

rectly as a result of the commission of an offense referred to in subparagraph (A).

(2) PROCEDURES.—The provisions of chapter 46 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. For seizures made under this section, the court shall enter an appropriate protective order with respect to discovery and use of any records or information that has been seized. The protective order shall provide for appropriate procedures to ensure that confidential, private, proprietary, or privileged information contained in such records is not improperly disclosed or used. At the conclusion of the forfeiture proceedings, unless otherwise requested by an agency of the United States, the court shall order that any property forfeited under paragraph (1) be destroyed, or otherwise disposed of according to law.

(b) CRIMINAL FORFEITURE.—

(1) PROPERTY SUBJECT TO FORFEITURE.—The court, in imposing sentence on a person convicted of an offense under section 506 of title 17, or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, shall order, in addition to any other sentence imposed, that the person forfeit to the United States Government any property subject to forfeiture under subsection (a) for that offense.

(2) PROCEDURES.—

(A) IN GENERAL.—The forfeiture of property under paragraph (1), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

(B) DESTRUCTION.—At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States shall order that any—

(i) forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law; and

(ii) infringing items or other property described in subsection (a)(1)(A) and forfeited under paragraph (1) of this subsection be destroyed or otherwise disposed of according to law.

(c) RESTITUTION.—When a person is convicted of an offense under section 506 of title 17 or section 2318, 2319, 2319A, 2319B, or 2320, or chapter 90, of this title, the court, pursuant to sections 3556, 3663A, and 3664 of this title, shall order the person to pay restitution to any victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii) of this title.

(Added Pub. L. 110-403, title II, §206(a), Oct. 13, 2008, 122 Stat. 4262.)

CHAPTER 113A—TELEMARKETING FRAUD

Sec.	Definition.
2325.	Enhanced penalties.
2327.	Mandatory restitution.

PRIOR PROVISIONS

A prior chapter 113A of part I of this title, consisting of section 2331 et seq. and relating to terrorism, was renumbered chapter 113B of part I of this title by Pub. L. 103-322, title XXV, §250002(a)(1), Sept. 13, 1994, 108 Stat. 2082.

§ 2325. Definition

In this chapter, “telemarketing”—

(1) means a plan, program, promotion, or campaign that is conducted to induce—

(A) purchases of goods or services;

(B) participation in a contest or sweepstakes; or

(C) a charitable contribution, donation, or gift of money or any other thing of value,

by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, or donor; but

(2) does not include the solicitation of sales through the mailing of a catalog that—

(A) contains a written description or illustration of the goods or services offered for sale;

(B) includes the business address of the seller;

(C) includes multiple pages of written material or illustration; and

(D) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

(Added Pub. L. 103-322, title XXV, §250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 107-56, title X, §1011(d), Oct. 26, 2001, 115 Stat. 396.)

AMENDMENTS

2001—Par. (1). Pub. L. 107-56 added subpar. (C) and inserted “or charitable contributor, or donor” before semicolon in concluding provisions.

SHORT TITLE

Section 250001 of title XXV of Pub. L. 103-322 provided that: “This Act [probably should be “title”, meaning title XXV (§§250001-250008) of Pub. L. 103-322, which enacted this chapter, amended sections 1029, 1341, and 3059 of this title, and enacted provisions set out as notes under this section and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Senior Citizens Against Marketing Scams Act of 1994.’”

INFORMATION NETWORK

Section 250008 of title XXV of Pub. L. 103-322, as amended by Pub. L. 104-294, title VI, §604(b)(29), Oct. 11, 1996, 110 Stat. 3508, provided that:

“(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

“(1) providing general information on telemarketing fraud to interested persons; and

“(2) gathering information related to possible violations of provisions of law amended by this title [see Short Title note above].

“(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal

Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.”

§ 2326. Enhanced penalties

A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, or 1344, or a conspiracy to commit such an offense, in connection with the conduct of telemarketing—

(1) shall be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

(2) in the case of an offense under any of those sections that—

(A) victimized ten or more persons over the age of 55; or

(B) targeted persons over the age of 55,

shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

(Added Pub. L. 103-322, title XXV, §250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 105-184, §§ 3, 4, June 23, 1998, 112 Stat. 520.)

AMENDMENTS

1998—Pub. L. 105-184 inserted “, or a conspiracy to commit such an offense,” after “or 1344” in introductory provisions and substituted “shall” for “may” in two places.

§ 2327. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution to all victims of any offense for which an enhanced penalty is provided under section 2326.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term “full amount of the victim’s losses” means all losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) VICTIM DEFINED.—In this section, the term “victim” has the meaning given that term in section 3663A(a)(2).

(Added Pub. L. 103-322, title XXV, §250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L.

104-132, title II, §205(e), Apr. 24, 1996, 110 Stat. 1232; Pub. L. 104-294, title VI, §601(n), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 105-184, § 5, June 23, 1998, 112 Stat. 520.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-184, §5(1), substituted “to all victims of any offense for which an enhanced penalty is provided under section 2326” for “for any offense under this chapter”.

Subsec. (c). Pub. L. 105-184, §5(2), added subsec. (c) and struck out former subsec. (c) which read as follows:

“(c) DEFINITION.—For purposes of this section, the term ‘victim’ includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.”

1996—Subsec. (a). Pub. L. 104-132, §205(e)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, §205(e)(2)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (3); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.”

Subsec. (b)(2). Pub. L. 104-132, §205(e)(2)(B), struck out “by victim” after “Enforcement” in heading and amended text generally. Prior to amendment, text read as follows: “An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.”

