par. (9).

Subsec. (a)(4). Pub. L. 100–690, §§6059(b), 6075, inserted in introductory provisions reference to par. (9) and added subpar. (C).

Subsec. (a)(7). Pub. L. 100–690, §5105, inserted "(including any leasehold interest)" after "interest".

Subsec. (a)(9). Pub. L. 100–690, §6059(a), added par. (9).

Subsec. (e)(1)(A). Pub. L. 100–690, §6077(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 1616a of title 19;".

Subsec. (e)(1)(E). Pub. L. 100–690, §6074, added subpar. (E).

Subsec. (e)(2)(B). Pub. L. 100–690, §6253(b), provided for deposit of moneys and proceeds in Postal Service Fund in cases of forfeitures conducted by Postal Service.

Subsec. (e)(3). Pub. L. 100–690, §6077(a), added par. (3).

Subsec. (*l*). Pub. L. 100–690, §6253(a), added subsec. (*l*).

1986—Subsec. (b). Pub. L. 99–570, §1865(1)–(3), and Pub. L. 99–646, §74(1)–(3), in making identical amendments in introductory provision and par. (4), struck out "or criminal" after "subject to civil" and inserted paragraph permitting the Government to request issuance of a warrant authorizing seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

Subsec. (e). Pub. L. 99–570, §1992, designated existing provisions as par. (1) and former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2) in lieu of former concluding provisions which read as follows: "The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to review. The proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 any amounts of such moneys and proceeds remaining after payment of such expenses."

Subsec. (f). Pub. L. 99–570, §1006(c), which directed the amendment of section 511 of the "Comprehensive Drug Abuse Prevention Act of 1978" was executed to this section which is section 511 of the Comprehensive Drug Abuse Prevention Act of 1970, as the probable intent of Congress, by designating existing provisions as par. (1), inserting "or II" in two places, and adding par. (2).

Subsec. (i). Pub. L. 99–570, §1865(b) and Pub. L. 99–646, §74(b), made identical amendments, inserting ", or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter,".

1984—Subsec. (a)(7). Pub. L. 98–473, §306(a), added par. (7).

Subsec. (a)(8). Pub. L. 98–473, §518, added par. (8).

Subsec. (b). Pub. L. 98–473, §306(b)(1), inserted "civil or criminal" after "property subject to".

Subsec. (b)(4). Pub. L. 98–473, §306(b)(2), substituted "is subject to civil or criminal forfeiture under" for "has been used or is intended to be used in violation of".

Subsec. (c). Pub. L. 98–473, §306(c)(1), in provisions preceding par. (1), inserted "any of" after "seized under".

Subsec. (c)(3). Pub. L. 98–473, §306(c)(2), inserted ", if practicable," after "remove it".

Subsec. (d). Pub. L. 98–473, §306(d), inserted "any of" after "incurred, under".

Subsec. (e). Pub. L. 98–473, §§306(e), 309, inserted "civilly or criminally" after "Whenever property is" and in provisions preceding par. (1), inserted provisions relating to transfer of custody or ownership of forfeited property in par. (1), substituted "and dispose of it" for "and remove it for disposition" in par. (3), and, in provisions following par. (4), inserted sentence requiring the Attorney General to ensure equitable transfer of any forfeited property, and substituted "accordance with section 524(c) of title 28" for "the general fund of the United States Treasury".

Subsecs. (h) to (j). Pub. L. 98–473, §306(f), added subsecs. (h) to (j).

1979—Subsec. (d). Pub. L. 96–132 substituted "The provisions" for "All provisions" and struck out "and the award of compensation to informers in respect of such forfeitures" after "compromise of claims".

1978—Subsec. (a)(6). Pub. L. 95–633, §301(1), added par. (6).

Subsec. (e). Pub. L. 95–633, §301(a)(2), (3), struck out of cl. (2) provisions relating to use of proceeds of sale and

inserted last sentence relating to the forwarding by the Attorney General of money and proceeds remaining after payment of expenses.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 1215(b) of Pub. L. 101–189 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6059 of Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

Section 6077(c) of Pub. L. 100–690, as amended by Pub. L. 101–162, title II, § 208, Nov. 21, 1989, 103 Stat. 1005, provided that: ''Section 551(e)(3)(B) of the Controlled Substances Act [probably means section 511(e)(3)(B) of the Controlled Substances Act, 21 U.S.C. 881(e)(3)(B)], as enacted by subsection (a), shall apply with respect to fiscal years beginning after September 30, 1991.''

TRANSFER OF FUNCTIONS

Bureau of Narcotics and Dangerous Drugs, including office of Director thereof, in Department of Justice abolished by Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 2 of 1973 also created in Department of Justice a single, comprehensive agency for enforcement of drug laws to be known as Drug Enforcement Administration, empowered Attorney General to authorize performance by officers, employees, and agencies of Department of functions transferred to him, and directed Attorney General to coordinate all drug law enforcement functions to assure maximum cooperation between Drug Enforcement Administration, Federal Bureau of Investigation, and other units of Department of Justice involved in drug law enforcement.

CONSTRUCTIVE SEIZURE PROCEDURES

Pub. L. 101–225, title II, § 210, Dec. 12, 1989, 103 Stat. 1913, provided that: ''Not later than 6 months after the date of enactment of this Act [Dec. 12, 1989], the Secretary of Transportation and the Secretary of the Treasury, in order to avoid the devastating economic effects on innocent owners of seizures of their vessels, shall develop a procedure for constructive seizure of vessels of the United States engaged in commercial service as defined in section 2101 of title 46, United States Code, that are suspected of being used for committing violations of law involving personal use quantities of controlled substances.''

REGULATIONS FOR EXPEDITED ADMINISTRATIVE FORFEITURE PROCEDURES

Section 6079 of Pub. L. 100–690 provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 18, 1988], the Attorney General and the Secretary of the Treasury shall consult, and after providing a 30-day public comment period, shall prescribe regulations for expedited administrative procedures for seizures under section 511(a)(4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a)(4), (6), and (7)); section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)); and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. App. 782 [now 49 U.S.C. 80303]) for violations involving the possession of personal use quantities of a controlled substance.

''(b) SPECIFICATIONS.—The regulations prescribed pursuant to subsection (a) shall—

''(1) minimize the adverse impact caused by prolonged detention, and

''(2) provide for a final administrative determination of the case within 21 days of seizure, or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering a final determination shall immediately return the property if the following conditions are established:

''(A) the owner or interested party did not know of or consent to the violation;

''(B) the owner establishes a valid, good faith interest in the seized property as owner or otherwise; and

''(C)(1) the owner establishes that the owner at no time had any knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law; and

''(2) if the owner at any time had, or should have had, knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law, that the owner did what reasonably could be expected to prevent the violation.

An owner shall not have the seized property returned under this subsection if the owner had not acted in a normal and customary manner to ascertain how the property would be used.

''(c) NOTICE.—At the time of seizure or upon issuance of a summons to appear under subsection (d), the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

''(d) SUMMONS IN LIEU OF SEIZURE OF COMMERCIAL FISHING INDUSTRY VESSELS.—Not later than 90 days after the enactment of this Act [Nov. 18, 1988], the Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall prescribe joint regulations, after a public comment period of at least 30 days, providing for issuance of a summons to appear in lieu of seizure of a commercial fishing industry vessel as defined in section 2101(11a), (11b), and (11c) of title 46, United States Code, for violations involving the possession of personal use quantities of a controlled substance. These regulations shall apply when the violation is committed on a commercial fishing industry vessel that is proceeding to or from a fishing area or intermediate port of call, or is actively engaged in fishing operations. The authority provided under this section shall not affect existing authority to arrest an individual for drug-related offenses or to release that individual into the custody of the vessel's master. Upon answering a summons to appear, the procedures set forth in subsections (a), (b), and (c) of this section shall apply. The jurisdiction of the district court for any forfeiture incurred shall not be affected by the use of a summons under this section.

''(e) PERSONAL USE QUANTITIES OF A CONTROLLED SUBSTANCE.—For the purposes of this section, personal use quantities of a controlled substance shall not include sweepings or other evidence of non-personal use amounts.''

§§ 881–1, 881a. Transferred

CODIFICATION

Section 881–1, Pub. L. 91–513, title II, § 511A, as added Pub. L. 100–690, title VI, § 6080(a), Nov. 18, 1988, 102 Stat. 4326, which related to expedited procedures for seized conveyances, was renumbered § 518 of Pub. L. 91–513 by Pub. L. 101–647, title X, § 1002(h)(1), Nov. 29, 1990, 104 Stat. 4828, transferred to section 888 of this title and subsequently repealed.

Section 881a, Pub. L. 99–198, title XVII, § 1764, Dec. 23, 1985, 99 Stat. 1652, which related to production control of controlled substances, was renumbered section 519 of the Controlled Substances Act by Pub. L. 101–647, title X, § 1002(h)(2), Nov. 29, 1990, 104 Stat. 4828, and is classified to section 889 of this title.

§ 882. Injunctions

(a) Jurisdiction

The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this subchapter.

(b) Jury trial

In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

(c) State cause of action pertaining to online pharmacies

(1) In general

In any case in which the State has reason to believe that an interest of the residents of that State has been or is being threatened or adversely affected by the action of a person, entity, or Internet site that violates the provisions of section 823(f), 829(e), or 831 of this title, the State may bring a civil action on behalf of such residents in a district court of the United States with appropriate jurisdiction—

(A) to enjoin the conduct which violates this section;

(B) to enforce compliance with this section;

(C) to obtain damages, restitution, or other compensation, including civil penalties under section 842(b) of this title; and

(D) to obtain such other legal or equitable relief as the court may find appropriate.

(2) Service; intervention

(A) Prior to filing a complaint under paragraph (1), the State shall serve a copy of the complaint upon the Attorney General and upon the United States Attorney for the judicial district in which the complaint is to be filed. In any case where such prior service is not feasible, the State shall serve the complaint on the Attorney General and the appropriate United States Attorney on the same day that the State's complaint is filed in Federal district court of the United States. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or any other proceedings under this subchapter or any other laws of the United States.

(B) Upon receiving notice respecting a civil action pursuant to this section, the United States shall have the right to intervene in such action and, upon so intervening, to be heard on all matters arising therein, and to file petitions for appeal.

