

Public Law 86-429

AN ACT

April 22, 1960
[H. R. 529]

To discharge more effectively obligations of the United States under certain conventions and protocols relating to the institution of controls over the manufacture of narcotic drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Narcotics Manufacturing Act of 1960".

Narcotics Manu-
facturing Act of
1960.

NECESSITY FOR LEGISLATION

SEC. 2. The enactment of this Act is necessary for the following reasons:

(1) The Congress has long recognized that the manufacture, distribution, and use of narcotic drugs for nonmedical and nonscientific purposes endangers the health of the American people and threatens the general welfare. The Congress has enacted laws and the Senate has approved international conventions designed to establish effective control over domestic and international traffic in narcotic drugs.

(2) Until recently, most narcotic drugs were made from natural raw materials such as the opium poppy and the coca leaf, produced in limited areas of the world. In practice, control over the production of narcotic drugs could therefore be achieved by national and international restrictions over the production and shipment of these raw materials and their use to manufacture narcotic drugs.

(3) In recent years, however, technological advances have resulted in the development of new types of narcotic drugs, produced synthetically from a variety of generally available raw materials. As a result, controls over the production of narcotic drugs can no longer be maintained solely by controls relating to the opium poppy and the coca leaf.

(4) The United States has joined with other nations in executing international conventions intended to establish suitable controls over production, shipment, and use of all narcotic drugs. These conventions are not self-executing, and the obligations of the United States thereunder must be performed pursuant to appropriate legislation.

(5) In order (A) to discharge more effectively the international obligations of the United States, (B) to promote the public health, safety, and welfare, (C) to regulate interstate and foreign commerce in narcotic drugs, and (D) to safeguard the revenue derived from taxation of narcotic drugs, the Congress finds it necessary to enact a statute for the licensing and control of the manufacture of all narcotic drugs.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "1931 convention" means the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946.

(b) The term "1948 protocol" means the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake

48 Stat. 1543; 61
Stat. 2230.

2 UST 1629.

Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950.

(c) The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context.

(d) The term "person" includes an individual, partnership, corporation, association, trust, or other institution or entity.

(e) The term "narcotic drug" means narcotic drug as defined in section 4731(a) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

(f) The term "manufacture" means the production of a narcotic drug, either directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(g) The term "basic class of narcotic drug" means any one of the following classes of narcotic drugs and any additional class or classes of narcotic drugs (other than crude opium or coca leaves), by whatever trade name designated, as may be defined from time to time by the Secretary or his delegate in accordance with section 6 of this Act:

1. Opium, powdered, granulated, or deodorized, or tinctures or extracts of opium.

2. Mixed alkaloids of opium and their salts.

3. Morphine and its salts.

4. Codeine and its salts.

5. Thebaine and its salts.

6. Narcotine and its salts.

7. Papaverine and its salts.

8. Cotarnine and its salts.

9. Narceine and its salts.

10. Ethylmorphine and its salts.

11. Apomorphine and its salts.

12. Nalorphine (N-allylnormorphine) and its salts.

13. Hydromorphone (dihydromorphinone) and its salts.

14. Metopon (methyldihydromorphinone) and its salts.

15. Dihydrocodeine and its salts.

16. Hydrocodone (dihydrocodeinone) and its salts.

17. Oxycodone (dihydrohydroxycodeinone) and its salts.

18. Cocaine and its salts.

19. Ecgonine and its salts.

20. Pethidine (meperidine, isonipecaine) (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester) and its salts.

21. Alphaprodine (alpha-1, 3-dimethyl-4-phenyl-4-propionoxy-piperidine) and its salts.

22. Methadone (amidone) (6-dimethylamino-4, 4-diphenyl-3-heptanone) and its salts.

23. Isomethadone (isoamidone) (6-dimethylamino-5-methyl-4, 4-diphenyl-3-hexanone) and its salts.

24. Levorphan and racemorphan (3-hydroxy-N-methylmorphinan) and their salts.

25. Levomethorphan and racemethorphan (3-methoxy-N-methylmorphinan) and their salts.

26. Anileridine (Ethyl 1-[2-(p-amino phenyl)-ethyl]-4-phenylpiperidine-4-carboxylate) and its salts.

27. Phenazocine (2'-Hydroxy-5, 9-dimethyl-2-(2-phenylethyl)-6, 7-benzomorphan) and its salts.

(h) The term "net disposal" means the quantity of a basic class of narcotic drug, sold, exchanged, given away, used in the production of another basic class of narcotic drug for which the manufacturer is licensed, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer of such basic class) by the manufacturer during a stated period, less the quantity of any such basic class of narcotic drug returned to the manufacturer by a customer and any quantity sold or transferred to another licensed manufacturer of the same basic class of narcotic drug.

(i) The term "narcotic precursor" means a substance other than a narcotic drug which the Secretary or his delegate has found, after due notice and opportunity for public hearing—

- (1) is an immediate chemical precursor of a narcotic drug;
- (2) is produced primarily for use in the manufacture of a narcotic drug; and
- (3) is used, or is likely to be used, in the manufacture of a narcotic drug by persons other than persons licensed to manufacture such narcotic drug.

AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

SEC. 4. (a) Subsection (a) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows:

68A Stat. 557.
26 USC 4731.

"(a) NARCOTIC DRUGS.—The words 'narcotic drugs' as used in this part shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- "(1) Opium, isonipecaine, coca leaves, and opiate;
 - "(2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;
 - "(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2);
- except that the words 'narcotic drugs' as used in this part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine."

(b) Subsection (g) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows:

"(g) OPIATE.—

"(1) IN GENERAL.—The word 'opiate' as used in this part shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (52 Stat. 1041, sec. 201 (g); 21 U.S.C. 321)) or other substance found by the Secretary or his delegate and proclaimed by the Secretary or his delegate (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have been so found in the Federal Register, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine or to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability, where, in the judgment of the Secretary or his delegate, the relative technical simplicity and degree of yield of such conversion create a risk of improper use of the drug or other substance.

"(2) TERMINATION.—The Secretary or his delegate is authorized to withdraw any previous finding that a drug or other substance is an 'opiate' whenever (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his

Ante, p. 55.

delegate, on the subject) he determines that such previous finding was erroneous, and upon publication of such determination in the Federal Register, the particular drug or other substance shall cease to be an opiate. For purposes of the foregoing provision the Secretary or his delegate may consider any action taken pursuant to article 3 of the 1948 protocol (as defined in section 3(b) of the Narcotics Manufacturing Act of 1960)."

"(3) REGULATIONS, ETC.—The Secretary or his delegate is authorized to issue necessary rules and regulations for carrying out the provisions of this subsection, and to confer or impose upon any officer or employee of the Treasury Department whom he shall designate or appoint, the duty of conducting any hearing authorized hereunder.

"(4) CROSS REFERENCE.—

"For treatment of certain drugs as being, or ceasing to be, opiates for purposes of this part, see section 5 of the Narcotics Manufacturing Act of 1960."

68A Stat. 549.
26 USC 4702.

(c) Subsection (a) of section 4702 of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) EXCEPTIONS FROM CERTAIN PROVISIONS AUTHORIZED FOR PREPARATIONS OF NO ADDICTIVE QUALITY OR OF MINOR ADDICTIVE QUALITY.—

"(1) If the Secretary or his delegate, either upon his own motion or upon the application of an interested party, after consideration of the report and recommendations of an advisory committee appointed under paragraph (4) of this subsection, and after due notice and opportunity for hearing, finds that a pharmaceutical preparation containing a narcotic drug combined with other active or inactive ingredients—

"(A) either possesses no addiction-forming or addiction-sustaining liability, or does not possess an addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this part, and

"(B) does not permit the recovery of a narcotic drug having such an addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use;

the Secretary or his delegate may except such pharmaceutical preparation to the extent consistent with the obligations undertaken by the United States pursuant to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, and with the public health, safety, and welfare, from any or all of the requirements imposed by this part, other than those requirements imposed by sections 4721, 4722, 4724(a), and 4732, and from any or all of the requirements imposed by section 6 of the Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes', approved February 9, 1909, as amended by section 15 of the Narcotics Manufacturing Act of 1960.

