

104TH CONGRESS
2D SESSION

S. 1965

To prevent the illegal manufacturing and use of methamphetamine.

IN THE SENATE OF THE UNITED STATES

JULY 17, 1996

Mr. HATCH (for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. SPECTER, Mr. WYDEN, Mr. DEWINE, Mr. HARKIN, Mr. D'AMATO, Mr. KYL, Mr. REID, and Mr. ASHCROFT) introduced the following bill; which was read twice and ordered held at the desk

A BILL

To prevent the illegal manufacturing and use of
methamphetamine.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Comprehensive Methamphetamine Control Act of 1996”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND
PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.

Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.

Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.

Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.

Sec. 204. Addition of iodine and hydrochloric gas to list II.

Sec. 205. Civil penalties for firms that supply precursor chemicals.

Sec. 206. Injunctive relief.

Sec. 207. Restitution for cleanup of clandestine laboratory sites.

Sec. 208. Record retention.

Sec. 209. Technical amendments.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Trafficking in methamphetamine penalty increases.

Sec. 302. Penalty increases for trafficking in listed chemicals.

Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.

Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.

Sec. 502. Public health monitoring.

Sec. 503. Public-private education program.

Sec. 504. Suspicious orders task force.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

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

6 (2) The abuse of methamphetamine has in-
7 creased dramatically since 1990. This increased use

1 has led to devastating effects on individuals and the
2 community, including—

3 (A) a dramatic increase in deaths associ-
4 ated with methamphetamine ingestion;

5 (B) an increase in the number of violent
6 crimes associated with methamphetamine inges-
7 tion; and

8 (C) an increase in criminal activity associ-
9 ated with the illegal importation of meth-
10 amphetamine and precursor compounds to sup-
11 port the growing appetite for this drug in the
12 United States.

13 (3) Illegal methamphetamine manufacture and
14 abuse presents an imminent public health threat
15 that warrants aggressive law enforcement action, in-
16 creased research on methamphetamine and other
17 substance abuse, increased coordinated efforts to
18 prevent methamphetamine abuse, and increased
19 monitoring of the public health threat methamphet-
20 amine presents to the communities of the United
21 States.

1 **TITLE I—IMPORTATION OF**
2 **METHAMPHETAMINE AND**
3 **PRECURSOR CHEMICALS**

4 **SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CON-**
5 **TROL DRUGS.**

6 The Attorney General, in consultation with the Sec-
7 retary of State, shall coordinate international drug en-
8 forcement efforts to decrease the movement of meth-
9 amphetamine and methamphetamine precursors into the
10 United States.

11 **SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED**
12 **CHEMICALS OUTSIDE THE UNITED STATES**
13 **WITH INTENT TO IMPORT THEM INTO THE**
14 **UNITED STATES.**

15 (a) UNLAWFUL IMPORTATION.—Section 1009(a) of
16 the Controlled Substances Import and Export Act (21
17 U.S.C. 959(a)) is amended—

18 (1) in the matter before paragraph (1), by in-
19 serting “or listed chemical” after “schedule I or II”;
20 and

21 (2) in paragraphs (1) and (2), by inserting “or
22 chemical” after “substance”.

23 (b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—
24 Paragraphs (1) and (2) of section 1009(b) of the Con-
25 trolled Substances Import and Export Act (21 U.S.C.

1 959(b)) are amended by inserting “or listed chemical”
 2 after “controlled substance”.

3 (c) PENALTIES.—Section 1010(d) of the Controlled
 4 Substances Import and Export Act (21 U.S.C. 960(d)) is
 5 amended—

6 (1) in paragraph (5), by striking “or” at the
 7 end;

8 (2) in paragraph (6), by striking the comma at
 9 the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(7) manufactures, possesses with intent to dis-
 12 tribute, or distributes a listed chemical in violation
 13 of section 959 of this title.”.

14 **TITLE II—PROVISIONS TO CON-** 15 **TROL THE MANUFACTURE OF** 16 **METHAMPHETAMINE**

17 **SEC. 201. SEIZURE AND FORFEITURE OF REGULATED** 18 **CHEMICALS.**

19 (a) PENALTIES FOR SIMPLE POSSESSION.—Section
 20 404 of the Controlled Substances Act (21 U.S.C. 844) is
 21 amended—

22 (1) in subsection (a)—

23 (A) by adding after the first sentence the
 24 following: “It shall be unlawful for any person
 25 knowingly or intentionally to possess any list I

1 chemical obtained pursuant to or under author-
 2 ity of a registration issued to that person under
 3 section 303 of this title or section 1008 of title
 4 III if that registration has been revoked or sus-
 5 pended, if that registration has expired, or if
 6 the registrant has ceased to do business in the
 7 manner contemplated by his registration.”; and

8 (B) by striking “drug or narcotic” and in-
 9 serting “drug, narcotic, or chemical” each place
 10 it appears; and

11 (2) in subsection (c), by striking “drug or nar-
 12 cotic” and inserting “drug, narcotic, or chemical”.

