

111TH CONGRESS
2^D SESSION

S. 3397

AN ACT

To amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

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 “Secure and Respon-
3 sible Drug Disposal Act of 2010”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The nonmedical use of prescription drugs is
7 a growing problem in the United States, particularly
8 among teenagers.

9 (2) According to the Department of Justice’s
10 2009 National Prescription Drug Threat Assess-
11 ment—

12 (A) the number of deaths and treatment
13 admissions for controlled prescription drugs
14 (CPDs) has increased significantly in recent
15 years;

16 (B) unintentional overdose deaths involving
17 prescription opioids, for example, increased 114
18 percent from 2001 to 2005, and the number of
19 treatment admissions for prescription opioids
20 increased 74 percent from 2002 to 2006; and

21 (C) violent crime and property crime asso-
22 ciated with abuse and diversion of CPDs has in-
23 creased in all regions of the United States over
24 the past 5 years.

25 (3) According to the Office of National Drug
26 Control Policy’s 2008 Report “Prescription for Dan-

ger”, prescription drug abuse is especially on the rise for teens—

(A) one-third of all new abusers of prescription drugs in 2006 were 12- to 17-year-olds;

(B) teens abuse prescription drugs more than any illicit drug except marijuana—more than cocaine, heroin, and methamphetamine combined; and

(C) responsible adults are in a unique position to reduce teen access to prescription drugs because the drugs often are found in the home.

(4)(A) Many State and local law enforcement agencies have established drug disposal programs (often called “take-back” programs) to facilitate the collection and destruction of unused, unwanted, or expired medications. These programs help get outdated or unused medications off household shelves and out of the reach of children and teenagers.

(B) However, take-back programs often cannot dispose of the most dangerous pharmaceutical drugs—controlled substance medications—because Federal law does not permit take-back programs to accept controlled substances unless they get specific permission from the Drug Enforcement Administra-

tion and arrange for full-time law enforcement officers to receive the controlled substances directly from the member of the public who seeks to dispose of them.

(C) Individuals seeking to reduce the amount of unwanted controlled substances in their household consequently have few disposal options beyond discarding or flushing the substances, which may not be appropriate means of disposing of the substances.

(D) Long-term care facilities face a distinct set of obstacles to the safe disposal of controlled substances due to the increased volume of controlled substances they handle.

(5) This Act gives the Attorney General authority to promulgate new regulations, within the framework of the Controlled Substances Act, that will allow patients to deliver unused pharmaceutical controlled substances to appropriate entities for disposal in a safe and effective manner consistent with effective controls against diversion.

(6) The goal of this Act is to encourage the Attorney General to set controlled substance diversion prevention parameters that will allow public and private entities to develop a variety of methods of col-

1 lection and disposal of controlled substances in a se-
2 cure and responsible manner.

3 **SEC. 3. DELIVERY OF CONTROLLED SUBSTANCES BY ULTI-**
4 **MATE USERS FOR DISPOSAL.**

5 (a) REGULATORY AUTHORITY.—Section 302 of the
6 Controlled Substances Act (21 U.S.C. 822) is amended
7 by adding at the end the following:

8 “(g)(1) An ultimate user who has lawfully obtained
9 a controlled substance in accordance with this title may,
10 without being registered, deliver the controlled substance
11 to another person for the purpose of disposal of the con-
12 trolled substance if—

13 “(A) the person receiving the controlled sub-
14 stance is authorized under this title to engage in
15 such activity; and

16 “(B) the disposal takes place in accordance
17 with regulations issued by the Attorney General to
18 prevent diversion of controlled substances.

19 “(2) In developing regulations under this subsection,
20 the Attorney General shall take into consideration the
21 public health and safety, as well as the ease and cost of
22 program implementation and participation by various
23 communities. Such regulations may not require any entity
24 to establish or operate a delivery or disposal program.

1 “(3) The Attorney General may, by regulation, au-
 2 thorize long-term care facilities, as defined by the Attor-
 3 ney General by regulation, to dispose of controlled sub-
 4 stances on behalf of ultimate users who reside, or have
 5 resided, at such long-term care facilities in a manner that
 6 the Attorney General determines will provide effective con-
 7 trols against diversion and be consistent with the public
 8 health and safety.

9 “(4) If a person dies while lawfully in possession of
 10 a controlled substance for personal use, any person law-
 11 fully entitled to dispose of the decedent’s property may
 12 deliver the controlled substance to another person for the
 13 purpose of disposal under the same conditions as provided
 14 in paragraph (1) for an ultimate user.”.

15 (b) CONFORMING AMENDMENT.—Section 308(b) of
 16 the Controlled Substances Act (21 U.S.C. 828(b)) is
 17 amended—

18 (1) by striking the period at the end of para-
 19 graph (2) and inserting “; or”; and

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

21 “(3) the delivery of such a substance for the
 22 purpose of disposal by an ultimate user or long-term
 23 care facility acting in accordance with section 302(g)
 24 of this title.”.

1 **SEC. 4. DIRECTIVE TO THE UNITED STATES SENTENCING**
2 **COMMISSION.**

3 Pursuant to its authority under section 994 of title
4 28, United States Code, the United States Sentencing
5 Commission shall review and, if appropriate, amend the
6 Federal sentencing guidelines and policy statements to en-
7 sure that the guidelines and policy statements provide an
8 appropriate penalty increase of up to 2 offense levels above
9 the sentence otherwise applicable in Part D of the Guide-
10 lines Manual if a person is convicted of a drug offense
11 resulting from the authorization of that person to receive
12 scheduled substances from an ultimate user or long-term
13 care facility as set forth in the amendments made by sec-
14 tion 3.

Passed the Senate August 3, 2010.

Attest:

Secretary.

11TH CONGRESS
2D Session

S. 3397

AN ACT

To amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.