"(2) In excepting any pharmaceutical preparation under paragraph (1), the Secretary or his delegate may, in his discretion, apply any or all of the following requirements:

26 USC 4721,
4722, 4732.

Post, p. 66.

“(A) Such pharmaceutical preparation shall be manufactured, sold, distributed, given away, dispensed, or possessed as a medicine and not for the purpose of evading the intentions and provisions of this subpart and subpart C;

“(B) Any manufacturer, producer, compounder, or vendor (including dispensing physicians) of such pharmaceutical preparation, lawfully entitled to manufacture, produce, compound, or vend such pharmaceutical preparation, shall keep such records relating to such pharmaceutical preparation as the Secretary or his delegate shall deem necessary;

“(C) Every person so possessing or disposing of such pharmaceutical preparation shall register as required in section 4722 and, if he is not paying a tax under section 4721, shall pay a special tax of \$1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the official in charge of the collection district in which he carries on such occupation as provided in subpart C. ^{26 USC 4722, 4721.}

“(3) If the Secretary or his delegate shall subsequently determine, after due notice and opportunity for hearing, that a pharmaceutical preparation to which such exceptions have been made applicable possesses a degree of addiction liability, or permits recovery of a narcotic drug having a degree of addiction liability, that results in abusive use of such exceptions, he is authorized to withdraw and revoke such exceptions in whole or in part.

“(4) Whenever the Secretary or his delegate shall, on his own motion, determine that there may exist reasonable evidence to support a finding in accordance with paragraph (1) of this subsection, or whenever an interested party makes an application for such a finding, the Secretary or his delegate shall thereupon appoint an advisory committee of experts. At least one member of such an advisory committee shall be selected by the Secretary or his delegate, one by the interested party making the application, if any, one by the Surgeon General of the (United States) Public Health Service, and one by the Commissioner of the (United States) Food and Drug Administration. The Secretary or his delegate shall submit to such advisory committee the application of the interested party, if any, and any other available data. As soon as practicable thereafter, the advisory committee shall, after independent study of the material submitted to it by the Secretary or his delegate and other data available to it, certify a report and recommendations to the Secretary or his delegate with respect to the pharmaceutical preparation involved.

“(5) After consideration of the report and recommendation of the advisory committee, and after due notice and opportunity for hearing, the Secretary or his delegate shall either make the finding provided for in paragraph (1) of this subsection and grant such exceptions as he deems appropriate, or determine that the evidence does not support such a finding and deny the application, if any.”

(d) The amendment to subsection (g) of section 4731 of the Internal Revenue Code of 1954, made by subsection (b) of this section, shall not affect any proceeding commenced before such amendment, but such proceeding shall be continued to final disposition as if the amendment had not been made.

NOTIFICATIONS, FINDINGS, AND DECISIONS UNDER THE 1948 PROTOCOL

SEC. 5. (a) Before a notification may be sent on behalf of the United States to the Secretary General of the United Nations, under article 1 of the 1948 protocol, that a drug is considered liable to the

same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2, of the 1931 convention, such drug shall have been found by the Secretary or his delegate to be an "opiate", as defined in section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of this Act, and so proclaimed in accordance with the procedure prescribed by section 4731(g) as amended by section 4(b) of this Act.

(b) With respect to any drug which is or may be used for medical or scientific purposes and to which the 1931 convention does not apply, and which is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2 of the 1931 convention, upon receipt by the United States of a finding or decision made pursuant to article 1 or article 2 of the 1948 protocol that any such drug is capable of producing addiction or of conversion into a drug capable of producing addiction and that the appropriate provisions of the 1931 convention shall apply to such drug, such finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate shall cause such finding or decision to be published in the Federal Register unless such drug has already been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act. From the time of such publication, such drug shall be an opiate to the same extent as if the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, had been followed with respect to such drug.