13 (b) FORFEITURES.—Section 511(a) of the Controlled
 14 Substances Act (21 U.S.C. 881(a)) is amended—

15 (1) in paragraphs (2) and (6), by inserting “or
 16 listed chemical” after “controlled substance” each
 17 place it appears; and

18 (2) in paragraph (9), by—

19 (A) inserting “dispensed, acquired,” after
 20 “distributed,” both places it appears; and

21 (B) striking “a felony provision of”.

22 (c) SEIZURE.—Section 607 of the Tariff Act of 1930
 23 (19 U.S.C. 1607) is amended—

24 (1) in subsection (a)(3), by inserting “or listed
 25 chemical” after “controlled substance”; and

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) As used in this section, the terms ‘controlled
4 substance’ and ‘listed chemical’ have the meaning given
5 such terms in section 102 of the Controlled Substances
6 Act (21 U.S.C. 802).”.

7 **SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT**
8 **SALES OF AGENTS USED IN METHAMPHET-**
9 **AMINE PRODUCTION.**

10 (a) STUDY.—The Attorney General of the United
11 States shall conduct a study on possible measures to effec-
12 tively prevent the diversion of red phosphorous, iodine, hy-
13 drochloric gas, and other agents for use in the production
14 of methamphetamine. Nothing in this section shall pre-
15 clude the Attorney General from taking any action the At-
16 torney General already is authorized to take with regard
17 to the regulation of listed chemicals under current law.

18 (b) REPORT.—Not later than January 1, 1998, the
19 Attorney General shall submit a report to the Congress
20 of its findings pursuant to the study conducted under sub-
21 section (a) on the need for and advisability of preventive
22 measures.

23 (c) CONSIDERATIONS.—In developing recommenda-
24 tions under subsection (b), the Attorney General shall con-
25 sider—

1 (1) the use of red phosphorous, iodine, hydro-
2 chloric gas, and other agents in the illegal manufac-
3 ture of methamphetamine;

4 (2) the use of red phosphorous, iodine, hydro-
5 chloric gas, and other agents for legitimate, legal
6 purposes, and the impact any regulations may have
7 on these legitimate purposes; and

8 (3) comments and recommendations from law
9 enforcement, manufacturers of such chemicals, and
10 the consumers of such chemicals for legitimate, legal
11 purposes.

12 **SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND**
13 **POSSESSION OF EQUIPMENT USED TO MAKE**
14 **CONTROLLED SUBSTANCES.**

15 (a) IN GENERAL.—Section 403(d) of the Controlled
16 Substances Act (21 U.S.C. 843(d)) is amended—

17 (1) by striking “(d) Any person” and inserting
18 “(d)(1) Except as provided in paragraph (2), any
19 person”; and

20 (2) by adding at the end the following:

21 “(2) Any person who, with the intent to manufacture
22 or facilitate to manufacture methamphetamine, violates
23 paragraph (6) or (7) of subsection (a), shall be sentenced
24 to a term of imprisonment of not more than 10 years,
25 a fine of not more than \$30,000, or both; except that if

1 any person commits such a violation after one or more
 2 prior convictions of that person—

3 “(A) for a violation of paragraph (6) or (7) of
 4 subsection (a);

5 “(B) for a felony under any other provision of
 6 this subchapter or subchapter II of this chapter; or

7 “(C) under any other law of the United States
 8 or any State relating to controlled substances or list-
 9 ed chemicals,

10 has become final, such person shall be sentenced to a term
 11 of imprisonment of not more than 20 years, a fine of not
 12 more than \$60,000, or both.”.

13 (b) SENTENCING COMMISSION.—The United States
 14 Sentencing Commission shall amend the sentencing guide-
 15 lines to ensure that the manufacture of methamphetamine
 16 in violation of section 403(d)(2) of the Controlled Sub-
 17 stances Act, as added by subsection (a), is treated as a
 18 significant violation.

19 **SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS**
 20 **TO LIST II.**

21 (a) IN GENERAL.—Section 102(35) of the Controlled
 22 Substances Act (21 U.S.C. 802(35)) is amended by adding
 23 at the end the following:

24 “(I) Iodine.

25 “(J) Hydrochloric gas.”.

1 (b) IMPORTATION REQUIREMENTS.—(1) Iodine shall
2 not be subject to the requirements for listed chemicals pro-
3 vided in section 1018 of the Controlled Substances Import
4 and Export Act (21 U.S.C. 971).