(C) Service of a State's complaint on the United States as required in this paragraph shall be made in accord with the requirements of rule 4(i)(1) of the Federal Rule[1] of Civil Procedure.

(3) Powers conferred by State law

For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general of a State by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses of or the production of documentary or other evidence.

(4) Venue

Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(5) No private right of action

No private right of action is created under this subsection.

(6) Limitation

No civil action may be brought under paragraph (1) against—

(A) the United States;

(B) an Indian Tribe or tribal organization, to the extent such tribe or tribal organization is lawfully carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; or

(C) any employee of the United States or such Indian tribe or tribal organization, provided such agent or employee is acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee therewith.

(Pub. L. 91–513, title II, § 512, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 110–425, § 3(h), Oct. 15, 2008, 122 Stat. 4830.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (a), (b), and (c)(2)(C), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This subchapter, referred to in subsecs. (a) and (c)(2)(A), was in the original "this title", meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

This chapter, referred to in subsec. (c)(3), was in the original "this Act", meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(6)(B), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–425 added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section

[1] So in original. Probably should be "Rules".

3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

§ 883. Enforcement proceedings

Before any violation of this subchapter is reported by the Administrator of the Drug Enforcement Administration to any United States attorney for institution of a criminal proceeding, the Administrator may require that the person against whom such proceeding is contemplated is given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

(Pub. L. 91–513, title II, § 513, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 96–132, § 16(c), Nov. 30, 1979, 93 Stat. 1049.)

AMENDMENTS

1979—Pub. L. 96–132 substituted ''Administrator of the Drug Enforcement Administration'' for ''Director of the Bureau of Narcotics and Dangerous Drugs'' and ''Administrator may'' for ''Director may''.

§ 884. Immunity and privilege

(a) Refusal to testify

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this subchapter, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

(b) Order of United States district court

In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

(c) Request by United States attorney

A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) of this section when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Pub. L. 91–513, title II, § 514, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 100–690, title VII, § 7020(f), Nov. 18, 1988, 102 Stat. 4396.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–690 inserted reference to Associate Attorney General.

§ 885. Burden of proof; liabilities

(a) Exemptions and exceptions; presumption in simple possession offenses

(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subchapter, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

(2) In the case of a person charged under section 844(a) of this title with the possession of a controlled substance, any label identifying such substance for purposes of section 353(b)(2) of this title shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

(b) Registration and order forms

In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this subchapter, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

(c) Use of vehicles, vessels, and aircraft

The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this subchapter shall be on the persons engaged in such use.

(d) Immunity of Federal, State, local and other officials

Except as provided in sections 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

(Pub. L. 91–513, title II, § 515, Oct. 27, 1970, 84 Stat. 1279.)

REFERENCES IN TEXT

Schedule I, referred to in subsec. (c), is set out in section 812(c) of this title.

§ 886. Payments and advances

(a) Payment to informers

The Attorney General is authorized to pay any person, from funds appropriated for the Drug Enforcement Administration, for information concerning a violation of this subchapter, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

(b) Reimbursement for purchase of controlled substances

Moneys expended from appropriations of the Drug Enforcement Administration for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Administration.[1]

(c) Advance of funds for enforcement purposes

The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this subchapter.

(d) Drug Pollution Fund

(1) There is established in the Treasury a trust fund to be known as the ''Drug Pollution Fund'' (hereinafter referred to in this subsection as the ''Fund''), consisting of amounts appropriated or credited to such Fund under section 841(b)(6) of this title.

(2) There are hereby appropriated to the Fund amounts equivalent to the fines imposed under section 841(b)(6) of this title.

(3) Amounts in the Fund shall be available, as provided in appropriations Acts, for the purpose of making payments in accordance with paragraph (4) for the clean up of certain pollution resulting from the actions referred to in section 841(b)(6) of this title.

(4)(A) The Secretary of the Treasury, after consultation with the Attorney General, shall make payments under paragraph (3), in such amounts as the Secretary determines appropriate, to the heads of executive agencies or departments that meet the requirements of subparagraph (B).

(B) In order to receive a payment under paragraph (3), the head of an executive agency or department shall submit an application in such form and containing such information as the Secretary of the Treasury shall by regulation require. Such application shall contain a description of the fine imposed under section 841(b)(6) of this title, the circumstances surrounding the imposition of such fine, and the type and severity of pollution that resulted from the actions to which such fine applies.

(5) For purposes of subchapter B of chapter 98 of title 26, the Fund established under this paragraph shall be treated in the same manner as a trust fund established under subchapter A of such chapter.

(Pub. L. 91–513, title II, § 516, Oct. 27, 1970, 84 Stat. 1279; Pub. L. 96–132, § 16(b), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 100–690, title VI, § 6254(i), Nov. 18, 1988, 102 Stat. 4367.)

[1] See Codification note below.

CODIFICATION

In subsec. (b), ''Administration'' substituted for ''Bureau'' as the probable intent of Congress in view of amendment by Pub. L. 96–132, which substituted references to the Drug Enforcement Administration for references to the Bureau of Narcotics and Dangerous Drugs wherever appearing in text.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–690 added subsec. (d).

1979—Subsecs. (a), (b). Pub. L. 96–132 substituted ''Drug Enforcement Administration'' for ''Bureau of Narcotics and Dangerous Drugs''.

REIMBURSEMENT BY DRUG ENFORCEMENT ADMINISTRATION OF EXPENSES INCURRED TO REMEDIATE METHAMPHETAMINE LABORATORIES

Pub. L. 106–310, div. B, title XXXVI, § 3672, Oct. 17, 2000, 114 Stat. 1246, provided that:

''(a) REIMBURSEMENT AUTHORIZED.—The Attorney General, acting through the Administrator of the Drug Enforcement Administration, may reimburse States, units of local government, Indian tribal governments, other public entities, and multi-jurisdictional or regional consortia thereof for expenses incurred to clean up and safely dispose of substances associated with clandestine methamphetamine laboratories which may present a danger to public health or the environment.

''(b) ADDITIONAL DEA PERSONNEL.—From amounts appropriated or otherwise made available to carry out this section, the Attorney General may hire not more than five additional Drug Enforcement Administration personnel to administer this section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Attorney General to carry out this section $20,000,000 for fiscal year 2001.''

§ 886a. Diversion Control Fee Account

(1) In general

There is established in the general fund of the Treasury a separate account which shall be known as the Diversion Control Fee Account. For fiscal year 1993 and thereafter:

(A) There shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program.

(B) Such amounts as are deposited into the Diversion Control Fee Account shall remain available until expended and shall be refunded out of that account by the Secretary of the Treasury, at least on a quarterly basis, to reimburse the Drug Enforcement Administration for expenses incurred in the operation of the diversion control program. Such reimbursements shall be made without distinguishing between expenses related to controlled substance activities and expenses related to chemical activities.

(C) Fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.

(D) The amount required to be refunded from the Diversion Control Fee Account for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in said budget requests shall only be made after notification to the

Committees on Appropriations of the House of Representatives and the Senate fifteen days in advance.

(2) Definitions

In this section:

(A) Diversion control program

The term ''diversion control program'' means the controlled substance and chemical diversion control activities of the Drug Enforcement Administration.

(B) Controlled substance and chemical diversion control activities

The term ''controlled substance and chemical diversion control activities'' means those activities related to the registration and control of the manufacture, distribution, dispensing, importation, and exportation of controlled substances and listed chemicals.

(Pub. L. 102–395, title I, § 111(b), Oct. 6, 1992, 106 Stat. 1843; Pub. L. 105–362, title X, § 1001(b), Nov. 10, 1998, 112 Stat. 3291; Pub. L. 108–447, div. B, title VI, § 633(a), Dec. 8, 2004, 118 Stat. 2921.)

CODIFICATION

Section was enacted as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2004—Pub. L. 108–447, § 633(a)(2) to (4), designated existing provisions as par. (1) and inserted heading, substituted ''program. Such reimbursements shall be made without distinguishing between expenses related to controlled substance activities and expenses related to chemical activities'' for ''program'' in par. (1)(B), and added par. (2).

Pub. L. 108–447, § 633(a)(1), which directed redesignation of pars. (1) to (5) as subpars. (A) to (E) and adjustment of margins, was executed by redesignating pars. (1) to (4) as (A) to (D), respectively, to reflect the probable intent of Congress, because Pub. L. 105–362 struck out par. (5). See 1998 Amendment note below.

1998—Par. (5). Pub. L. 105–362 struck out par. (5) which read as follows: ''The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.''

§ 887. Coordination and consolidation of post-seizure administration

The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this subchapter, subchapter II of this chapter, or provisions of the customs laws relating to controlled substances.

(Pub. L. 91–513, title II, § 517, as added Pub. L. 100–690, title VI, § 6078(a), Nov. 18, 1988, 102 Stat. 4325.)

REFERENCES IN TEXT

The customs laws, referred to in text, are classified generally to Title 19, Customs Duties.

§ 888. Repealed. Pub. L. 106–185, § 2(c)(3), Apr. 25, 2000, 114 Stat. 210

Section, Pub. L. 91–513, title II, § 518, formerly § 511A, as added Pub. L. 100–690, title VI, § 6080(a), Nov. 18, 1988, 102 Stat. 4326; renumbered § 518, Pub. L. 101–647, title X, § 1002(h)(1), Nov. 29, 1990, 104 Stat. 4828, related to expedited procedures for seized conveyances.

Section was classified to section 881–1 of this title prior to renumbering by Pub. L. 101–647.

EFFECTIVE DATE OF REPEAL

Repeal applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as an Effective Date of 2000 Amendment note under section 1324 of Title 8, Aliens and Nationality.

§ 889. Production control of controlled substances

(a) Definitions

As used in this section:

(1) The term ''controlled substance'' has the same meaning given such term in section 802(6) of this title.

(2) The term ''Secretary'' means the Secretary of Agriculture.

(3) The term ''State'' means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) Persons ineligible for Federal agricultural program benefits

Notwithstanding any other provision of law, following December 23, 1985, any person who is convicted under Federal or State law of planting, cultivation, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for—

(1) as to any commodity produced during that crop year, and the four succeeding crop years, by such person—

(A) any price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) for the storage of an agricultural commodity that is—

(A) produced during that crop year, or any of the four succeeding crop years, by such person; and

(B) acquired by the Commodity Credit Corporation.