(c) If the finding or decision so received and published in the Federal Register relates to a drug which has not previously been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, any person in the United States interested in the domestic manufacture and distribution of such drug for medical and scientific purposes may submit to the Secretary or his delegate written data, views, and argument opposed to such finding or decision. Such written data, views, and argument shall be transmitted to the Secretary General of the United Nations for consideration by the World Health Organization or the Commission on Narcotic Drugs of the United Nations, as the case may be, under article 3 of the 1948 protocol. If thereafter the United States receives a revised finding or decision, under article 3 of the 1948 protocol, that such a drug is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not apply to such drug, such revised finding or decision shall be transmitted to the Secretary or his delegate, who shall cause such revised finding or decision to be published in the Federal Register within ninety days of receipt thereof by the Secretary or his delegate. From the time of such publication, such drug shall cease to be an opiate, unless the Secretary or his delegate has theretofore initiated an opiate procedure under section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

(d) Upon receipt by the United States of a revised finding or decision under article 3 of the 1948 protocol (except a revised finding or decision to which subsection (c) applies) that a drug (theretofore subject to the Federal narcotic laws as an opiate) is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not apply to such drug, the revised finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate may, in his discretion, publish the revised finding or decision in the Federal

Publication in
F. R.

2 UST 1634.

2 UST 1634.

Register and, from the time of such publication, such drug shall cease to be an opiate. If the revised finding or decision is not so published in the Federal Register, the said drug shall continue to be an opiate.

MODIFICATION OF LIST OF BASIC NARCOTIC DRUGS

SEC. 6. The Secretary or his delegate, upon his initiative or upon the petition of any interested person shall have the power by rule made on the record after opportunity for hearing, to alter classifications set forth in section 3(g) by adding to, subtracting from, or further defining such classifications or any one or more of them, on the basis of their chemical structure and content and addiction liability or convertibility into an addicting drug. No new basic class shall be added unless with respect to any drug or drugs falling within such class the Secretary or his delegate shall have determined that such drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or has caused a finding or decision to be published in the Federal Register pursuant to section 5 of this Act. For purposes of this section, the Secretary or his delegate may consider changes in classification established by the World Health Organization or its successor in function.

RESTRICTIONS ON THE MANUFACTURE OF NARCOTIC DRUGS

SEC. 7. (a) Except as otherwise provided in this Act, it shall be unlawful for any person to manufacture any narcotic drug unless—

(1) such narcotic drug falls within a basic class of narcotic drugs established by or pursuant to this Act, and

(2) such person holds a currently effective license and manufacturing quota with respect to such basic class of narcotic drug issued pursuant to section 8 of this Act.

(b) The omission of a narcotic drug from the classification established pursuant to section 3(g) shall not be construed to permit the manufacture of such narcotic drug, the intent of this Act being to limit the manufacture of narcotic drugs in the United States to those narcotic drugs established under this Act as a basic class of narcotic drugs or as a member of a basic class of narcotic drugs. The fact that the Secretary or his delegate shall have—

(1) determined that a drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or

(2) caused a finding or decision with respect to any drug or other substance to be published in the Federal Register pursuant to section 5 of this Act,

shall not require the Secretary or his delegate to add such narcotic drug to the classifications set forth in section 3(g) or to grant a manufacturing quota for such narcotic drug, if the Secretary or his delegate shall determine that it is contrary to the public health and safety to permit the manufacture of such drug within the United States.

(c) It shall be unlawful for any person (1) to manufacture or attempt to manufacture any narcotic drug, or (2) to knowingly permit the manufacture of any narcotic drug, in or upon any place owned, leased, occupied, used or controlled by him unless he (or the lessee, tenant, or other occupant as the case may be) is the holder of a license and quota for the manufacture during the period in question of such narcotic drug in accordance with the provisions of sections 3(g), 8, and 11 of this Act; and it shall be unlawful for the holder of any such

quota to manufacture during the period for which the quota is applicable any quantity of such narcotic drug in excess of the amount authorized by such quota.