5 (2) EFFECT OF EXCEPTION.—The exception made by
6 paragraph (1) shall not limit the authority of the Attorney
7 General to impose the requirements for listed chemicals
8 provided in section 1018 of the Controlled Substances Im-
9 port and Export Act (21 U.S.C. 971).

10 **SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRE-**
11 **CURSOR CHEMICALS.**

12 (a) OFFENSES.—Section 402(a) of the Controlled
13 Substances Act (21 U.S.C. 842(a)) is amended—

14 (1) in paragraph (9), by striking “or” after the
15 semicolon;

16 (2) in paragraph (10), by striking the period
17 and inserting “; or”; and

18 (3) by adding at the end the following:

19 “(11) to distribute a laboratory supply to a per-
20 son who uses, or attempts to use, that laboratory
21 supply to manufacture a controlled substance or a
22 listed chemical, in violation of this title or title III,
23 with reckless disregard for the illegal uses to which
24 such a laboratory supply will be put.

1 As used in paragraph (11), the term ‘laboratory supply’
2 means a listed chemical or any chemical, substance, or
3 item, on a special surveillance list published by the Attor-
4 ney General, which contains chemicals, products, mate-
5 rials, or equipment used in the manufacture of controlled
6 substances and listed chemicals. For purposes of para-
7 graph (11), there is a rebuttable presumption of reckless
8 disregard at trial if a firm distributes or continues to dis-
9 tribute a laboratory supply to a customer where the Attor-
10 ney General has previously notified, at least two weeks be-
11 fore the transaction(s), the firm that a laboratory supply
12 sold by the firm, or any other person or firm, has been
13 used by that customer, or distributed further by that cus-
14 tomer, for the unlawful production of controlled sub-
15 stances or listed chemicals.”

16 (b) CIVIL PENALTY.—Section 402(c)(2) of the Con-
17 trolled Substances Act (21 U.S.C. 842(c)(2)) is amended
18 by adding at the end the following:

19 “(C) In addition to the penalties set forth else-
20 where in this title or title III, any business that vio-
21 lates paragraph (11) of subsection (a) shall, with re-
22 spect to the first such violation, be subject to a civil
23 penalty of not more than \$250,000, but shall not be
24 subject to criminal penalties under this section, and
25 shall, for any succeeding violation, be subject to a

1 civil fine of not more than \$250,000 or double the
 2 last previously imposed penalty, whichever is great-
 3 er.”.

4 **SEC. 206. INJUNCTIVE RELIEF.**

5 (a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—
 6 Section 401(f) of the Controlled Substances Act (21
 7 U.S.C. 841(f)) is amended by—

8 (1) inserting “manufacture, exportation,” after
 9 “distribution,”; and

10 (2) striking “regulated”.

11 (b) TEN-YEAR INJUNCTION OTHER OFFENSES.—
 12 Section 403 of the Controlled Substances Act (21 U.S.C.
 13 843) is amended—

14 (1) in subsection (e), by—

15 (A) inserting “manufacture, exportation,”
 16 after “distribution,”; and

17 (B) striking “regulated”; and

18 (2) by adding at the end the following:

19 “(f) INJUNCTIONS.—(1) In addition to any penalty
 20 provided in this section, the Attorney General is author-
 21 ized to commence a civil action for appropriate declaratory
 22 or injunctive relief relating to violations of this section or
 23 section 402.

24 “(2) Any action under this subsection may be
 25 brought in the district court of the United States for the

1 district in which the defendant is located or resides or is
2 doing business.

3 “(3) Any order or judgment issued by the court pur-
4 suant to this subsection shall be tailored to restrain viola-
5 tions of this section or section 402.

6 “(4) The court shall proceed as soon as practicable
7 to the hearing and determination of such an action. An
8 action under this subsection is governed by the Federal
9 Rules of Civil Procedure except that, if an indictment has
10 been returned against the respondent, discovery is gov-
11 erned by the Federal Rules of Criminal Procedure.”.

12 **SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE**
13 **LABORATORY SITES.**

14 Section 413 of the Controlled Substances Act (21
15 U.S.C. 853) is amended by adding at the end the follow-
16 ing:

17 “(q) The court, when sentencing a defendant con-
18 victed of an offense under this title or title III involving
19 the manufacture of methamphetamine, may—

20 “(1) order restitution as provided in sections
21 3612 and 3664 of title 18, United States Code;

22 “(2) order the defendant to reimburse the Unit-
23 ed States for the costs incurred by the United States
24 for the cleanup associated with the manufacture of
25 methamphetamine by the defendant; and

1 “(3) order restitution to any person injured as
2 a result of the offense as provided in section 3663
3 of title 18, United States Code.”.