(c) Regulations

Not later than 180 days after December 23, 1985, the Secretary shall issue such regulations

as the Secretary determines are necessary to carry out this section, including regulations that—

(1) define the term ''person'';

(2) govern the determination of persons who shall be ineligible for program benefits under this section; and

(3) protect the interests of tenants and sharecroppers.

(Pub. L. 91–513, title II, § 519, formerly Pub. L. 99–198, title XVII, § 1764, Dec. 23, 1985, 99 Stat. 1652; renumbered § 519 of Pub. L. 91–513, Pub. L. 101–647, title X, § 1002(h)(2), Nov. 29, 1990, 104 Stat. 4828.)

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (b)(1)(A), (D), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, as amended, which is classified principally to chapter 35A (§ 1421 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (b)(1)(A), is act June 29, 1948, ch. 704, 62 Stat. 1070, as amended, and is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (b)(1)(C), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§ 1501 et seq.) of chapter 36 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (b)(1)(E), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

CODIFICATION

Section was classified to section 881a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Pub. L. 101–647 renumbered section 881a of this title as this section.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 890. Review of Federal sales of chemicals usable to manufacture controlled substances

A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Administration, could be used in the manufacture of a controlled substance unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.

(Pub. L. 91–513, title II, § 520, as added Pub. L. 104–201, div. A, title X, § 1034(a), Sept. 23, 1996, 110 Stat. 2640.)

PART F—GENERAL PROVISIONS

CODIFICATION

The letter designation for this Part F was, in the original, Part G. The original Part F of title II of Pub. L. 91–513, consisting of section 601 thereof, is set out as a note under section 801 of this title. The original Part G of title II of Pub. L. 91–513 consisted of sections 701 to 709. Sections 701 to 705 amended and repealed sections in this title and in Title 18, Crimes and Criminal Procedure, and Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 321, 801, and 822 of this title. See Tables for classifications of said sections 701 to 705. Sections 706 to 709 of Pub. L. 91–513 are set out as sections 901 to 904 of this title and, for purposes of codification, comprise this Part F.

§ 901. Severability

If a provision of this chapter is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this chapter is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

(Pub. L. 91–513, title II, § 706, Oct. 27, 1970, 84 Stat. 1284.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

§ 902. Savings provisions

Nothing in this chapter, except this part and, to the extent of any inconsistency, sections 827(e) and 829 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. § 301 et seq.].

(Pub. L. 91–513, title II, § 707, Oct. 27, 1970, 84 Stat. 1284.)

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

§ 903. Application of State law

No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.

(Pub. L. 91–513, title II, § 708, Oct. 27, 1970, 84 Stat. 1284.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the ''Controlled Substances Act''. For com-

plete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

§ 904. Payment of tort claims

Notwithstanding section 2680(k) of title 28, the Attorney General, in carrying out the functions of the Department of Justice under this subchapter, is authorized to pay tort claims in the manner authorized by section 2672 of title 28, when such claims arise in a foreign country in connection with the operations of the Drug Enforcement Administration abroad.

(Pub. L. 91–513, title II, § 709, Oct. 27, 1970, 84 Stat. 1284; Pub. L. 93–481, § 1, Oct. 26, 1974, 88 Stat. 1455; Pub. L. 95–137, § 1(a), Oct. 18, 1977, 91 Stat. 1169; Pub. L. 96–132, §§ 13, 15, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 97–414, § 9(g)(1), Jan. 4, 1983, 96 Stat. 2064.)

AMENDMENTS

1983—Pub. L. 97–414 struck out subsecs. (a) and (b) which had provided, respectively, that (a) there were authorized to be appropriated $105,000,000 for the fiscal year ending June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, $200,000,000 for the fiscal year ending September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, $215,000,000 for the fiscal year ending September 30, 1979, and $198,336,000 for the fiscal year ending September 30, 1980, for the expenses of the Department of Justice in carrying out its functions under this subchapter, and that (b) no funds appropriated under any other provision of this chapter could be used for the expenses of the Department of Justice for which funds were authorized to be appropriated by former subsection (a) of this section, and removed the subsection designator (c) before ''Notwithstanding''.

1979—Subsec. (a). Pub. L. 96–132, § 15, inserted provisions authorizing appropriations of $198,336,000 for the fiscal year ending Sept. 30, 1980.

Subsec. (c). Pub. L. 96–132, § 13, added subsec. (c).

1977—Subsec. (a). Pub. L. 95–137 substituted ''September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,'' for ''June 30, 1977,'' and struck out ''(other than its expenses incurred in connection with carrying out section 803(a) of this title)''.

1974—Pub. L. 93–481 designated existing provisions as subsec. (a), substituted authorization of appropriations for fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, for authorization of appropriations for fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and added subsec. (b).

SUBCHAPTER II—IMPORT AND EXPORT

CODIFICATION

This subchapter is comprised of Part A of title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part B of title III contains amendatory, repealing, and transitional provisions generally classified elsewhere.

§ 951. Definitions

(a) For purposes of this subchapter—

(1) The term ''import'' means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term ''customs territory of the United States'' has the meaning assigned to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(b) Each term defined in section 802 of this title shall have the same meaning for purposes of this subchapter as such term has for purposes of subchapter I of this chapter.

(Pub. L. 91–513, title III, § 1001, Oct. 27, 1970, 84 Stat. 1285; Pub. L. 100–418, title I, § 1214(m), Aug. 23, 1988, 102 Stat. 1158.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–418 substituted ''general note 2 of the Harmonized Tariff Schedule of the United States'' for ''general headnote 2 to the Tariff Schedules of the United States''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE

Section 1105(a)–(c) of title III of Pub. L. 91–513, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

''(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104 [see Short Title note below and sections 171 note, 951, 956, 957 note, 965, and 966 of this title], and this section shall become effective upon enactment [Oct. 27, 1970].

''(c)(1) If the Attorney General, pursuant to the authority of section 704(c) of title II [set out as a note under section 801 of this title], postpones the effective date of section 306 (relating to manufacturing quotas) [section 826 of this title] for any period beyond the date specified in section 704(a) [set out as a note under section 801 of this title], and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title] by paragraph (10) of section 1101(a) of this title is hereby postponed for the same period, except that the postponement made by this paragraph shall not apply to the repeal of sections 4, 5, 13, 15, and 16 of that Act [which were classified to sections 182, 503, 511, and 513 of this title and sections 4702, 4731, and 4731 note of Title 26, Internal Revenue Code].

''(2) Effective for any period of postponement, by paragraph (1) of this subsection, of the repeal of provisions of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], that Act shall be applied subject to the following modifications:

''(A) The term 'narcotic drug' shall mean a narcotic drug as defined in section 102(16) of title II [section 802(16) of this title], and all references, in the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4731 of Title 26] are amended to refer to a narcotic drug as defined by such section 102(16) [section 802(16) of this title].

''(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title

II, [set out as a note under section 822 of this title], the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], and of a registration under section 4722 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4722 of Title 26] as a prerequisite to issuance of such a license, shall be superseded by a requirement of actual registration (as distinguished from provisional registration) as a manufacturer of that class of drug under section 303(a) of title II [section 823(a) of this title].

''(C) On and after the effective date of the repeal of such section 4722 [section 4722 of title 26] by section 1101(b)(3) of this title, but prior to the date specified in subparagraph (B) of this paragraph, the requirement of registration under such section 4722 [section 4722 of title 26] as a prerequisite of a manufacturer's license under the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title] shall be superseded by a requirement of either (i) actual registration as a manufacturer under section 303 of title II [section 823 of this title] or (ii) provisional registration (by virtue of a preexisting registration under such section 4722) under section 703 of title II [set out as a note under section 822 of this title].''

SHORT TITLE

Section 1000 of title III of Pub. L. 91–513 provided that: ''This title [enacting this subchapter, amending sections 162 and 967 of this title, section 4251 of Title 18, Crimes and Criminal Procedure, section 1584 of Title 19, Customs Duties, sections 4901, 4905, 6808, 7012, 7103, 7326, 7607, 7609, 7641, 7651, and 7655 of Title 26, Internal Revenue Code, section 2901 of Title 28, Judiciary and Judicial Procedure, sections 529d, 529e, and 529f of former Title 31, Money and Finance, section 304m of former Title 40, Public Buildings, Property, and Works, section 3411 of Title 42, The Public Health and Welfare, section 239a of former Title 46, Shipping, and section 787 of former Title 49, Transportation, repealing sections 171 to 174, 176 to 185, 188 to 188n, 191 to 193, 197, 198, 199, and 501 to 517 of this title, sections 1401 to 1407, and 3616 of Title 18, sections 4701 to 4707, 4711 to 4716, 4721 to 4726, 4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, 4771 to 4776, 7237, 7238, and 7491 of Title 26, sections 529a and 529g of former Title 31, section 1421m of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section and sections 171 and 957 of this title] may be cited as the 'Controlled Substances Import and Export Act'.''

RULES AND REGULATIONS

Section 1105(d) of Pub. L. 91–513 provided: ''Any orders, rules and regulations which have been promulgated under any law affected by this title [see Short Title note above] and which are in effect on the day preceding enactment of this title [Oct. 27, 1970] shall continue in effect until modified, superseded, or repealed.''

§ 952. Importation of controlled substances

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, or ephedrine, pseudoephedrine, or phenylpropanolamine, except that—

(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves, and of ephedrine, pseudoephedrine, and phenylpropanolamine, as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II or any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate,

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 823 of this title, or

(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses,

may be so imported under such regulations as the Attorney General shall prescribe. No crude opium may be so imported for the purpose of manufacturing heroin or smoking opium.

(b) Nonnarcotic controlled substances in schedule III, IV, or V

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance—

(1) is imported for medical, scientific, or other legitimate uses, and

(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

(c) Coca leaves

In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a) of this section, the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

(d) Application for increased importation of ephedrine, pseudoephedrine, or phenylpropanolamine

(1) With respect to a registrant under section 958 of this title who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

(2) With respect to the application under paragraph (1):

(A) Not later than 60 days after receiving the application, the Attorney General shall approve or deny the application.

(B) In approving the application, the Attorney General shall specify the period of time for which the approval is in effect, or shall provide that the approval is effective until the registrant involved is notified in writing by the Attorney General that the approval is terminated.

