

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 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.

¹ So in original. A second closing parenthesis probably should precede the comma.

(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.

¹ See References in Text note below.

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, tribal, 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 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 6101 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, tribal, 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 Sub-

stances, 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; Pub. L. 111-211, title II, § 232(a), July 29, 2010, 124 Stat. 2278.)

CODIFICATION

In subsec. (b), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes (41 U.S.C. 5)” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

- 2010—Subsecs. (a)(1), (c). Pub. L. 111-211 inserted “tribal,” after “State.”
- 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.

EFFECT OF GRANTS

Pub. L. 111-211, title II, § 232(e), July 29, 2010, 124 Stat. 2279, provided that: “Nothing in this section [amending this section and sections 872a, 873, and 878 of this title] or any amendment made by this section—

- “(1) allows the grant to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or
- “(2) has any effect other than to authorize, award, or deny a grant of funds to a federally recognized Indian tribe for the purposes described in the relevant grant program.”

[For definition of “Indian tribe” as used in section 232(e) of Pub. L. 111-211, set out above, see section 203(a)

of Pub. L. 111-211, set out as a note under section 2801 of Title 25, Indians.]

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, tribal, 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, tribal, 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; Pub. L. 111-211, title II, §232(b), July 29, 2010, 124 Stat. 2278.)

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.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-211, §232(b)(1), inserted “tribal,” after “State.”

Subsec. (b)(2). Pub. L. 111-211, §232(b)(2), inserted “, tribal,” after “State”.

§ 873. Cooperative arrangements

(a) Cooperation of Attorney General with local, State, tribal, and Federal agencies

The Attorney General shall cooperate with local, State, tribal, 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, tribal, 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, tribal, and local agencies, and make such information available for Federal, State, tribal, 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, tribal, 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, tribal, and local governments to adequately control the diversion of controlled substances;

(B) providing advice and counsel to State, tribal, 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, tribal, 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.

¹ See References in Text note below.

(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, tribal, and 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; Pub. L. 111-211, title II, § 232(c), July 29, 2010, 124 Stat. 2278.)

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. 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

2010—Subsec. (a). Pub. L. 111-211, § 232(c)(1)(A), inserted "tribal," after "State," wherever appearing in introductory provisions and pars. (3) and (4).

Subsec. (a)(6), (7). Pub. L. 111-211, § 232(c)(1)(B), inserted “, tribal,” after “State” wherever appearing.

Subsec. (d)(1). Pub. L. 111-211, § 232(c)(2), inserted “, tribal,” after “State” in introductory provisions.

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, which required the Counterdrug Intelligence Coordinating Group to submit to certain committees of Congress an annual report on counterdrug intelligence matters, was repealed by Pub. L. 111-259, title III, § 347(g), Oct. 7, 2010, 124 Stat. 2699.

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 Enforcement 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 subpoenas, 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 subpoena 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 subpoena. 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 subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena 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 subpoena 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 subpoena 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 subpoena 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 subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed 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, tribal,

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, subpoenas, 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; Pub. L. 111-211, title II, §232(d), July 29, 2010, 124 Stat. 2278.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-211 inserted “, tribal,” after “State” in introductory provisions.

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 subpoena 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 speci-

fied. 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 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 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.

(I)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.

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 "

"(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 "

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".

Subsec. (a)(7). Pub. L. 106-185, §2(c)(2), struck out before period at end "

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 Admiralty 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).

¹ So in original. No subsec. (k) has been enacted.

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. (f). Pub. L. 100-690, § 6253(a), added subsec. (f).
 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 Rule¹ 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 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 subssecs. (a), (b), and (c)(2)(C), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This subchapter, referred to in subssecs. (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 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

¹ So in original. Probably should be "Rules".

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

¹ See Codification note below.

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.)

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.)

§ 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.