4 **SEC. 208. RECORD RETENTION.**

5 Section 310(a)(1) of the Controlled Substances Act
6 (21 U.S.C. 830(a)(1)) is amended by striking the dash
7 after “transaction” and subparagraphs (A) and (B) and
8 inserting “for two years after the date of the trans-
9 action.”.

10 **SEC. 209. TECHNICAL AMENDMENTS.**

11 Section 102 of the Controlled Substances Act (21
12 U.S.C. 802) is amended—

13 (1) in paragraph (34), by amending subpara-
14 graphs (P), (S), and (U) to read as follows:

15 “(P) Iso safrole.

16 “(S) N-Methylephedrine.

17 “(U) Hydriodic acid.”; and

18 (2) in paragraph (35), by amending subpara-
19 graph (G) to read as follows:

20 “(G) 2-Butanone (or Methyl Ethyl Ke-
21 tone).”.

1 **TITLE III—INCREASED PEN-**
 2 **ALTIES FOR TRAFFICKING**
 3 **AND MANUFACTURE OF**
 4 **METHAMPHETAMINE AND**
 5 **PRECURSORS**

6 **SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY**
 7 **INCREASES.**

8 (a) CONTROLLED SUBSTANCES ACT.—

9 (1) LARGE AMOUNTS.—Section
 10 401(b)(1)(A)(viii) of the Controlled Substances Act
 11 (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

12 (A) striking “100 grams or more of meth-
 13 amphetamine,” and inserting “50 grams or
 14 more of methamphetamine,”; and

15 (B) striking “1 kilogram or more of a mix-
 16 ture or substance containing a detectable
 17 amount of methamphetamine” and inserting
 18 “500 grams or more of a mixture or substance
 19 containing a detectable amount of methamphet-
 20 amine”.

21 (2) SMALLER AMOUNTS.—Section
 22 401(b)(1)(B)(viii) of the Controlled Substances Act
 23 (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

1 (A) striking “10 grams or more of meth-
 2 amphetamine,” and inserting “5 grams or more
 3 of methamphetamine,”; and

4 (B) striking “100 grams or more of a mix-
 5 ture or substance containing a detectable
 6 amount of methamphetamine” and inserting
 7 “50 grams or more of a mixture or substance
 8 containing a detectable amount of methamphet-
 9 amine”.

10 (b) IMPORT AND EXPORT ACT.—

11 (1) LARGE AMOUNTS.—Section 1010(b)(1)(H)
 12 of the Controlled Substances Import and Export Act
 13 (21 U.S.C. 960(b)(1)(H)) is amended by—

14 (A) striking “100 grams or more of meth-
 15 amphetamine,” and inserting “50 grams or
 16 more of methamphetamine,”; and

17 (B) striking “1 kilogram or more of a mix-
 18 ture or substance containing a detectable
 19 amount of methamphetamine” and inserting
 20 “500 grams or more of a mixture or substance
 21 containing a detectable amount of methamphet-
 22 amine”.

23 (2) SMALLER AMOUNTS.—Section
 24 1010(b)(2)(H) of the Controlled Substances Import

1 and Export Act (21 U.S.C. 960(b)(2)(H)) is amend-
2 ed by—

3 (A) striking “10 grams or more of meth-
4 amphetamine,” and inserting “5 grams or more
5 of methamphetamine,”; and

6 (B) striking “100 grams or more of a mix-
7 ture or substance containing a detectable
8 amount of methamphetamine” and inserting
9 “50 grams or more of a mixture or substance
10 containing a detectable amount of methamphet-
11 amine”.

12 **SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LIST-**
13 **ED CHEMICALS.**

14 (a) CONTROLLED SUBSTANCES ACT.—Section
15 401(d) of the Controlled Substances Act (21 U.S.C.
16 841(d)) is amended by striking the period and inserting
17 the following: “or, with respect to a violation of paragraph
18 (1) or (2) of this subsection involving a list I chemical,
19 if the government proves the quantity of controlled sub-
20 stance that could reasonably have been manufactured in
21 a clandestine setting using the quantity of list I chemicals
22 possessed or distributed, the penalty corresponding to the
23 quantity of controlled substance that could have been pro-
24 duced under subsection (b).”.

1 (b) CONTROLLED SUBSTANCE IMPORT AND EXPORT
 2 ACT.—Section 1010(d) of the Controlled Substance Im-
 3 port and Export Act (21 U.S.C. 960(d)) is amended by
 4 striking the period and inserting the following: “, or, with
 5 respect to an importation violation of paragraph (1) or
 6 (3) of this subsection involving a list I chemical, if the
 7 government proves the quantity of controlled substance
 8 that could reasonably have been manufactured in a clan-
 9 destine setting using the quantity of list I chemicals im-
 10 ported, the penalty corresponding to the quantity of con-
 11 trolled substance that could have been produced under
 12 title II.”.