(C) If the Attorney General does not approve or deny the application before the expiration of the 60-day period under subparagraph (A), the application is deemed to be approved, and such approval remains in effect until the Attorney General notifies the registrant in writing that the approval is terminated.

(e) Reference to ephedrine, pseudoephedrine, or phenylpropanolamine

Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

(Pub. L. 91–513, title III, § 1002, Oct. 27, 1970, 84 Stat. 1285; Pub. L. 95–633, title I, § 105, Nov. 10, 1978, 92 Stat. 3772; Pub. L. 98–473, title II, §§ 519–521, Oct. 12, 1984, 98 Stat. 2075; Pub. L. 109–177, title VII, § 715, Mar. 9, 2006, 120 Stat. 264.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a) and (b), are set out in section 812(c) of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–177, § 715(1)(A), inserted ''or ephedrine, pseudoephedrine, or phenylpropanolamine,'' after ''schedule III, IV, or V of subchapter I of this chapter,'' in introductory provisions.

Subsec. (a)(1). Pub. L. 109–177, § 715(1)(B), inserted '', and of ephedrine, pseudoephedrine, and phenylpropanolamine,'' after ''coca leaves''.

Subsecs. (d), (e). Pub. L. 109–177, § 715(2), added subsecs. (d) and (e).

1984—Subsec. (a)(1). Pub. L. 98–473, § 519, amended par. (1) generally, inserting references to poppy straw and concentrate of poppy straw.

Subsec. (a)(2)(C). Pub. L. 98–473, § 520, added subpar. (C).

Subsec. (b)(2). Pub. L. 98–473, § 521, substituted ''is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention'' for ''is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention''.

1978—Subsec. (b)(2). Pub. L. 95–633 inserted provision relating to exception for nonnarcotic controlled substances listed in schedule I or II of the Convention on Psychotropic Substances.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 953. Exportation of controlled substances

(a) Narcotic drugs in schedule I, II, III, or IV

It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless—

(1) it is exported to a country which is a party to—

(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

(b) Exception for exportation for special scientific purposes

Notwithstanding subsection (a) of this section, the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) of this section if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

(c) Nonnarcotic controlled substances in schedule I or II

It shall be unlawful to export from the United States any nonnarcotic controlled substance in schedule I or II unless—

(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

(d) Exception for exportation for special scientific purposes

Notwithstanding subsection (c) of this section, the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

(e) Nonnarcotic controlled substances in schedule III or IV; controlled substances in schedule V

It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

(f) Exception for exportation for subsequent export

Notwithstanding subsections (a)(4) and (c)(3) of this section, the Attorney General may authorize any controlled substance that is in schedule I or II, or is a narcotic drug in schedule III or IV, to be exported from the United States to a country for subsequent export from that country to another country, if each of the following conditions is met:

(1) Both the country to which the controlled substance is exported from the United States (referred to in this subsection as the ''first country'') and the country to which the controlled substance is exported from the first country (referred to in this subsection as the ''second country'') are parties to the Single Convention on Narcotic Drugs, 1961, and the Convention on Psychotropic Substances, 1971.

(2) The first country and the second country have each instituted and maintain, in conformity with such Conventions, a system of controls of imports of controlled substances which the Attorney General deems adequate.

(3) With respect to the first country, the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance has been issued by the country.

(4) With respect to the second country, substantial evidence is furnished to the Attorney General by the person who will export the controlled substance from the United States that—

(A) the controlled substance is to be consigned to a holder of such permits or licenses as may be required under the laws of such country, and a permit or license to import the controlled substance is to be issued by the country; and

(B) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country.

(5) The controlled substance will not be exported from the second country.

(6) Within 30 days after the controlled substance is exported from the first country to the second country, the person who exported the controlled substance from the United States delivers to the Attorney General documentation certifying that such export from the first country has occurred.

(7) A permit to export the controlled substance from the United States has been issued by the Attorney General.

(Pub. L. 91–513, title III, §1003, Oct. 27, 1970, 84 Stat. 1286; Pub. L. 95–633, title I, §106, Nov. 10, 1978, 92 Stat. 3772; Pub. L. 98–473, title II, §522, Oct. 12, 1984, 98 Stat. 2076; Pub. L. 109–57, §1(b), Aug. 2, 2005, 119 Stat. 592.)

REFERENCES IN TEXT

Schedules I, II, III, IV and V, referred to in text, are set out in section 812(c) of this title.

AMENDMENTS

2005—Subsec. (f). Pub. L. 109–57 added subsec. (f).

1984—Subsec. (e). Pub. L. 98–473 in cl. (1) inserted provisions for consumption for medical, etc., purposes, added cls. (2) and (3), and struck out former cls. (2) to (4), respectively, relating to a special controlled substance invoice, two additional copies of the invoice, and exportation of a nonnarcotic controlled substance in schedule III, IV, or V, also listed in schedule I or II of the Convention.

1978—Subsec. (e)(4). Pub. L. 95–633 added par. (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 954. Transshipment and in-transit shipment of controlled substances

Notwithstanding sections 952, 953, and 957 of this title—

(1) A controlled substance in schedule I may—

(A) be imported into the United States for transshipment to another country, or

(B) be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation,

if and only if it is so imported, transferred, or transshipped (i) for scientific, medical, or other legitimate purposes in the country of destination, and (ii) with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request).

(2) A controlled substance in schedule II, III, or IV may be so imported, transferred, or transshipped if and only if advance notice is given to the Attorney General in accordance with regulations of the Attorney General.

(Pub. L. 91–513, title III, § 1004, Oct. 27, 1970, 84 Stat. 1287.)

REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in text, are set out in section 812(c) of this title.

§ 955. Possession on board vessels, etc., arriving in or departing from United States

It shall be unlawful for any person to bring or possess on board any vessel or aircraft, or on board any vehicle of a carrier, arriving in or departing from the United States or the customs territory of the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless such substance or drug is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle.

(Pub. L. 91–513, title III, § 1005, Oct. 27, 1970, 84 Stat. 1287.)

REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in text, are set out in section 812(c) of this title.

§§ 955a to 955d. Transferred

CODIFICATION

Sections, Pub. L. 96–350, §§ 1–4, Sept. 15, 1980, 94 Stat. 1159, 1160, relating to maritime drug law enforcement, were transferred to sections 1901 to 1904 of the former Appendix to Title 46, Shipping. Sections 1901 to 1904 of the former Appendix to Title 46 were repealed and restated in chapter 705 of Title 46, Shipping, by Pub. L. 109–304, §§ 10(2), 19, Oct. 6, 2006, 120 Stat. 1683, 1710. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

§ 956. Exemption authority

(a) Individual possessing controlled substance

(1) Subject to paragraph (2), the Attorney General may by regulation exempt from sections 952(a) and (b), 953, 954, and 955 of this title any individual who has a controlled substance (except a substance in schedule I) in his possession for his personal medical use, or for administration to an animal accompanying him, if he lawfully obtained such substance and he makes such declaration (or gives such other notification) as the Attorney General may by regulation require.

(2) Notwithstanding any exemption under paragraph (1), a United States resident who enters the United States through an international land border with a controlled substance (except a substance in schedule I) for which the individual does not possess a valid prescription issued by a practitioner (as defined in section 802 of this title) in accordance with applicable Federal and State law (or documentation that verifies the issuance of such a prescription to that individual) may not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.

(b) Compound, mixture, or preparation

The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance listed in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this subchapter if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system.

(Pub. L. 91–513, title III, § 1006, Oct. 27, 1970, 84 Stat. 1288; Pub. L. 105–277, div. C, title VIII, § 872(a), Oct. 21, 1998, 112 Stat. 2681–707; Pub. L. 105–357, § 2(a), Nov. 10, 1998, 112 Stat. 3271.)

REFERENCES IN TEXT

Schedules I, III, IV, and V, referred to in text, are set out in section 812(c) of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 and Pub. L. 105–357 amended subsec. (a) identically, designating existing provisions as par. (1), substituting ''Subject to paragraph (2), the Attorney General'' for ''The Attorney General'', and adding par. (2).

FEDERAL MINIMUM REQUIREMENT

Pub. L. 105–357, §2(b), Nov. 10, 1998, 112 Stat. 3271, provided that: ''Section 1006(a)(2) of the Controlled Substances Import and Export Act [21 U.S.C. 956(a)(2)], as added by this section, is a minimum Federal requirement and shall not be construed to limit a State from imposing any additional requirement.''

Pub. L. 105–277, div. C, title VIII, §872(b), Oct. 21, 1998, 112 Stat. 2681–707, enacted a provision substantially identical to that enacted by Pub. L. 105–357, §2(b), set out above.

JURISDICTION OF SECRETARY OF HEALTH AND HUMAN SERVICES

Pub. L. 105–277, div. C, title VIII, §872(c), Oct. 21, 1998, 112 Stat. 2681–707, and Pub. L. 105–357, §2(c), Nov. 10, 1998, 112 Stat. 3271, provided that: ''The amendment made by subsection (a) [amending this section] shall not be construed to affect the jurisdiction of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).''

§957. Persons required to register

(a) Coverage

No person may—

(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place outside thereof, any controlled substance or list I chemical, or

(2) export from the United States any controlled substance or list I chemical,

unless there is in effect with respect to such person a registration issued by the Attorney General under section 958 of this title, or unless such person is exempt from registration under subsection (b) of this section.

(b) Exemptions

(1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance or list I chemical:

(A) An agent or an employee of any importer or exporter registered under section 958 of this title if such agent or employee is acting in the usual course of his business or employment.

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance or list I chemical is in the usual course of his business or employment.

(C) An ultimate user who possesses such substance for a purpose specified in section 802(25)[1] of this title and in conformity with an exemption granted under section 956(a) of this title.

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances or list I chemicals for purposes of importation and exportation.

(Pub. L. 91–513, title III, §1007, Oct. 27, 1970, 84 Stat. 1288; Pub. L. 98–473, title II, §523, Oct. 12, 1984, 98 Stat. 2076; Pub. L. 103–200, §3(e), Dec. 17, 1993, 107 Stat. 2337.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 802(25) of this title, referred to in subsec. (b)(1)(C), was redesignated section 802(26) of this title by Pub. L. 98–473, title II, §507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99–570, title I, §1003(b)(2), Oct. 27, 1986, 100 Stat. 3207–6.