Subsec. (b)(4)(C), (D). Pub. L. 104-132, §205(e)(2)(C), struck out subpars. (C) and (D), which related to court’s consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court’s entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104-132, §205(e)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104-294, which directed substitution of “designee” for “delegee” wherever appearing, could not be executed because of amendment by Pub. L. 104-132, §205(e)(3), (4). See below.

Pub. L. 104-132, §205(e)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104-132, §205(e)(3), struck out subsecs. (d) and (e) which read as follows:

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”

Subsec. (f). Pub. L. 104-132, §205(e)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or

after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

CHAPTER 113B—TERRORISM

Sec.	
2331.	Definitions.
2332.	Criminal penalties.
2332a.	Use of weapons of mass destruction.
2332b.	Acts of terrorism transcending national boundaries.
[2332c.	Repealed.]
2332d.	Financial transactions.
2332e.	Requests for military assistance to enforce prohibition in certain emergencies.
2332f.	Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.
2332g.	Missile systems designed to destroy aircraft.
2332h.	Radiological dispersal devices.
2333.	Civil remedies.
2334.	Jurisdiction and venue.
2335.	Limitation of actions.
2336.	Other limitations.
2337.	Suits against Government officials.
2338.	Exclusive Federal jurisdiction.
2339.	Harboring or concealing terrorists.
2339A.	Providing material support to terrorists.
2339B.	Providing material support or resources to designated foreign terrorist organizations.
2339C.	Prohibitions against the financing of terrorism.
2339D.	Receiving military-type training from a foreign terrorist organization. ¹

CODIFICATION

Pub. L. 101-519, §132, Nov. 5, 1990, 104 Stat. 2250, known as the "Antiterrorism Act of 1990", amended this chapter by adding sections 2331 and 2333 to 2338 and by amending former section 2331 and renumbering it as section 2332. Pub. L. 102-27, title IV, §402, Apr. 10, 1991, 105 Stat. 155, as amended by Pub. L. 102-136, §126, Oct. 25, 1991, 105 Stat. 643, repealed section 132 of Pub. L. 101-519, effective Nov. 5, 1990, and provided that effective Nov. 5, 1990, this chapter is amended to read as if section 132 of Pub. L. 101-519 had not been enacted.

PRIOR PROVISIONS

Another chapter 113B, consisting of sections 2340 to 2340B, was renumbered chapter 113C.

AMENDMENTS

2004—Pub. L. 108-458, title VI, §6911(a), Dec. 17, 2004, 118 Stat. 3775, added items 2332g and 2332h.

2002—Pub. L. 107-197, title I, §102(b), title II, §202(b), June 25, 2002, 116 Stat. 724, 727, added items 2332f and 2339C.

2001—Pub. L. 107-56, title VIII, §803(b), Oct. 26, 2001, 115 Stat. 377, added item 2339.

1998—Pub. L. 105-277, div. I, title II, §201(c)(2), Oct. 21, 1998, 112 Stat. 2681-871, struck out item 2332c "Use of chemical weapons".

1996—Pub. L. 104-294, title VI, §605(q), Oct. 11, 1996, 110 Stat. 3510, redesignated item 2332d, relating to requests for military assistance to enforce prohibition in certain emergencies, as item 2332e, and moved the item to follow item 2332d, relating to financial transactions.

Pub. L. 104-294, title VI, §604(b)(5), Oct. 11, 1996, 110 Stat. 3506, amended directory language of Pub. L. 103-322, title XII, §120005(b), Sept. 13, 1994, 108 Stat. 2023. See 1994 Amendment note below.

Pub. L. 104-201, div. A, title XIV, §1416(c)(2)(B), Sept. 23, 1996, 110 Stat. 2723, which directed amendment of table of sections at beginning of the chapter 133B of this title, that relates to terrorism, by adding item 2332d relating to requests for military assistance to en-

force prohibition in certain emergencies, after item 2332c, was executed by making the addition after item 2332c in the table of sections at the beginning of this chapter to reflect the probable intent of Congress. This title does not contain a chapter 133B.

Pub. L. 104-132, title III, §§303(b), 321(b), title V, §521(c), title VII, §702(b), Apr. 24, 1996, 110 Stat. 1253, 1254, 1287, 1294, added items 2332b to 2332d and 2339B.

1994—Pub. L. 103-322, title XII, §120005(b), Sept. 13, 1994, 108 Stat. 2023, as amended by Pub. L. 104-294, title VI, §604(b)(5), Oct. 11, 1996, 110 Stat. 3506, added item 2339A.

Pub. L. 103-322, title VI, §60023(b), title XXV, §250002(a)(1), (b)(2), Sept. 13, 1994, 108 Stat. 1981, 2082, 2085, renumbered chapter 113A as 113B, amended chapter heading generally, substituting "113B" for "113A", and added item 2332a.

1992—Pub. L. 102-572, title X, §1003(a)(5), Oct. 29, 1992, 106 Stat. 4524, substituted "TERRORISM" for "EXTRA-TERRITORIAL JURISDICTION OVER TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS" in chapter heading and amended chapter analysis generally, substituting "Definitions" for "Terrorist acts abroad against United States nationals" in item 2331 and adding items 2332 to 2338.

1988—Pub. L. 100-690, title VII, §7062, Nov. 18, 1988, 102 Stat. 4404, added item 2331.

§ 2331. Definitions

As used in this chapter—

(1) the term "international terrorism" means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(2) the term "national of the United States" has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

(3) the term "person" means any individual or entity capable of holding a legal or beneficial interest in property;

(4) the term "act of war" means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin; and

(5) the term "domestic terrorism" means activities that—

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

¹Editorially supplied. Section 2339D added by Pub. L. 108-458 without corresponding amendment of chapter analysis.