13 (c) DETERMINATION OF QUANTITY.—

14 (1) IN GENERAL.—For the purposes of this sec-
 15 tion and the amendments made by this section, the
 16 quantity of controlled substance that could reason-
 17 ably have been provided shall be determined by
 18 using a table of manufacturing conversion ratios for
 19 list I chemicals.

20 (2) TABLE.—The table shall be—

21 (A) established by the United States Sen-
 22 tencing Commission based on scientific, law en-
 23 forcement, and other data the Sentencing Com-
 24 mission deems appropriate; and

25 (B) dispositive of this issue.

1 **SEC. 303. ENHANCED PENALTY FOR DANGEROUS HAN-**
 2 **DLING OF CONTROLLED SUBSTANCES:**
 3 **AMENDMENT OF SENTENCING GUIDELINES.**

4 (a) IN GENERAL.—Pursuant to its authority under
 5 section 994 of title 28, United States Code, the United
 6 States Sentencing Commission shall determine whether
 7 the Sentencing Guidelines adequately punish the offenses
 8 described in subsection (b) and, if not, promulgate guide-
 9 lines or amend existing guidelines to provide an appro-
 10 priate enhancement of the punishment for a defendant
 11 convicted of such an offense.

12 (b) OFFENSE.—The offense referred to in subsection
 13 (a) is a violation of section 401(d), 401(g)(1), 403(a)(6),
 14 or 403(a)(7) of The Controlled Substances Act (21 U.S.C.
 15 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in
 16 which in the commission of the offense the defendant vio-
 17 lated—

18 (1) subsection (d) or (e) of section 3008 of the
 19 Solid Waste Disposal Act (relating to handling haz-
 20 ardous waste in a manner inconsistent with Federal
 21 or applicable State law);

22 (2) section 103(b) of the Comprehensive Envi-
 23 ronmental Response, Compensation and Liability
 24 Act (relating to failure to notify as to the release of
 25 a reportable quantity of a hazardous substance into
 26 the environment);

1 (3) section 301(a), 307(d), 309(c)(2),
 2 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal
 3 Water Pollution Control Act (relating to the unlaw-
 4 ful discharge of pollutants or hazardous substances,
 5 the operation of a source in violation of a
 6 pretreatment standard, and the failure to notify as
 7 to the release of a reportable quantity of a hazard-
 8 ous substance into the water); or

9 (4) section 5124 of title 49, United States Code
 10 (relating to violations of laws and regulations en-
 11 forced by the Department of Transportation with re-
 12 spect to the transportation of hazardous material).

13 **TITLE IV—LEGAL MANUFAC-**
 14 **TURE, DISTRIBUTION, AND**
 15 **SALE OF PRECURSOR CHEMI-**
 16 **CALS**

17 **SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMI-**
 18 **CALS.**

19 (a) IN GENERAL.—Section 102(39) of the Controlled
 20 Substances Act (21 U.S.C. 802(39)) is amended—

21 (1) in subparagraph (A)(iv)(I)(aa), by striking
 22 “as” through the semicolon and inserting
 23 “, pseudoephedrine or its salts, optical isomers, or
 24 salts of optical isomers, or phenylpropanolamine or
 25 its salts, optical isomers, or salts of optical isomers

1 unless otherwise provided by regulation of the Attor-
2 ney General issued pursuant to section 204(e) of
3 this title;” and

4 (2) in subparagraph (A)(iv)(II), by inserting
5 “, pseudoephedrine, phenylpropanolamine,” after
6 “ephedrine”.

7 (b) LEGITIMATE RETAILERS.—Section 102 of the
8 Controlled Substances Act (21 U.S.C. 802) is amended—

9 (1) in paragraph (39)(A)(iv)(I)(aa), by adding
10 before the semicolon the following: “, except that
11 any sale of ordinary over-the-counter
12 pseudoephedrine or phenylpropanolamine products
13 by retail distributors shall not be a regulated trans-
14 action (except as provided in section 401(d) of the
15 Comprehensive Methamphetamine Control Act of
16 1996)”;

17 (2) in paragraph (39)(A)(iv)(II), by adding be-
18 fore the semicolon the following: “, except that any
19 sale of products containing pseudoephedrine or
20 phenylpropanolamine, other than ordinary over-the-
21 counter pseudoephedrine or phenylpropanolamine
22 products, by retail distributors shall not be a regu-
23 lated transaction if the distributor’s sales are limited
24 to less than the threshold quantity of 24 grams of

1 pseudoephedrine or 24 grams of phenylpropanola-
 2 mine in each single transaction”;

3 (3) by redesignating paragraph (43) relating to
 4 felony drug abuse as paragraph (44); and