LICENSES TO MANUFACTURE NARCOTIC DRUGS

SEC. 8. (a) Every person who manufactures a basic class or classes of narcotic drug shall, on or before January 1, 1961, if then already engaged in such manufacture, or otherwise before engaging in such manufacture, obtain from the Secretary or his delegate a license or licenses for the appropriate basic class or classes of narcotic drug. There shall be a separate license for the manufacture of each basic class of narcotic drug. In determining whether to issue a license for a particular basic class of narcotic drug to a particular applicant, the Secretary or his delegate shall be governed by the following factors—

(1) maintenance of effective controls against the diversion of the particular basic class of narcotic drug and of narcotic drugs compounded therefrom into other than legitimate medical and scientific channels through limitation of manufacture of the particular basic class of narcotic drug to the smallest number of establishments which will produce an adequate and uninterrupted supply of narcotic drugs of or derived from such basic class of narcotic drugs for medical and scientific purposes, consistent with the public interest; and

(2) compliance with the obligations undertaken by the United States pursuant to the 1931 convention and the 1948 protocol; and

(3) promotion of technical advances in the art of manufacturing narcotic drugs and the development of new narcotic drug products; and

(4) the applicant's education, moral character and reputation, the applicant's past drug manufacturing experience and the quality of his products, his technical competence, the existence in the applicant's establishment of adequate safeguards against diversion of narcotic drugs into other than legitimate medical and scientific channels; and

(5) such other factors as may be relevant to and consistent with the public interest.

26 USC 4722.

(b) Registration pursuant to section 4722 of the Internal Revenue Code of 1954, shall be a prerequisite to the issuance of any license under this section. Licenses shall be in such form as the Secretary or his delegate shall prescribe and shall continue in effect subject only to annual renewal of registration unless revoked pursuant to section 9 of this Act or voluntarily surrendered. Issuance of a license pursuant to this section shall not entitle the licensee to perform any act with respect to narcotic drugs as to which the consent or approval of the Secretary or his delegate is required by the provisions of this or any other Act.

(c) Issuance of a license for the manufacture of any one basic class of narcotic drug shall not entitle the holder thereof to manufacture for sale, distribution, or other use any other basic class of narcotic drug.

(d) Notwithstanding the foregoing provisions of this section, the Secretary or his delegate shall authorize any person registered as a manufacturer or as a person engaged in research under section 4722 of the Internal Revenue Code of 1954, who meets the standards for licensing under subsection (a) (4) of this section 8, whether or not such person actually holds a license under subsection (a), to produce such limited quantities as the Secretary or his delegate may specify of any narcotic drug, except crude opium or coca leaves, whether or

26 USC 4722.

not a basic class for such drug has been established under section 3(g) of this Act, exclusively for research in the development of manufacturing processes for the drug, or for chemical, pharmacological or medical testing of such drugs, for fitness for medical or scientific use and for determination of its suitability for general manufacture and distribution for medical or scientific use. Such person shall make such reports as the Secretary or his delegate may require relating to the quantities of narcotic drug manufactured and to use and disposal of such quantities of such narcotic drug. Such quantities of such narcotic drug may be disposed of only in accordance with the regulations of the Secretary or his delegate. Any authorization made under this subsection (d) shall be subject to revocation or suspension in accordance with the procedure set forth in section 9 of this Act.

(e) In issuing or refusing to issue manufacturing licenses pursuant to this section, the Secretary or his delegate shall act in conformity with the procedure prescribed by section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. Each licensee of the basic class of narcotic drug with respect to which a license is sought to be obtained shall be deemed a person entitled to notice within the meaning of section 5(a) of the Administrative Procedure Act.

60 Stat. 239,
5 USC 1004,
1006, 1007.

REVOCATION OR SUSPENSION OF LICENSES

SEC. 9. (a) Any license issued pursuant to section 8 of this Act may be revoked by the Secretary or his delegate if the licensee—

(1) has been convicted of violating or conspiring to violate any law of the United States or of any State where the offense involves any activity or transaction with respect to narcotic drugs; or

(2) has violated or failed to comply with any duly promulgated regulation of the Secretary or his delegate relating to narcotic drugs, and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to narcotic drugs.

