§ 175a

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

agent” and “toxin” do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c) DEFINITION.—For purposes of this section, the term “for use as a weapon” includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research, or other peaceful purposes.


AMENDMENTS

2002—Subsec. (c). Pub. L. 107–188 substituted “protective, bona fide research, or other peaceful purposes” for “protective bona fide research, or other peaceful purposes”.


Pub. L. 107–56, § 817(1)(A), substituted “includes” for “does not include” and inserted “other than” after “delivery system for” and “bona fide research after “protective”.

Subsec. (c). Pub. L. 107–56, § 817(1)(B), redesignated subsec. (b) as (c).

1996—Subsec. (a). Pub. L. 104–132 inserted “or attempts, threatens, or conspires to do the same,” before “shall be fined under this title”.

SHORT TITLE


PURPOSE AND INTENT

Pub. L. 101–298, § 2, May 22, 1990, 104 Stat. 201, provided that:

“(a) PURPOSE.—The purpose of this Act [see Short Title note above] is to—

“(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

“(2) protect the United States against the threat of biological terrorism.”

“(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.”

§ 175a. Requests for military assistance in enforcing prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 175 of this title in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.


1 See References in Text note below.

§ 175b. Possession by restricted persons

(a) OFFENSE.—

(1) IN GENERAL.—It shall be unlawful for a restricted person to—

(A) ship, transport, or possess in or affecting interstate or foreign commerce any biological agent or toxin described in paragraph (2); or

(B) receive any biological agent or toxin described in paragraph (2) that has been shipped or transported in interstate or foreign commerce.

(2) AGENTS AND TOXINS COVERED.—A biological agent or toxin described in this paragraph is a biological agent or toxin that—

(A) is listed as a non-overlap or overlap select biological agent or toxin under part 73 of title 3 of the Agricultural Bioterrorism Protection Act (42 U.S.C. 262a); and

(B) is not excluded or exempted under part 73 of title 42, Code of Federal Regulations.

(3) PENALTY.—Whoever knowingly violates this section shall be fined as provided in this title, imprisoned not more than 10 years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

(b) TRANSFER TO UNREGISTERED PERSON.—

(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(c) UNREGISTERED FOR POSSESSION.—

(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which
such person has not obtained a registration re-
quired by regulations under section 212(c) of
such Act shall be fined under this title, or im-
prisoned for not more than 5 years, or both.

(d) DEFINITIONS.—In this section:
(1) The term "select agent" means a bio-
logical agent or toxin to which subsection (a) ap-
plies. Such term (including for purposes of
subsection (a)) does not include any such bio-
logical agent or toxin that is in its naturally-
occurring environment, if the biological agent
or toxin has not been cultivated, collected, or
otherwise extracted from its natural source.
(2) The term "restricted person" means an individual who—
(A) is under indictment for a crime punish-
able by imprisonment for a term exceeding 1
year;
(B) has been convicted in any court of a
crime punishable by imprisonment for a
term exceeding 1 year;
(C) is a fugitive from justice;
(D) is an unlawful user of any controlled
substance (as defined in section 102 of the
Controlled Substances Act (21 U.S.C. 802));
(E) is an alien illegally or unlawfully in
the United States;
(F) has been adjudicated as a mental defec-
tive or has been committed to any mental
institution;
(G)(i) is an alien (other than an alien law-
fully admitted for permanent residence) who
is a national of a country as to which the
Secretary of State, pursuant to section 6(j)\(^{1}\)
of the Export Administration Act of 1979 (50
U.S.C. App. 2405(j)), section 620A of chapter 1
of part M of the Foreign Assistance Act of
1961 (22 U.S.C. 2371l), or section 40(d) of chap-
ter 3 of the Arms Export Control Act (22
U.S.C. 2780(d)), has made a determination
(that remains in effect) that such country has
repeatedly provided support for acts of
international terrorism, or (ii) acts for or on
behalf of, or operates subject to the direc-
tion or control of, a government or official
of a country described in this subparagraph;
(H) has been discharged from the Armed
Services of the United States under dishon-
orable conditions; or
(I) is a member of, acts for or on behalf of,
or operates subject to the direction or con-
trol of, a terrorist organization as defined in
section 212(a)(3)(B)(vi) of the Immigration and
Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).
(3) The term "alien" has the same meaning as
in section 101(a)(3) of the Immigration and
Nationality Act (8 U.S.C. 1101(a)(3)).
(4) The term "lawfully admitted for perma-
nent residence" has the same meaning as in
section 101(a)(20) of the Immigration and
Nationality Act (8 U.S.C. 1101(a)(20)).

II, § 231(a), (b)(1), (c)(1), June 12, 2002, 116 Stat.
660, 661; Pub. L. 107–273, div. B, title IV, § 4605(g),
VI, § 6802(c), (d)(1), Dec. 17, 2004, 118 Stat. 3767;

\(^{1}\) See References in Text note below.
Subsec. (c), Pub. L. 107–188, §231(a)(5), added subsec. (c).
Subsec. (d), Pub. L. 107–188, §231(a)(4), redesignated subsec. (b) as (d).
Subsec. (d)(1), Pub. L. 107–188, §231(b)(1)(A), substituted “The term ‘select agent’ means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a) does not include” for “The term ‘select agent’ does not include”.
Subsec. (d)(3), Pub. L. 107–188, §231(c)(2)(B), substituted “section 101a(3)(f)” for “section 101a(3)”.

**Effective Date of 2004 Amendment**
Pub. L. 108–458, title VI, §6902(d), Dec. 17, 2004, 118 Stat. 3769, provided that: “The amendment made by paragraph (1) of this section shall take effect at the same time that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.”

(1) The criminal use of man-portable air defense systems (referred to in this section as ‘MANPADS’).—Any person who,...