

Calendar No. 495

111TH CONGRESS
2D SESSION**S. 3397**

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

IN THE SENATE OF THE UNITED STATES

MAY 24, 2010

Ms. KLOBUCHAR (for herself, Mr. CORNYN, Mr. GRASSLEY, Mr. BROWN of Ohio, Mrs. GILLIBRAND, Ms. COLLINS, Mr. CORKER, Mr. FEINGOLD, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 29, 2010

Reported by Mr. LEAHY, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure and Respon-
5 sible Drug Disposal Act of 2010”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

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

6 (2) According to the Department of Justice's
7 2009 National Prescription Drug Threat Assess-
8 ment—

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

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

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

22 (3) According to the Office of National Drug
23 Control Policy's 2008 Report "Prescription for Dan-
24 ger", prescription drug abuse is especially on the
25 rise for teens—

1 (A) one-third of all new abusers of pre-
2 scription drugs in 2006 were 12- to 17-year-
3 olds;

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

8 (C) responsible adults are in a unique posi-
9 tion to reduce teen access to prescription drugs
10 because the drugs often are found in the home.

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

18 (B) However, take-back programs often cannot
19 dispose of the most dangerous pharmaceutical
20 drugs—controlled substance medications—because
21 Federal law does not permit take-back programs to
22 accept controlled substances unless they get specific
23 permission from the Drug Enforcement Administra-
24 tion and arrange for full-time law enforcement offi-
25 cers to receive the controlled substances directly

1 from the member of the public who seeks to dispose
2 of them.

3 (C) Individuals seeking to reduce the amount of
4 unwanted controlled substances in their household
5 consequently have few disposal options beyond dis-
6 carding or flushing the substances, which may not
7 be appropriate means of disposing of the substances.

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

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

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

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

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

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

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

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

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

23 “~~(2)~~(3) The Attorney General may, by regulation, au-
 24 thorize long-term care facilities, as defined by the Attor-
 25 ney General by regulation, to dispose of controlled sub-
 26 stances on behalf of ultimate users *who reside, or have re-*

1 *sided, at such long-term care facilities* in a manner that
 2 the Attorney General determines will provide effective con-
 3 trols against diversion and be consistent with the public
 4 health and safety.

5 “(4) *If a person dies while lawfully in possession of*
 6 *a controlled substance for personal use, any person lawfully*
 7 *entitled to dispose of the decedent’s property may deliver*
 8 *the controlled substance to another person for the purpose*
 9 *of disposal under the same conditions as provided in para-*
 10 *graph (1) for an ultimate user.”.*

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

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

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

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

21 **SEC. 4. DIRECTIVE TO THE UNITED STATES SENTENCING**
 22 **COMMISSION.**

23 *Pursuant to its authority under section 994 of title*
 24 *28, United States Code, the United States Sentencing Com-*
 25 *mission shall review and, if appropriate, amend the Federal*

1 *sentencing guidelines and policy statements to ensure that*
2 *the guidelines and policy statements provide an appro-*
3 *priate penalty increase of up to 2 offense levels above the*
4 *sentence otherwise applicable in Part D of the Guidelines*
5 *Manual if a person is convicted of a drug offense resulting*
6 *from the authorization of that person to receive scheduled*
7 *substances from an ultimate user or long-term care facility*
8 *as set forth in the amendments made by section 3.*

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