In the case of a licensee holding more than one license issued pursuant to section 8 of this Act, revocation may be in the discretion of the Secretary or his delegate extended to all licenses held by such licensee.

(b) Before revoking any license pursuant to subsection (a), the Secretary or his delegate shall serve upon the licensee an order to show cause why an order of revocation should not be issued. Any such order to show cause shall contain a statement of the basis thereof, and shall call upon such licensee to appear before the Secretary or his delegate at a time and place stated in the order, but in no event less than thirty days after the date of receipt of such order, and give evidence upon the matter specified therein. The Secretary or his delegate may in his discretion suspend any license simultaneously with the issuance of an order to show cause, in cases where he finds that the public health, safety, or interest require such suspension. Such suspension shall continue in effect until the conclusion of any revocation proceeding, including judicial review thereof, unless sooner withdrawn by the Secretary or his delegate, or dissolved by a court of competent jurisdiction. Every hearing held pursuant to this section shall be conducted in accordance with section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. If after hearing, default, or waiver thereof by the licensee, the Secretary or his delegate determines that an order of revocation should issue, he shall issue such order, which

5 USC 1004,
1006, 1007.

shall include a statement of his findings and the grounds and reasons therefor and shall specify the effective date of the order, and he shall cause such order to be served on the licensee. In any case where a hearing is conducted pursuant to the provisions of this section both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Secretary or his delegate. Proceedings under this section shall be independent of, and not in lieu of, criminal prosecution or other proceedings under this Act or any other law of the United States.

AUTHORITY TO SEIZE NARCOTIC DRUGS, ORDER FORMS, AND TAX STAMPS

SEC. 10. In the event of the suspension or revocation of a license obtained under section 8, all narcotic drugs owned or possessed by such person at the time of suspension or at the effective date of the revocation order, as the case may be, whether or not taxes have been paid on such narcotic drugs, together with all unused order forms or narcotic tax stamps owned or possessed by such person, may at the discretion of the Secretary or his delegate be placed under seal and no disposition made until the time for taking an appeal has elapsed or until all appeals have been concluded. Upon a suspension or revocation order becoming final all narcotic drugs, tax stamps, and order forms shall be forfeited to the Government.

MANUFACTURING QUOTAS FOR BASIC CLASSES OF NARCOTIC DRUGS

SEC. 11. (a) For the purpose of fixing manufacturing quotas under this section and in order to carry out the treaty obligations of the United States, the Secretary or his delegate shall make determinations of the total quantity of each basic class of narcotic drug necessary to be manufactured during each calendar year to provide for the estimated medical and scientific needs of the United States, for lawful export requirements, and for establishment and maintenance of reserve stocks.

(b) In fixing individual manufacturing quotas for any basic class of narcotic drug for a calendar year pursuant to this section, or at any time after fixing such individual quotas, the Secretary or his delegate shall limit or reduce such individual quotas to the extent necessary to prevent the aggregate of such individual quotas from exceeding the amount of the determination of the Secretary or his delegate under subsection (a). In any such limitation or reduction pursuant to this subsection the quota of each licensed manufacturer of such basic class of drug shall be limited or reduced in the same proportion as the limitation or reduction of the aggregate of such quotas. However, if any licensee, before the issuance of a limitation or reduction in quota, has manufactured in excess of his quota so limited or reduced, the amount of such excess shall be subtracted from such licensee's manufacturing quota for the following year.

(c) On or before June 1 of each year, upon application therefor by a person having a license to manufacture a basic class of narcotic drug, the Secretary or his delegate shall fix a manufacturing quota for such calendar year for such basic class of narcotic drug for such person. Subject to the provisions of subsections (a) and (b), such quota shall be sufficient to cover the applicant's estimated disposal, inventory, and other requirements for the calendar year as determined by the Secretary or his delegate, who shall take into account the applicant's current disposal rate, the trend of such disposal rate during the preceding calendar year, the applicant's production cycle and inventory position, the economic availability of raw materials, yield and

stability problems, emergencies such as strikes and fires, and other factors. Subject to the provisions of subsections (a) and (b), such quota shall not be less than the sum of—

(1) such licensed manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year or the average of the three immediately preceding calendar years in which such manufacturer produced such basic class of narcotic drug, whichever is greater; and

(2) one-half of such manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year;

less such manufacturer's inventory of such basic class of narcotic drug on December 31 of the preceding calendar year.