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–200, §3(e)(1)(A), inserted ''or list I chemical'' after ''controlled substance''.

Subsec. (a)(2). Pub. L. 103–200, §3(e)(1)(B), substituted ''or list I chemical,'' for ''in schedule I, II, III, IV, or V,''.

Subsec. (b)(1). Pub. L. 103–200, §3(e)(2)(A), inserted ''or list I chemical'' after ''controlled substance'' in introductory provisions and subpar. (B).

Subsec. (b)(2). Pub. L. 103–200, §3(e)(2)(B), inserted ''or list I chemicals'' after ''controlled substances''.

1984—Subsec. (a)(2). Pub. L. 98–473 inserted reference to schedule V.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

PROVISIONAL REGISTRATION

Section 1104 of Pub. L. 91–513, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a)(1) Any person—

''(A) who is engaged in importing or exporting any controlled substance on the day before the effective date of section 1007 [May 1, 1971],

''(B) who notifies the Attorney General that he is so engaged, and

''(C) who is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section 360 of this title] or under section 4722 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4722 of title 26],

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 1008 [section 958 of this title] for the import or export (as the case may be) of controlled substances.

''(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of part A of this title [this subchapter].

''(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

''(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

''(1) the date on which such person has registered with the Attorney General under section 1008 [section 958 of this title] or has had his registration denied under such section, or

''(2) such date as may be prescribed by the Attorney General for registration of importers or exporters, as the case may be,

whichever occurs first.''

§958. Registration requirements

(a) Applicants to import or export controlled substances in schedule I or II

The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under

international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 823(a) of this title shall be considered.

(b) Activity limited to specified substances

Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.

(c) Applicants to import controlled substances in schedule III, IV, or V or to export controlled substances in schedule III or IV; applicants to import or export list I chemicals

(1) The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 823(d) of this title shall be considered.

(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 802(39)(A)(iv) of this title.

(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 823(h) of this title.

(d) Denial of application

(1) The Attorney General may deny an application for registration under subsection (a) of this section if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a) of this section) and with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(2) The Attorney General may deny an application for registration under subsection (c) of this section, or revoke or suspend a registration under subsection (a) or (c) of this section, if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c) of this section) or with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.

(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, or list I chemical or chemicals, with respect to which grounds for revocation or suspension exist.

(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title.

(e) Registration period

No registration shall be issued under this subchapter for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, sections 822(f), 825, 827, and 830 of this title shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 823 of this title.

(f) Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of importers and exporters of controlled substances or listed chemicals.

(g) Scope of authorized activity

Persons registered by the Attorney General under this section to import or export controlled substances or list I chemicals may import or export (and for the purpose of so importing or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this subchapter and subchapter I of this chapter.

(h) Separate registrations for each principal place of business

A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances or list I chemicals.

(i) Emergency situations

Except in emergency situations as described in section 952(a)(2)(A) of this title, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 952(a) of this title authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

(Pub. L. 91–513, title III, § 1008, Oct. 27, 1970, 84 Stat. 1289; Pub. L. 98–473, title II, §§ 524, 525, Oct. 12, 1984, 98 Stat. 2076; Pub. L. 99–570, title I, § 1866(d), Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 103–200, § 3(f), Dec. 17, 1993, 107 Stat. 2337; Pub. L. 108–447, div. B, title VI, § 633(c), Dec. 8, 2004, 118 Stat. 2922.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a), (c), and (i), are set out in section 812(c) of this title.

This subchapter, referred to in subsecs. (d)(4) and (g), was in the original ''this title'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

CODIFICATION

In subsecs. (a) and (d), ''May 1, 1971'' substituted for ''the effective date of this section'' and ''the effective date of this part'', respectively.

AMENDMENTS

2004—Subsec. (f). Pub. L. 108–447, which directed amendment of subsec. (f) of section 1088 of the Controlled Substances Import and Export Act by inserting ''and control'' after ''the registration'' and substituting ''listed chemicals'' for ''list I chemicals under this section'', was executed to subsec. (f) of this section, which is section 1008 of the Controlled Substances Import and Export Act, to reflect the probable intent of Congress.

1993—Subsec. (c). Pub. L. 103–200, § 3(f)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(3). Pub. L. 103–200, § 3(f)(2)(A), inserted ''or list I chemical or chemicals,'' after ''substances,''.

Subsec. (d)(6). Pub. L. 103–200, § 3(f)(2)(B), inserted ''or list I chemicals'' after ''controlled substances'' wherever appearing.

Subsec. (e). Pub. L. 103–200, § 3(f)(3), inserted reference to section 830 of this title.

Subsecs. (f) to (h). Pub. L. 103–200, § 3(f)(4), inserted ''or list I chemicals'' after ''controlled substances''.

1986—Subsec. (e). Pub. L. 99–570 substituted ''sections'' for first reference to ''section''.

1984—Subsec. (b). Pub. L. 98–473, § 524, substituted ''Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration'' for ''Registration granted under subsection (a) of this section shall not entitle a registrant to import or export controlled substances in schedule I or II other than those specified in the registration''.

Subsecs. (d) to (i). Pub. L. 98–473, § 525, added subsec. (d), redesignated former subsec. (d) as (e) and struck out reference to section 824 of this title, and redesignated former subsecs. (e) to (h) as (f) to (i), respectively.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

§ 959. Possession, manufacture, or distribution of controlled substance

(a) Manufacture or distribution for purpose of unlawful importation

It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II or flunitrazepam or listed chemical—

(1) intending that such substance or chemical will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States; or

(2) knowing that such substance or chemical will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

(b) Possession, manufacture, or distribution by person on board aircraft

It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to—

(1) manufacture or distribute a controlled substance or listed chemical; or

(2) possess a controlled substance or listed chemical with intent to distribute.

(c) Acts committed outside territorial jurisdiction of United States; venue

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

(Pub. L. 91–513, title III, § 1009, Oct. 27, 1970, 84 Stat. 1289; Pub. L. 99–570, title III, § 3161(a), Oct. 27, 1986, 100 Stat. 3207–94; Pub. L. 104–237, title I, § 102(a), (b), Oct. 3, 1996, 110 Stat. 3100; Pub. L. 104–305, § 2(b)(2)(A), Oct. 13, 1996, 110 Stat. 3807.)

REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (a), are set out in section 812(c) of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–305 inserted ''or flunitrazepam'' after ''schedule I or II'' in introductory provisions.

Pub. L. 104–237, § 102(a), inserted ''or listed chemical'' after ''schedule I or II'' in introductory provisions and ''or chemical'' after ''substance'' in pars. (1) and (2).

Subsec. (b). Pub. L. 104–237, § 102(b), inserted ''or listed chemical'' after ''controlled substance'' in pars. (1) and (2).

1986—Pub. L. 99–570 designated first sentence as subsec. (a) and inserted ''or into waters within a distance of 12 miles of the coast of the United States'' in pars. (1) and (2), added subsec. (b), and designated last two sentences as subsec. (c).

§ 960. Prohibited acts A

(a) Unlawful acts

Any person who—

(1) contrary to section 952, 953, or 957 of this title, knowingly or intentionally imports or exports a controlled substance,

(2) contrary to section 955 of this title, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

(3) contrary to section 959 of this title, manufactures, possesses with intent to distribute, or distributes a controlled substance,

shall be punished as provided in subsection (b) of this section.

(b) Penalties

(1) In the case of a violation of subsection (a) of this section involving—

(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or

(H) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.[1]

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $8,000,000 if the defendant is an individual or $20,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

(2) In the case of a violation of subsection (a) of this section involving—

(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(B) 500 grams or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or

(H) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphet-

[1] So in original. The period probably should be a semicolon.

amine, its salts, isomers, or salts of its isomers.[1]

the person committing such violat ion shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

(3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or flunitrazepam, the person committing such violation shall, except as provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results.

(4) In the case of a violation under subsection (a) of this section with respect to less than 50 kilograms of marihuana, except in the case of 100 or more marihuana plants regardless of weight, less than 10 kilograms of hashish, or less than one kilogram of hashish oil, the person committing such violation shall be sentenced in accordance with section 841(b)(1)(D) of this title.

(5) In the case of a violation of subsection (a) involving a controlled substance in schedule III, such person shall be sentenced in accordance with section 841(b)(1) of this title.

(6) In the case of a violation of subsection (a) involving a controlled substance in schedule IV, such person shall be sentenced in accordance with section 841(b)(2) of this title.

(7) In the case of a violation of subsection (a) involving a controlled substance in schedule V, such person shall be sentenced in accordance with section 841(b)(3) of this title.

(c) Repealed. Pub. L. 98–473, title II, §225, formerly §225(a), Oct. 12, 1984, 98 Stat. 2030, as amended by Pub. L. 99–570, title I, §1005(c), Oct. 27, 1986, 100 Stat. 3207–6

(d) Penalty for importation or exportation

A person who knowingly or intentionally—

(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this subchapter or subchapter I of this chapter;

(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this subchapter or subchapter I of this chapter;

(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation

qualifies for a waiver of the 15-day notification requirement granted pursuant to paragraph (2) or (3) of section 971(f) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;

(6) imports a listed chemical in violation of section 952 of this title, imports or exports such a chemical in violation of section 957 or 971 of this title, or transfers such a chemical in violation of section 971(d) of this title; or

(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 959 of this title.[2]

shall be fined in accordance with title 18, imprisoned not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical, or both.

