§ 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