(d) During the period from January 1 until a manufacturing quota for such calendar year is fixed pursuant to subsection (c), any licensed manufacturer entitled to receive a quota for any basic class of narcotic drug under subsection (c) may manufacture a provisional quota of not more than 75 per centum of whichever of the following is greater—

(1) such manufacturer's net disposal of such basic class of narcotic drug during the twelve months immediately preceding September 30 of the preceding calendar year; or

(2) twelve times such manufacturer's average monthly net disposal of such basic class of narcotic drug for the thirty-three months immediately preceding September 30 of the preceding calendar year;

or such higher or lower percentage as the Secretary or his delegate may from time to time for good cause direct. Any higher or lower percentage so directed shall apply to the provisional quotas of all licensed manufacturers for such basic class of narcotic drug.

(e) The Secretary or his delegate shall, on application therefor, and subject to the provisions of subsections (a) and (b), fix a quota for any licensed manufacturer of a basic class of narcotic drug who has not manufactured such basic class of narcotic drug during one or more of the three immediately preceding calendar years, in an amount adequate to cover such manufacturer's reasonably anticipated requirements for the current calendar year.

(f) At any time during the calendar year any licensed manufacturer who has applied for or received a manufacturing quota for a basic class of narcotic drug may apply for an increase in such quota, to meet his estimated disposal, inventory, and other requirements during the remainder of such calendar year. In passing upon such application the Secretary or his delegate shall take into consideration any occurrences since the filing of such manufacturer's initial quota application that may require an increased manufacturing rate by such manufacturer during the balance of such calendar year. In passing upon such application the Secretary or his delegate may also take into consideration the amount, if any, by which the determination of the Secretary or his delegate under subsection (a) exceeds the aggregate of the quotas of all manufacturers under this section, and the equitable distribution of such excess among other manufacturers.

EXCEPTION FROM APPLICABILITY OF LICENSE AND QUOTA PROVISIONS

SEC. 12. Notwithstanding any other provisions of this Act—

(1) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily result from the manufacturing process used for the manufacture of a basic class of narcotic drug duly licensed under this Act; and

(2) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily re-

sult from the manufacture of any substance which is not a narcotic drug.

Unless such incidentally but necessarily resulting narcotic drug shall have been determined to be nonaddicting by the Secretary or his delegate, it may (apart from being used in the process of producing a narcotic drug for which license and quota are held) be retained or disposed of only in such manner as may be prescribed or authorized by the Secretary or his delegate.

REGULATION WITH RESPECT TO PERSONS WHO MANUFACTURE NARCOTIC PRECURSORS

SEC. 13. Persons who manufacture, compound, package, sell, deal in, or give away any narcotic precursor shall keep such records and make such reports with respect to such narcotic precursor as the Secretary or his delegate shall by regulation prescribe. The Secretary or his delegate may advise the Congress whether in his opinion the manufacture and distribution of narcotic precursors threaten to result in the diversion of narcotic drugs into other than legitimate medical and scientific channels and whether in his judgment further legislation with respect to narcotic precursors is necessary or desirable.

CERTAIN PROCEDURES FOR JUDICIAL REVIEW

SEC. 14. Every final decision of the Secretary or his delegate under sections 3(i), 6, 8, 9, 11(c), 11(e), or 11(f) of this Act shall be subject to judicial review as provided by and in the manner prescribed in Public Law 901, Eighty-first Congress, approved December 29, 1950 (5 U.S.C., secs. 1031-1042).