(Pub. L. 91–513, title III, § 1010, Oct. 27, 1970, 84 Stat. 1290; Pub. L. 98–473, title II, §§ 225, formerly § 225(a), 504, Oct. 12, 1984, 98 Stat. 2030, 2070; Pub. L. 99–570, title I, §§ 1004(a), 1005(c), 1302, 1866(e), Oct. 27, 1986, 100 Stat. 3207–6, 3207–15, 3207–55; Pub. L. 100–690, title VI, §§ 6053(c), 6475, Nov. 18, 1988, 102 Stat. 4315, 4380; Pub. L. 101–647, title XII, § 1204, title XXXV, § 3599J, Nov. 29, 1990, 104 Stat. 4830, 4932; Pub. L. 103–200, §§ 4(b), 5(b), Dec. 17, 1993, 107 Stat. 2338, 2339; Pub. L. 103–322, title IX, § 90105(a), title XXXIII, § 330024(d)(2), Sept. 13, 1994, 108 Stat. 1987, 2151; Pub. L. 104–237, title I, § 102(c), title III, § 302(b), Oct. 3, 1996, 110 Stat. 3100, 3105; Pub. L. 104–305, § 2(b)(2)(B), (C), Oct. 13, 1996, 110 Stat. 3807; Pub. L. 105–277, div. E, § 2(b), Oct. 21, 1998, 112 Stat. 2681–759; Pub. L. 106–172, § 3(b)(2), Feb. 18, 2000, 114 Stat. 9; Pub. L. 107–273, div. B, title III, § 3005(b), Nov. 2, 2002, 116 Stat. 1806; Pub. L. 109–177, title VII, §§ 716(b)(1)(A), 717, Mar. 9, 2006, 120 Stat. 267; Pub. L. 110–425, § 3(i), Oct. 15, 2008, 122 Stat. 4832.)

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsec. (b), are set out in section 812(c) of this title.

Section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Prohibition Act of 2000, referred to in subsec. (b)(3), is section 3(a)(1)(B) of Pub. L. 106–172, which is set out in a note under section 812 of this title.

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–425, § 3(i)(3), struck out before period at end ", nor shall a person so sentenced be eligible for parole during the term of such a sentence".

Subsec. (b)(4). Pub. L. 110–425, § 3(i)(1), inserted "or" after "hashish,", struck out "or any quantity of a controlled substance in schedule III, IV, or V, (except a violation involving flunitrazepam and except a violation involving gamma hydroxybutyric acid)" after "hashish oil,", and substituted "sentenced in accordance with section 841(b)(1)(D) of this title" for "imprisoned not more than five years, or be fined not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, notwithstanding section 3583 of title 18, in addition to such term of imprisonment, include (A) a term of supervised release of not less than two years if such controlled substance is in schedule I, II, III, or (B) a term of supervised release of not less than one year if such controlled substance is in schedule IV".

Subsec. (b)(5) to (7). Pub. L. 110–425, § 3(i)(2), added pars. (5) to (7).

2006—Subsec. (d)(5). Pub. L. 109–177, § 716(b)(1)(A), substituted "paragraph (2) or (3) of section 971(f) of this title" for "section 971(e)(2) or (3) of this title".

Subsec. (d)(6). Pub. L. 109–177, § 717, amended par. (6) generally. Prior to amendment, par. (6) read as follows: "imports or exports a listed chemical in violation of section 957 or 971 of this title; or".

2002—Subsec. (b)(1), (2). Pub. L. 107–273, § 3005(b)(1), substituted "Notwithstanding section 3583 of title 18, any sentence" for "Any sentence" in concluding provisions.

Subsec. (b)(3). Pub. L. 107–273, § 3005(b)(1), substituted "Notwithstanding section 3583 of title 18, any sentence" for "Any sentence".

Subsec. (b)(4). Pub. L. 107–273, § 3005(b)(2), inserted "notwithstanding section 3583 of title 18," before "in addition to such term of imprisonment".

2000—Subsec. (b)(3). Pub. L. 106–172, § 3(b)(2)(A), inserted "gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000)," after "schedule I or II," in first sentence.

Subsec. (b)(4). Pub. L. 106–172, § 3(b)(2)(B), substituted "flunitrazepam and except a violation involving gamma hydroxybutyric acid)" for "flunitrazepam)".

1998—Subsec. (b)(1)(H). Pub. L. 105–277, § 2(b)(1), substituted "50 grams" and "500 grams" for "100 grams" and "1 kilogram", respectively.

Subsec. (b)(2)(H). Pub. L. 105–277, § 2(b)(2), substituted "5 grams" and "50 grams" for "10 grams" and "100 grams", respectively.

1996—Subsec. (b)(3). Pub. L. 104–305, § 2(b)(2)(B), inserted "or flunitrazepam," after "schedule I or II,".

Subsec. (b)(4). Pub. L. 104–305, § 2(b)(2)(C), inserted "(except a violation involving flunitrazepam)" after "schedule III, IV, or V,".

Subsec. (d). Pub. L. 104–237, § 302(b), in closing provisions, substituted "not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical," for "not more than 10 years,".

Subsec. (d)(7). Pub. L. 104–237, § 102(c), added par. (7).

1994—Subsec. (b)(1), (2). Pub. L. 103–322, § 90105(a), in sentence in concluding provisions beginning "If any person commits", substituted "a prior conviction for a felony drug offense has become final" for "one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final".

Subsec. (b)(3). Pub. L. 103–322, § 90105(a), in sentence beginning "If any person commits", substituted "a prior conviction for a felony drug offense has become final" for "one or more prior convictions for an offense punishable under this subsection, or for a felony under any other provision of this subchapter or subchapter I of this chapter or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final".

Subsec. (d)(5), (6). Pub. L. 103–322, § 330024(d)(2), amended directory language of Pub. L. 103–200, § 5(b)(3). See 1993 Amendment note below.

1993—Subsec. (d). Pub. L. 103–200, § 5(b), as amended by Pub. L. 103–322, § 330024(d)(2), added pars. (5) and (6).

Pub. L. 103–200, § 4(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Any person who knowingly or intentionally—

[2] So in original. The period probably should be a comma.

''(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this subchapter or, in the case of an exportation, in violation of the law of the country to which the chemical is exported; or

''(2) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance in violation of this subchapter or, in the case of an exportation, in violation of the law of the country to which the chemical is exported;

shall be fined in accordance with title 18, or imprisoned not more than 10 years, or both.''

1990—Subsec. (b)(1)(H). Pub. L. 101–647, § 1204(a), added subpar. (H).

Subsec. (b)(2). Pub. L. 101–647, § 3599J, substituted ''supervised'' for ''suspervised'' in two places in concluding provisions.

Subsec. (b)(2)(H). Pub. L. 101–647, § 1204(b), added subpar. (H).

1988—Subsec. (a)(3). Pub. L. 100–690, § 6475, substituted ''manufactures, possesses with intent to distribute, or distributes a controlled substance'' for ''manufactures or distributes a controlled substance''.

Subsec. (d). Pub. L. 100–690, § 6053(c), added subsec. (d).

1986—Pub. L. 99–570, § 1005(c), amended Pub. L. 98–473, § 225. See 1984 Amendment note below.

Subsec. (b)(1), (2). Pub. L. 99–570, § 1302(a)(2), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) In the case of a violation under subsection (a) of this section involving—

''(A) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

''(i) coca leaves;

''(ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

''(iii) a substance chemically identical thereto;

''(B) a kilogram or more of any other narcotic drug in schedule I or II;

''(C) 500 grams or more of phencyclidine (PCP);

''(D) 5 grams or more of lysergic acid diethylamide (LSD);

the person committing such violation shall be imprisoned for not more than twenty years, or fined not more than $250,000, or both.

''(2) In the case of a violation under subsection (a) of this section with respect to a controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1) and (3), be imprisoned not more than fifteen years, or fined not more than $125,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than three years in addition to such term of imprisonment.''

Subsec. (b)(3). Pub. L. 99–570, § 1302(a)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 99–570, § 1302(a)(1), (3), (b)(2), (3), redesignated former par. (3) as (4), inserted ''except in the case of 100 or more marihuana plants regardless of weight,'' and substituted ''fined not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''fined not more than $50,000''.

Pub. L. 99–570, §§ 1302(b)(1), 1866(e), made identical amendment striking out '', except as provided in paragraph (4)'' after ''such violation shall''.

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' in two places.

Subsec. (c). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' wherever appearing, effective Nov. 1, 1987, the effective date of the repeal of subsec. (c) by Pub. L. 98–473, § 225. See 1984 Amendment note below.

1984—Subsec. (b). Pub. L. 98–473, § 225(a), which directed amendment of this subsection effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was omitted in the general amendment of section 225 of Pub. L. 98–473 by Pub. L. 99–570, § 1005(c).

Subsec. (b)(1). Pub. L. 98–473, § 504(1), added par. (1). Former par. (1) redesignated (2).

Subsec. (b)(2). Pub. L. 98–473, § 504(1), (2), redesignated former par. (1) as (2), inserted provisions excepting pars. (1) and (3), and substituted reference to controlled substance for reference to narcotic drug, and ''$125,000'' for ''$25,000''. Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 98–473, § 504(1), (3), redesignated former par. (2) as (3) and substituted ''less than 50 kilograms of marihuana, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall, except as provided in paragraph (4)'' for ''a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall'', and ''$50,000'' for ''$15,000''.

Subsec. (c). Pub. L. 98–473, § 225, as amended by Pub. L. 99–570, § 1005(c), struck out subsec. (c) which related to special parole terms imposed under this section or section 962 of this title. Notwithstanding directory language that the amendment be made to ''Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960)'', the amendment was executed to this section as the probable intent of Congress.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 330024(d)(2) of Pub. L. 103–322 effective 120 days after Dec. 17, 1993, see section 330024(f) of Pub. L. 103–322, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6053(c) of Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 225 of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

§ 960a. Foreign terrorist organizations, terrorist persons and groups

(a) Prohibited acts

Whoever engages in conduct that would be punishable under section 841(a)[1] of this title if committed within the jurisdiction of the United

[1] See References in Text note below.

States, or attempts or conspires to do so, knowing or intending to provide, directly or indirectly, anything of pecuniary value to any person or organization that has engaged or engages in terrorist activity (as defined in section 1182(a)(3)(B) of title 8) or terrorism (as defined in section 2656f(d)(2) of title 22), shall be sentenced to a term of imprisonment of not less than twice the minimum punishment under section 841(b)(1),[1] and not more than life, a fine in accordance with the provisions of title 18, or both. Notwithstanding section 3583 of title 18, any sentence imposed under this subsection shall include a term of supervised release of at least 5 years in addition to such term of imprisonment.

(b) Jurisdiction

There is jurisdiction over an offense under this section if—

(1) the prohibited drug activity or the terrorist offense is in violation of the criminal laws of the United States;

(2) the offense, the prohibited drug activity, or the terrorist offense occurs in or affects interstate or foreign commerce;

(3) an offender provides anything of pecuniary value for a terrorist offense that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

(4) the offense or the prohibited drug activity occurs in whole or in part outside of the United States (including on the high seas), and a perpetrator of the offense or the prohibited drug activity is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); or

(5) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

(c) Proof requirements

To violate subsection (a), a person must have knowledge that the person or organization has engaged or engages in terrorist activity (as defined in section 1182(a)(3)(B) of title 8) or terrorism (as defined in section 2656f(d)(2) of title 22).