5 (4) by adding at the end the following:

6 “(45) The term ‘ordinary over-the-counter
 7 pseudoephedrine or phenylpropanolamine product’
 8 means any product containing pseudoephedrine or
 9 phenylpropanolamine that is—

10 “(A) regulated pursuant to this title; and

11 “(B)(i) except for liquids, sold in package
 12 sizes of not more than 3.0 grams of
 13 pseudoephedrine base or 3.0 grams of phenyl-
 14 propanolamine base, and that is packaged in
 15 blister packs, each blister containing not more
 16 than two dosage units, or where the use of blis-
 17 ter packs is technically infeasible, that is
 18 packaged in unit dose packets or pouches; and

19 “(ii) for liquids, sold in package sizes of
 20 not more than 3.0 grams of pseudoephedrine
 21 base or 3.0 grams of phenylpropanolamine base.

22 “(46)(A) The term ‘retail distributor’ means—

23 “(i) with respect to an entity that is a gro-
 24 cery store, general merchandise store, or drug
 25 store, a distributor whose activities relating to

1 pseudoephedrine or phenylpropanolamine prod-
2 ucts are limited almost exclusively to sales, both
3 in number of sales and volume of sales, directly
4 to walk-in customers; and

5 “(ii) with respect to any other entity, a
6 distributor whose activities relating to ordinary
7 over-the-counter pseudoephedrine or phenyl-
8 propanolamine products are limited primarily to
9 sales directly to walk-in customers for personal
10 use.

11 “(B) For purposes of this paragraph, sale for
12 personal use means the sale of below-threshold quan-
13 tities in a single transaction to an individual for le-
14 gitimate medical use.

15 “(C) For purposes of this paragraph, entities
16 are defined by reference to the Standard Industrial
17 Classification (SIC) code, as follows:

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

20 “(ii) A general merchandise store is an en-
21 tity within SIC codes 5300 through 5399 and
22 5499.

23 “(iii) A drug store is an entity within SIC
24 code 5912.”.

1 (c) REINSTATEMENT OF LEGAL DRUG EXEMP-
 2 TION.—Section 204 of the Controlled Substances Act (21
 3 U.S.C. 814) is amended by adding at the end the following
 4 new subsection:

5 “(e) REINSTATEMENT OF EXEMPTION WITH RE-
 6 SPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHEN-
 7 YLPROPANOLAMINE DRUG PRODUCTS.—The Attorney
 8 General shall by regulation reinstate the exemption with
 9 respect to a particular ephedrine, pseudoephedrine, or
 10 phenylpropanolamine drug product if the Attorney Gen-
 11 eral determines that the drug product is manufactured
 12 and distributed in a manner that prevents diversion. In
 13 making this determination the Attorney General shall con-
 14 sider the factors listed in subsection (d)(2). Any regulation
 15 issued pursuant to this subsection may be amended or re-
 16 voked based on the factors listed in subsection (d)(4).”.

17 (d) REGULATION OF RETAIL SALES.—

18 (1) PSEUDOEPHEDRINE.—

19 (A) LIMIT.—

20 (i) IN GENERAL.—Not sooner than
 21 the effective date of this section and sub-
 22 ject to the requirements of clause (ii), the
 23 Attorney General may establish by regula-
 24 tion a single-transaction limit of 24 grams
 25 of pseudoephedrine base for retail distribu-

1 tors. Notwithstanding any other provision
2 of law, the single-transaction threshold
3 quantity for pseudoephedrine-containing
4 compounds may not be lowered beyond
5 that established in this paragraph.

6 (ii) CONDITIONS.—In order to estab-
7 lish a single-transaction limit of 24 grams
8 of pseudoephedrine base, the Attorney
9 General shall establish, following notice,
10 comment, and an informal hearing that
11 since the effective date of this section there
12 are a significant number of instances
13 where ordinary over-the-counter
14 pseudoephedrine products as established in
15 paragraph (45) of section 102 of the Con-
16 trolled Substances Act (21 U.S.C. 802
17 (45)), as added by this Act, sold by retail
18 distributors as established in paragraph
19 (46) in section 102 of the Controlled Sub-
20 stances Act (21 U.S.C. 802(46)), are being
21 used as a significant source of precursor
22 chemicals for illegal manufacture of a con-
23 trolled substance in bulk.

24 (B) VIOLATION.—Any individual or busi-
25 ness that violates the thresholds established in

1 this paragraph shall, with respect to the first
2 such violation, receive a warning letter from the
3 Attorney General and, if a business, the busi-
4 ness shall be required to conduct mandatory
5 education of the sales employees of the firm
6 with regard to the legal sales of
7 pseudoephedrine. For a second violation occur-
8 ring within 2 years of the first violation, the
9 business or individual shall be subject to a civil
10 penalty of not more than \$5,000. For any sub-
11 sequent violation occurring within 2 years of
12 the previous violation, the business or individual
13 shall be subject to a civil penalty not to exceed
14 the amount of the previous civil penalty plus
15 \$5,000.

