S. 3397

IN THE HOUSE OF REPRESENTATIVES

AUGUST 9, 2010

Referred to the Committee on Energy and Commerce and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

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

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Secure and Responsible Drug Disposal Act of 2010”.

SEC. 2. FINDINGS.

Congress finds the following:

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

(2) According to the Department of Justice’s 2009 National Prescription Drug Threat Assessment—

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

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

(C) violent crime and property crime associated with abuse and diversion of CPDs has increased in all regions of the United States over the past 5 years.

(3) According to the Office of National Drug Control Policy’s 2008 Report “Prescription for Dan-
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 These programs help get outdated or unused medications off household shelves and out of the reach of children and teenagers.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 offi-
cers 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 dis-
carding 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 sub-
stances due to the increased volume of controlled
substances they handle.

(5) This Act gives the Attorney General author-
ity to promulgate new regulations, within the frame-
work of the Controlled Substances Act, that will
allow patients to deliver unused pharmaceutical con-
trolled substances to appropriate entities for disposal
in a safe and effective manner consistent with effec-
tive controls against diversion.

(6) The goal of this Act is to encourage the At-
torney General to set controlled substance diversion
prevention parameters that will allow public and pri-
ivate entities to develop a variety of methods of col-
lection and disposal of controlled substances in a se-
cure and responsible manner.

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

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

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

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

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

“(2) In developing regulations under this subsection,
the Attorney General shall take into consideration the
public health and safety, as well as the ease and cost of
program implementation and participation by various
communities. Such regulations may not require any entity
to establish or operate a delivery or disposal program.
“(3) The Attorney General may, by regulation, au-
thorize long-term care facilities, as defined by the Attor-
ney General by regulation, to dispose of controlled sub-
stances on behalf of ultimate users who reside, or have
resided, at such long-term care facilities in a manner that
the Attorney General determines will provide effective con-
trols against diversion and be consistent with the public
health and safety.

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

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

(1) by striking the period at the end of para-
graph (2) and inserting ‘‘; or’’; and

(2) by adding at the end the following:

“(3) the delivery of such a substance for the
purpose of disposal by an ultimate user or long-term
care facility acting in accordance with section 302(g)
of this title.”.
SEC. 4. DIRECTIVE TO THE UNITED STATES SENTENCING
COMMISSION.

Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements to ensure that the guidelines and policy statements provide an appropriate penalty increase of up to 2 offense levels above the sentence otherwise applicable in Part D of the Guidelines Manual if a person is convicted of a drug offense resulting from the authorization of that person to receive scheduled substances from an ultimate user or long-term care facility as set forth in the amendments made by section 3.

Passed the Senate August 3, 2010.

Attest: NANCY ERICKSON,
Secretary.