(d) Definition

As used in this section, the term ''anything of pecuniary value'' has the meaning given the term in section 1958(b)(1) of title 18.

(Pub. L. 91–513, title III, § 1010A, as added Pub. L. 109–177, title I, § 122, Mar. 9, 2006, 120 Stat. 225.)

REFERENCES IN TEXT

Section 841, referred to in the original in subsec. (a), probably should have been a reference to section 401 of Pub. L. 91–513, which is classified to section 841 of this title. Pub. L. 91–513 does not contain a section 841.

§ 961. Prohibited acts B

Any person who violates section 954 of this title or fails to notify the Attorney General of an importation or exportation under section 971 of this title shall be subject to the following penalties:

(1) Except as provided in paragraph (2), any such person shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. Sections 842(c)(1) and (c)(3) of this title shall apply to any civil penalty assessed under this paragraph.

(2) If such a violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally and the trier of fact specifically finds that the violation was so committed, such person shall be sentenced to imprisonment for not more than one year or a fine of not more than $25,000 or both.

(Pub. L. 91–513, title III, § 1011, Oct. 27, 1970, 84 Stat. 1290; Pub. L. 100–690, title VI, § 6053(d), Nov. 18, 1988, 102 Stat. 4316.)

AMENDMENTS

1988—Pub. L. 100–690 inserted ''or fails to notify the Attorney General of an importation or exportation under section 971 of this title''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

§ 962. Second or subsequent offenses

(a) Term of imprisonment and fine

Any person convicted of any offense under this subchapter is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise authorized, or by both. If the conviction is for an offense punishable under section 960(b) of this title, and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the term of supervised release otherwise authorized.

(b) Determination of status

For purposes of this section, a person shall be considered convicted of a second or subsequent offense if, prior to the commission of such offense, one or more prior convictions of such person for a felony drug offense have become final.

(c) Procedures applicable

Section 851 of this title shall apply with respect to any proceeding to sentence a person under this section.

(Pub. L. 91–513, title III, § 1012, Oct. 27, 1970, 84 Stat. 1290; Pub. L. 98–473, title II, §§ 225(b), 505, Oct. 12, 1984, 98 Stat. 2030, 2070; Pub. L. 99–570, title I, §§ 1004(a), 1005(c), Oct. 27, 1986, 100 Stat. 3207–6; Pub. L. 103–322, title IX, § 90105(b), Sept. 13, 1994, 108 Stat. 1988.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–322 substituted ''one or more prior convictions of such person for a felony drug offense have become final'' for ''one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final''.

1986—Subsec. (a). Pub. L. 99–570, § 1005(c), amended Pub. L. 98–473, § 225. See 1984 Amendment note below.

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

1984—Subsec. (a). Pub. L. 98–473, § 225(b), which directed amendment of this section effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was omitted in the general amendment of section 225 of Pub. L. 98–473 by Pub. L. 99–570, § 1005(c).

Subsec. (b). Pub. L. 98–473, § 505, inserted references to laws of a State or of a foreign country.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

§ 963. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 91–513, title III, § 1013, Oct. 27, 1970, 84 Stat. 1291; Pub. L. 100–690, title VI, § 6470(a), Nov. 18, 1988, 102 Stat. 4377.)

AMENDMENTS

1988—Pub. L. 100–690 substituted ''shall be subject to the same penalties as those prescribed for the offense'' for ''is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense''.

§ 964. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub. L. 91–513, title III, § 1014, Oct. 27, 1970, 84 Stat. 1291.)

§ 965. Applicability of part E of subchapter I

Part E of subchapter I of this chapter shall apply with respect to functions of the Attorney General (and of officers and employees of the Bureau of Narcotics and Dangerous Drugs) under this subchapter, to administrative and judicial proceedings under this subchapter, and to violations of this subchapter, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under subchapter I of this chapter, to such proceedings under subchapter I of this chapter, and to violations of subchapter I of this chapter. For purposes of the application of this section to section 880 or 881 of this title, any reference in such section 880 or 881 of this title to ''this subchapter'' shall be deemed to be a reference to this subchapter, any reference to section 823 of this title shall be deemed to be a reference to section 958 of this title, and any reference to section 822(d) of this title shall be deemed to be a reference to section 957(b)(2) of this title.

(Pub. L. 91–513, title III, § 1015, Oct. 27, 1970, 84 Stat. 1291; Pub. L. 95–633, title III, § 301(b), Nov. 10, 1978, 92 Stat. 3778.)

AMENDMENTS

1978—Pub. L. 95–633 inserted ''or 881'' after ''880'' wherever appearing.

TRANSFER OF FUNCTIONS

For abolition of Bureau of Narcotics and Dangerous Drugs, including Office of Director thereof, and creation of a single comprehensive agency for enforcement of drug laws by Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, see note set out under section 881 of this title.

§ 966. Authority of Secretary of the Treasury

Nothing in this chapter shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

(Pub. L. 91–513, title III, § 1016, Oct. 27, 1970, 84 Stat. 1291.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The customs laws, referred to in text, are classified generally to Title 19, Customs Duties.

§ 967. Smuggling of controlled substances; investigations; oaths; subpenas; witnesses; evidence; production of records; territorial limits; fees and mileage of witnesses

For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title), the Secretary of the Treasury may administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

(Aug. 11, 1955, ch. 800, § 1, 69 Stat. 684; Pub. L. 91–513, title III, § 1102(t), Oct. 27, 1970, 84 Stat. 1294.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1034 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198a of this title.

AMENDMENTS

1970—Pub. L. 91–513 substituted ''section 545 of title 18 (relating to smuggling goods into the United States)

with respect to any controlled substance (as defined in section 802 of this title)'' for ''the laws of the United States relating to narcotic drugs and marihuana'' and substituted the customs territory of the United States for any State or any territory or other place subject to the jurisdiction of the United States is the defined area from within which the attendance of witnesses and the production of records may be required, and struck out provisions making the discretion of the Secretary of the Treasury the determinative factor as to what is relevant or material to the investigation.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–513 effective on first day of seventh calendar month that begins after Oct. 26, 1970, see 1105(a) of Pub. L. 91–513, set out as an Effective Date note under section 951 of this title.

SAVINGS PROVISION

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91–513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91–513, set out as a note under sections 171 to 174 of this title.

§ 968. Service of subpena; proof of service

A subpena of the Secretary of the Treasury may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

(Aug. 11, 1955, ch. 800, § 2, 69 Stat. 685.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1035 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198b of this title.

§ 969. Contempt proceedings

In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpena of the Secretary of the Treasury. The court may issue an order requiring the subpenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpenaed person is an inhabitant or wherever he may be found.

(Aug. 11, 1955, ch. 800, § 3, 69 Stat. 685.)

CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1036 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97–258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198c of this title.

§ 970. Criminal forfeitures

Section 853 of this title, relating to criminal forfeitures, shall apply in every respect to a violation of this subchapter punishable by imprisonment for more than one year.

(Pub. L. 91–513, title III, § 1017, as added Pub. L. 98–473, title II, § 307, Oct. 12, 1984, 98 Stat. 2051.)

§ 971. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals

(a) Notification prior to transaction

Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

(b) Regular customers or importers

(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) of this section does not apply to a transaction between a regulated person and a regular customer or to a transaction that is an importation by a regular importer. At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

(2) The regulations under this subsection shall provide that the initial notification under subsection (a) of this section with respect to a customer of a regulated person or to an importer shall, upon the expiration of the 15-day period, qualify the customer as a regular customer or the importer as a regular importer, unless the Attorney General otherwise notifies the regulated person in writing.

(c) Suspension of importation or exportation; disqualification of regular customers or importers; hearing

(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section) or may disqualify any regular customer or regular importer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance (without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred). From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual

basis for the order) to the regulated person, the regulated person may not carry out the transaction.

(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5. The hearing shall be held on an expedited basis and not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.

(d) Information required in notice; updated notice for change in circumstances

(1)(A) Information provided in a notice under subsection (a) or (b) shall include the name of the person to whom the importer or exporter involved intends to transfer the listed chemical involved, and the quantity of such chemical to be transferred.

(B) In the case of a notice under subsection (b) submitted by a regular importer, if the transferee identified in the notice is not a regular customer, such importer may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the notice is submitted to the Attorney General.

(C) After a notice under subsection (a) or (b) is submitted to the Attorney General, if circumstances change and the importer or exporter will not be transferring the listed chemical to the transferee identified in the notice, or will be transferring a greater quantity of the chemical than specified in the notice, the importer or exporter shall update the notice to identify the most recent prospective transferee or the most recent quantity or both (as the case may be) and may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the update is submitted to the Attorney General, except that such 15-day restriction does not apply if the prospective transferee identified in the update is a regular customer. The preceding sentence applies with respect to changing circumstances regarding a transferee or quantity identified in an update to the same extent and in the same manner as such sentence applies with respect to changing circumstances regarding a transferee or quantity identified in the original notice under subsection (a) or (b).

(D) In the case of a transfer of a listed chemical that is subject to a 15-day restriction under subparagraph (B) or (C), the transferee involved shall, upon the expiration of the 15-day period, be considered to qualify as a regular customer, unless the Attorney General otherwise notifies the importer or exporter involved in writing.

(2) With respect to a transfer of a listed chemical with which a notice or update referred to in paragraph (1) is concerned:

(A) The Attorney General, in accordance with the same procedures as apply under subsection (c)(2)—

(i) may order the suspension of the transfer of the listed chemical by the importer or exporter involved, except for a transfer to a regular customer, on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance (without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred), subject to the Attorney General ordering such suspension before the expiration of the 15-day period referred to in paragraph (1) with respect to the importation or exportation (in any case in which such a period applies); and

(ii) may, for purposes of clause (i) and paragraph (1), disqualify a regular customer on such ground.

(B) From and after the time when the Attorney General provides written notice of the order under subparagraph (A) (including a statement of the legal and factual basis for the order) to the importer or exporter, the importer or exporter may not carry out the transfer.