64 Stat. 1129.

AMENDMENT TO LAW WITH RESPECT TO EXPORTATION OF NARCOTIC DRUGS

SEC. 15. Section 6 of the Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909, as amended (21 U.S.C. 182), is amended to read as follows:

42 Stat. 597.

"SEC. 6. (a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except—

38 Stat. 1912.

"(1) to a country which has ratified and become a party to the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925, any narcotic drugs derived directly or indirectly from crude opium or coca leaves; or

61 Stat. 2230.

"(2) to a country which has ratified and become a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, any narcotic drugs not derived directly or indirectly from crude opium or coca leaves;

and in the instance of (1) and (2) then only if—

“(A) such country has instituted and maintains, in conformity with the respective conventions, a system which the Secretary of the Treasury or his delegate deems adequate, for the control of imports of narcotic drugs;

“(B) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import; and

“(C) there is furnished to the Secretary or his delegate proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual need for the narcotic drug for medical and scientific uses within such country.

“(b) The exceptions contained in subsection (a) shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

“(c) Notwithstanding the provisions of subsection (a), the Secretary or his delegate may authorize the exportation of any narcotic drug (including crude opium and coca leaves) to a country which has ratified and become a party either to the 1912 convention, the 1925 convention, or the 1931 convention and supplementing protocols of 1946 and 1948, if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

“(d) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary or his delegate thereof.”

AUTHORIZING IMPORTATION OF NARCOTIC DRUGS AS TO CERTAIN PERSONS

SEC. 16. Notwithstanding the provisions of this Act or any other law, the Secretary or his delegate may in his discretion authorize the importation of any narcotic drug or drugs (including crude opium or coca leaves) for delivery to officials of the United Nations, of the Government of the United States, or of any of the several States, or to any person licensed or qualified to be licensed under section 8 of this Act, for scientific purposes only.

ENFORCEMENT AND AUTHORITY TO DELEGATE FUNCTIONS

SEC. 17. It shall be the duty of the Secretary or his delegate to enforce the provisions of this Act, and he is hereby authorized to make, prescribe, and publish all necessary rules and regulations for carrying out its provisions, including but not limited to rules and regulations for the prevention of unlawful diversion of narcotic drugs, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

PENAL PROVISIONS

SEC. 18. (a) Any person who violates any of the provisions of this Act shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application made pursuant to this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned for not more than one year, or both.

PROCEDURE AND PRESUMPTIONS

SEC. 19. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the person claiming its benefit. In the absence of proof by such person that he is the duly authorized holder of an appropriate license or quota issued under this Act, he shall be presumed not to be the holder of such license or quota and the burden of proof shall be upon him to rebut such presumption.

APPLICABILITY OF ACT

SEC. 20. The provisions of this Act shall apply to the several States, the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the other insular territories and possessions of the United States.

SEPARABILITY OF INVALID PROVISIONS

SEC. 21. If any provision of this Act, or the application of such provision to any circumstances, shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 22. With the exception of section 8(a), this Act shall take effect on January 1 of the year following the date of its enactment. Section 8(a) shall take effect on the date of enactment of this Act.

Approved April 22, 1960.

Public Law 86-430

AN ACT

To amend the Act of July 19, 1954, to exempt from taxation certain additional property of the Veterans of Foreign Wars of the United States in the District of Columbia, and to provide that the tax exemption granted the property of the Veterans of Foreign Wars of the United States in the District of Columbia shall be effective with respect to taxable years beginning on and after July 1, 1959.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act entitled "An Act to exempt from taxation certain property of the Veterans of Foreign Wars of the United States in the District of Columbia", approved July 19, 1954 (Public Law 510, Eighty-third Congress), as amended, is amended—

(1) by striking out "lots 38, 20, and 19" and inserting in lieu thereof "lots 38, 20, 19, and 841"; and

(2) by inserting "with respect to taxable years beginning on and after July 1, 1959," immediately after "exempt".

Approved April 22, 1960.

April 22, 1960
[H. R. 9451]

Veterans of
Foreign Wars.

68 Stat. 493; 73
Stat. 599.
D. C. Code 47-
832.