

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 258

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## AN ACT

To amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Saving Kids From  
3 Dangerous Drugs Act of 2010”.

4 **SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES**  
5 **MARKETED TO MINORS.**

6 Section 401 of the Controlled Substances Act (21  
7 U.S.C. 841) is amended by adding at the end the fol-  
8 lowing:

9 “(h) OFFENSES INVOLVING CONTROLLED SUB-  
10 STANCES MARKETED TO MINORS.—

11 “(1) UNLAWFUL ACTS.—Except as authorized  
12 under this title, including paragraph (3), it shall be  
13 unlawful for any person at least 18 years of age to  
14 knowingly or intentionally manufacture or create,  
15 with intent to manufacture, create, distribute, or  
16 dispense, a controlled substance listed in schedule I  
17 or II that is—

18 “(A) combined with a candy product;

19 “(B) marketed or packaged to appear simi-  
20 lar to a candy product; and

21 “(C) modified by flavoring or coloring the  
22 controlled substance with the intent to dis-  
23 tribute, dispense, or sell the controlled sub-  
24 stance to a person under 18 years of age.

1           “(2) PENALTIES.—Except as provided in sec-  
2           tion 418, 419, or 420, any person who violates para-  
3           graph (1) of this subsection shall be subject to—

4                   “(A) 2 times the maximum punishment  
5                   and at least 2 times any term of supervised re-  
6                   lease authorized by subsection (b) of this sec-  
7                   tion for a first offense involving the same con-  
8                   trolled substance and schedule; and

9                   “(B) 3 times the maximum punishment  
10                  and at least 3 times any term of supervised re-  
11                  lease authorized by subsection (b) of this sec-  
12                  tion for a second or subsequent offense involv-  
13                  ing the same controlled substance and schedule.

14           “(3) EXCEPTIONS.—Paragraph (1) shall not  
15           apply to any controlled substance that—

16                   “(A) has been approved by the Secretary  
17                   under section 505 of the Federal Food, Drug,  
18                   and Cosmetic Act (21 U.S.C. 355), if the con-  
19                   tents, marketing, and packaging of the con-  
20                   trolled substance have not been altered from the  
21                   form approved by the Secretary; or

22                   “(B) has been altered at the direction of a  
23                   practitioner who is acting for a legitimate med-  
24                   ical purpose in the usual course of professional  
25                   practice.”.

1 **SEC. 3. SENTENCING GUIDELINES.**

2 Pursuant to its authority under section 994 of title  
3 28, United States Code, and in accordance with this sec-  
4 tion, the United States Sentencing Commission shall re-  
5 view and amend the Federal sentencing guidelines and  
6 policy statements to ensure that the guidelines provide an  
7 appropriate additional penalty increase of up to 3 offense  
8 levels above the sentence otherwise applicable in Part D  
9 of the Guidelines Manual if the defendant was convicted  
10 of a violation of section 401(h) of the Controlled Sub-  
11 stances Act, as added by section 2 of this Act.

Passed the Senate July 29, 2010.

Attest:

*Secretary.*



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