16 (2) PHENYLPROPANOLAMINE.—

17 (A) LIMIT.—

18 (i) IN GENERAL.—Not sooner than
19 the effective date of this section and sub-
20 ject to the requirements of clause (ii), the
21 Attorney General may establish by regula-
22 tion a single-transaction limit of 24 grams
23 of phenylpropanolamine base for retail dis-
24 tributors. Notwithstanding any other provi-
25 sion of law, the single-transaction thresh-

1 old quantity for phenylpropanolamine-con-
2 taining compounds may not be lowered be-
3 yond that established in this paragraph.

4 (ii) CONDITIONS.—In order to estab-
5 lish a single-transaction limit of 24 grams
6 of phenylpropanolamine base, the Attorney
7 General shall establish, following notice,
8 comment, and an informal hearing, that
9 since the effective date of this section there
10 are a significant number of instances
11 where ordinary over-the-counter phenyl-
12 propanolamine products as established in
13 paragraph (45) of section 102 of the Con-
14 trolled Substances Act (21 U.S.C.
15 802(45)), as added by this Act, sold by re-
16 tail distributors as established in para-
17 graph (46) in section 102 of the Controlled
18 Substances Act (21 U.S.C. 802(46)), are
19 being used as a significant source of pre-
20 cursor chemicals for illegal manufacture of
21 a controlled substance in bulk.

22 (B) VIOLATION.—Any individual or busi-
23 ness that violates the thresholds established in
24 this paragraph shall, with respect to the first
25 such violation, receive a warning letter from the

1 Attorney General and, if a business, the busi-
2 ness shall be required to conduct mandatory
3 education of the sales employees of the firm
4 with regard to the legal sales of
5 pseudoephedrine. For a second violation occur-
6 ring within 2 years of the first violation, the
7 business or individual shall be subject to a civil
8 penalty of not more than \$5,000. For any sub-
9 sequent violation occurring within 2 years of
10 the previous violation, the business or individual
11 shall be subject to a civil penalty not to exceed
12 the amount of the previous civil penalty plus
13 \$5,000.

14 (3) DEFINITION OF BUSINESS.—For purposes
15 of this subsection, the term “business” means the
16 entity that makes the direct sale and does not in-
17 clude the parent company of a business not involved
18 in a direct sale regulated by this subsection.

19 (4) JUDICIAL REVIEW.—Any regulation promul-
20 gated by the Attorney General under this section
21 shall be subject to judicial review pursuant to section
22 507 of the Controlled Substances Act (21 U.S.C.
23 877).

24 (e) EFFECT ON THRESHOLDS.—Nothing in the
25 amendments made by subsection (b) or the provisions of

1 subsection (d) shall affect the authority of the Attorney
 2 General to modify thresholds (including cumulative
 3 thresholds) for retail distributors for products other than
 4 ordinary over-the-counter pseudoephedrine or phenyl-
 5 propanolamine products (as defined in section 102(45) of
 6 the Controlled Substances Act, as added by this section)
 7 or for non-retail distributors, importers, or exporters.

8 (f) EFFECTIVE DATE OF THIS SECTION.—Notwith-
 9 standing any other provision of this Act, this section shall
 10 not apply to the sale of any over-the-counter
 11 pseudoephedrine or phenylpropanolamine product initially
 12 introduced into interstate commerce prior to 9 months
 13 after the date of enactment of this Act.

14 **SEC. 402. MAIL ORDER RESTRICTIONS.**

15 Section 310(b) of the Controlled Substances Act (21
 16 U.S.C. 830(b)) is amended by adding at the end the fol-
 17 lowing:

18 “(3) MAIL ORDER REPORTING.—(A) Each regu-
 19 lated person who engages in a transaction with a
 20 nonregulated person which—

21 “(i) involves ephedrine, pseudoephedrine,
 22 or phenylpropanolamine (including drug prod-
 23 ucts containing these chemicals); and

24 “(ii) uses or attempts to use the Postal
 25 Service or any private or commercial carrier;

1 shall, on a monthly basis, submit a report of each
 2 such transaction conducted during the previous
 3 month to the Attorney General in such form, con-
 4 taining such data, and at such times as the Attorney
 5 General shall establish by regulation.

6 “(B) The data required for such reports shall
 7 include—

8 “(i) the name of the purchaser;

9 “(ii) the quantity and form of the ephed-
 10 rine, pseudoephedrine, or phenylpropanolamine
 11 purchased; and

12 “(iii) the address to which such ephedrine,
 13 pseudoephedrine, or phenylpropanolamine was
 14 sent.”.