(3) For purposes of this subsection:

(A) The terms ''importer'' and ''exporter'' mean a regulated person who imports or exports a listed chemical, respectively.

(B) The term ''transfer'', with respect to a listed chemical, includes the sale of the chemical.

(C) The term ''transferee'' means a person to whom an importer or exporter transfers a listed chemical.

(e) Broker or trader for international transaction in listed chemical

A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this subchapter and subchapter I of this chapter.

(f) Application of notification requirement to exports of listed chemical; waiver

(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) of this section apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

(3) The Attorney General may by regulation waive the 15-day notification requirement for

the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

(g) Return declaration

Within 30 days after a transaction covered by this section is completed, the importer or exporter shall send the Attorney General a return declaration containing particulars of the transaction, including the date, quantity, chemical, container, name of transferees, and such other information as the Attorney General may specify in regulations. For importers, a single return declaration may include the particulars of both the importation and distribution. If the importer has not distributed all chemicals imported by the end of the initial 30-day period, the importer shall file supplemental return declarations no later than 30 days from the date of any further distribution, until the distribution or other disposition of all chemicals imported pursuant to the import notification or any update are accounted for.

(h) Importation and distribution of ephedrine, pseudoephedrine, or phenylpropanolamine

(1) With respect to a regulated person importing ephedrine, pseudoephedrine, or phenylpropanolamine (referred to in this section as an ''importer''), a notice of importation under subsection (a) or (b) shall include all information known to the importer on the chain of distribution of such chemical from the manufacturer to the importer.

(2) For the purpose of preventing or responding to the diversion of ephedrine, pseudoephedrine, or phenylpropanolamine for use in the illicit production of methamphetamine, the Attorney General may, in the case of any person who is a manufacturer or distributor of such chemical in the chain of distribution referred to in paragraph (1) (which person is referred to in this subsection as a ''foreign-chain distributor''), request that such distributor provide to the Attorney General information known to the distributor on the distribution of the chemical, including sales.

(3) If the Attorney General determines that a foreign-chain distributor is refusing to cooperate with the Attorney General in obtaining the information referred to in paragraph (2), the Attorney General may, in accordance with procedures that apply under subsection (c), issue an order prohibiting the importation of ephedrine, pseudoephedrine, or phenylpropanolamine in any case in which such distributor is part of the chain of distribution for such chemical. Not later than 60 days prior to issuing the order, the Attorney General shall publish in the Federal Register a notice of intent to issue the order. During such 60-day period, imports of the chemical with respect to such distributor may not be restricted under this paragraph.

(Pub. L. 91–513, title III, § 1018, as added Pub. L. 100–690, title VI, § 6053(a), Nov. 18, 1988, 102 Stat. 4314; amended Pub. L. 103–200, §§ 4(a), 5(a), 9(b), Dec. 17, 1993, 107 Stat. 2338–2340; Pub. L. 103–322, title XXXIII, § 330024(c), Sept. 13, 1994, 108 Stat. 2150; Pub. L. 109–177, title VII, §§ 716(a), (b)(1)(B), 721, Mar. 9, 2006, 120 Stat. 265, 267.)

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–177, § 716(a)(1), substituted ''or to a transaction that is an importation by a regular importer'' for ''or to an importation by a regular importer''.

Subsec. (c)(1). Pub. L. 109–177, § 716(b)(1)(B), inserted ''(without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred)'' after ''manufacture of a controlled substance''.

Subsecs. (d) to (f). Pub. L. 109–177, § 716(a)(2), (3), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

Subsec. (g). Pub. L. 109–177, § 716(a)(4), added subsec. (g).

Subsec. (h). Pub. L. 109–177, § 721, added subsec. (h).

1994—Subsecs. (b)(1), (2), (c)(1). Pub. L. 103–322, § 330024(c)(2), made technical amendment to directory language of Pub. L. 103–200, § 9(b). See 1993 Amendment notes below.

Subsec. (e). Pub. L. 103–322, § 330024(c)(1), made technical amendment to directory language of Pub. L. 103–200, § 5(a). See 1993 Amendment note below.

1993—Subsec. (b)(1). Pub. L. 103–200, § 9(b)(1)(A), as amended by Pub. L. 103–322, § 330024(c)(2), substituted ''to an importation by a regular importer'' for ''regular supplier of the regulated person''.

Subsec. (b)(2). Pub. L. 103–200, § 9(b)(1)(B), as amended by Pub. L. 103–322, § 330024(c)(2), substituted ''a customer of a regulated person or to an importer'' for ''a customer or supplier of a regulated person'' and ''the importer as a regular importer'' for ''regular supplier''.

Subsec. (c)(1). Pub. L. 103–200, § 9(b)(2), as amended by Pub. L. 103–322, § 330024(c)(2), substituted ''regular importer'' for ''regular supplier''.

Subsec. (d). Pub. L. 103–200, § 4(a), added subsec. (d).

Subsec. (e). Pub. L. 103–200, § 5(a), as amended by Pub. L. 103–322, § 330024(c)(1), added subsec. (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–322 effective 120 days after Dec. 17, 1993, see section 330024(f) of Pub. L. 103–322, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section 6053(b) of Pub. L. 100–690 provided that:

''(1) Not later than 45 days after the date of the enactment of this Act [Nov. 18, 1988], the Attorney General shall forward to the Director of the Office of Management and Budget proposed regulations required by the amendment made by subsection (a) [enacting this section].

''(2) Not later than 55 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

''(A) review such proposed regulations of the Attorney General; and

''(B) forward any comments and recommendations for modifications to the Attorney General.

''(3) Not later than 60 days after the date of the enactment of this Act, the Attorney General shall publish the proposed final regulations required by the amendment made by subsection (a).

''(4) Not later than 120 days after the date of the enactment of this Act, the Attorney General shall pro-

mulgate final regulations required by the amendment made by subsection (a).

''(5) Subsection (a) of section 1018 of the Controlled Substances Import and Export Act [subsection (a) of this section], as added by subsection (a) of this section, shall take effect 90 days after the promulgation of the final regulations under paragraph (4).

''(6) Each regulated person shall provide to the Attorney General the identity of any regular customer or regular supplier of the regulated person not later than 30 days after the promulgation of the final regulations under paragraph (4). Not later than 60 days after the end of such 30-day period, each regular customer and regular supplier so identified shall be a regular customer or regular supplier for purposes of any applicable exception from the requirement of subsection (a) of such section 1018, unless the the [sic] Attorney General otherwise notifies the regulated person in writing.''

Section effective 120 days after Nov. 18, 1988 [except subsec. (a), see above], see section 6061 of Pub. L. 100–690, set out as an Effective Date of 1988 Amendment note under section 802 of this title.

EXCEPTION FOR IODINE TO IMPORTATION AND EXPORTATION REQUIREMENTS FOR LISTED CHEMICALS

Pub. L. 104–237, title II, § 204(b), Oct. 3, 1996, 110 Stat. 3102, provided that:

''(1) Iodine shall not be subject to the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).

''(2) EFFECT OF EXCEPTION.—The exception made by paragraph (1) shall not limit the authority of the Attorney General to impose the requirements for listed chemicals provided in section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971).''

CHAPTER 14—ALCOHOL AND DRUG ABUSE EDUCATIONAL PROGRAMS AND ACTIVITIES

§§ 1001 to 1007. Repealed. Pub. L. 97–35, title V, § 587(a)(3), Aug. 13, 1981, 95 Stat. 480

Section 1001, Pub. L. 91–527, § 2, Dec. 3, 1970, 84 Stat. 1385; Pub. L. 93–422, § 2(b), Sept. 21, 1974, 88 Stat. 1154; Pub. L. 95–336, § 2, Aug. 4, 1978, 92 Stat. 451, set forth Congressional declaration of purpose for Alcohol and Drug Abuse Education Act.

Section 1002, Pub. L. 91–527, § 3, Dec. 3, 1970, 84 Stat. 1386; Pub. L. 93–422, § 2(c), Sept. 21, 1974, 88 Stat. 1155; Pub. L. 95–336, §§ 3, 4, Aug. 4, 1978, 92 Stat. 451, 452; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), (2)(Q), (b)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, set forth grant and contract authority, etc., for projects and programs.

Section 1003, Pub. L. 91–527, § 4, Dec. 3, 1970, 84 Stat. 1387; Pub. L. 93–422, § 2(d), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to recordkeeping requirements, and access to and inspection of records.

Section 1004, Pub. L. 91–527, § 5, Dec. 3, 1970, 84 Stat. 1388; Pub. L. 93–422, § 2(e), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 96–88, title V, § 508(i), Oct. 17, 1979, 93 Stat. 693, related to technical assistance to local agencies, etc.

Section 1005, Pub. L. 91–527, § 6, Dec. 3, 1970, 84 Stat. 1388, related to nature of payments.

Section 1006, Pub. L. 91–527, § 7, Dec. 3, 1970, 84 Stat. 1388, related to utilization of services and facilities of Federal agencies and public and private agencies and institutions.

Section 1007, Pub. L. 91–527, § 8, Dec. 3, 1970, 84 Stat. 1388; Pub. L. 93–422, § 2(f), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 95–336, § 5, Aug. 4, 1978, 92 Stat. 453; Pub. L. 96–88, title III, § 301(a)(1), (2)(Q), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, defined ''Secretary'' and ''State''.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1982, see section 587(a) of Pub. L. 97–35, set out as section 3863(a) of Title 20, Education.

CHAPTER 15—EGG PRODUCTS INSPECTION

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§ 1031. Congressional statement of findings

Eggs and egg products are an important source of the Nation's total supply of food, and are used in food in various forms. They are consumed throughout the Nation and the major portion thereof moves in interstate or foreign commerce. It is essential, in the public interest, that the health and welfare of consumers be protected by the adoption of measures prescribed herein for assuring that eggs and egg products distributed to them and used in products consumed by them are wholesome, otherwise not adulterated, and properly labeled and packaged. Lack of effective regulation for the handling or disposition of unwholesome, otherwise adulterated, or improperly labeled or packaged egg products and certain qualities of eggs is injurious to the public welfare and destroys markets for wholesome, not adulterated, and properly labeled and packaged eggs and egg products and results in sundry losses to producers and processors, as well as injury to consumers. Unwholesome, otherwise adulterated, or improperly labeled or packaged products can be sold at lower