15 **TITLE V—EDUCATION AND** 16 **RESEARCH**

17 **SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.**

18 (a) ESTABLISHMENT.—There is established a “Meth-
 19 amphetamine Interagency Task Force” (referred to as the
 20 “interagency task force”) which shall consist of the follow-
 21 ing members:

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

24 (2) 2 representatives selected by the Attorney
 25 General.

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

2 (4) The Secretary of Health and Human Serv-
3 ices or a designee.

4 (5) 2 representatives of State and local law en-
5 forcement and regulatory agencies, to be selected by
6 the Attorney General.

7 (6) 2 representatives selected by the Secretary
8 of Health and Human Services.

9 (7) 5 nongovernmental experts in drug abuse
10 prevention and treatment to be selected by the At-
11 torney General.

12 (b) RESPONSIBILITIES.—The interagency task force
13 shall be responsible for designing, implementing, and eval-
14 uating the education and prevention and treatment prac-
15 tices and strategies of the Federal Government with re-
16 spect to methamphetamine and other synthetic stimulants.

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

19 (d) FUNDING.—The administrative expenses of the
20 interagency task force shall be paid out of existing Depart-
21 ment of Justice appropriations.

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

24 (f) TERMINATION.—The interagency task force shall
25 terminate 4 years after the date of enactment of this Act.

1 **SEC. 502. PUBLIC HEALTH MONITORING.**

2 The Secretary of Health and Human Services shall
3 develop a public health monitoring program to monitor
4 methamphetamine abuse in the United States. The pro-
5 gram shall include the collection and dissemination of data
6 related to methamphetamine abuse which can be used by
7 public health officials in policy development.

8 **SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.**

9 (a) **ADVISORY PANEL.**—The Attorney General shall
10 establish an advisory panel consisting of an appropriate
11 number of representatives from Federal, State, and local
12 law enforcement and regulatory agencies with experience
13 in investigating and prosecuting illegal transactions of
14 precursor chemicals. The Attorney General shall convene
15 the panel as often as necessary to develop and coordinate
16 educational programs for wholesale and retail distributors
17 of precursor chemicals and supplies.

18 (b) **CONTINUATION OF CURRENT EFFORTS.**—The
19 Attorney General shall continue to—

20 (1) maintain an active program of seminars and
21 training to educate wholesale and retail distributors
22 of precursor chemicals and supplies regarding the
23 identification of suspicious transactions and their re-
24 sponsibility to report such transactions; and

25 (2) provide assistance to State and local law en-
26 forcement and regulatory agencies to facilitate the

1 establishment and maintenance of educational pro-
2 grams for distributors of precursor chemicals and
3 supplies.

4 **SEC. 504. SUSPICIOUS ORDERS TASK FORCE.**

5 (a) IN GENERAL.—The Attorney General shall estab-
6 lish a “Suspicious Orders Task Force” (the “Task
7 Force”) which shall consist of—

8 (1) appropriate personnel from the Drug En-
9 forcement Administration (the “DEA”) and other
10 Federal, State, and local law enforcement and regu-
11 latory agencies with the experience in investigating
12 and prosecuting illegal transactions of listed chemi-
13 cals and supplies; and

14 (2) representatives from the chemical and phar-
15 maceutical industry.

16 (b) RESPONSIBILITIES.—The Task Force shall be re-
17 sponsible for developing proposals to define suspicious or-
18 ders of listed chemicals, and particularly to develop quan-
19 tifiable parameters which can be used by registrants in
20 determining if an order is a suspicious order which must
21 be reported to DEA. The quantifiable parameters to be
22 addressed will include frequency of orders, deviations from
23 prior orders, and size of orders. The Task Force shall also
24 recommend provisions as to what types of payment prac-
25 tices or unusual business practices shall constitute prima

1 facie suspicious orders. In evaluating the proposals, the
2 Task Force shall consider effectiveness, cost and feasibil-
3 ity for industry and government, an other relevant factors.

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

7 (d) REPORT.—The Task Force shall present a report
8 to the Attorney General on its proposals with regard to
9 suspicious orders and the electronic reporting of sus-
10 picious orders within one year of the date of enactment
11 of this Act. Copies of the report shall be forwarded to the
12 Committees of the Senate and House of Representatives
13 having jurisdiction over the regulation of listed chemical
14 and controlled substances.

15 (e) FUNDING.—The administrative expenses of the
16 Task Force shall be paid out of existing Department of
17 Justice funds.

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

20 (g) TERMINATION.—The Task Force shall terminate
21 upon presentation of its report to the Attorney General,
22 or two years after the date of enactment of this Act,
23 whichever is sooner.

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