SUBCHAPTER I—CONTROL AND ENFORCEMENT

PART A—INTRODUCTORY PROVISIONS

§ 801. Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

(Pub. L. 91–513, title II, § 101, Oct. 27, 1970, 84 Stat. 1242.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in par. (1), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out below and Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 91–513, title II, § 704, Oct. 27, 1970, 84 Stat. 1284, provided that:

''(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

''(b) Parts A, B, E, and F of this title [Parts A, B, E, and F of this subchapter], section 702 [set out as a note under section 321 of this title], this section, and sections 705 through 709 [sections 901 to 904 of this title and note set out below], shall become effective upon enactment [Oct. 27, 1970].

''(c) Sections 305 (relating to labels and labeling) [section 825 of this title], and 306 (relating to manufacturing quotas) [section 826 of this title] shall become effective on the date specified in subsection (a) of this section, except that the Attorney General may by order published in the Federal Register postpone the effective date of either or both of these sections for such period as he may determine to be necessary for the efficient administration of this title [see Short Title note below].''

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117–215, § 1(a), Dec. 2, 2022, 136 Stat. 2257, provided that: ''This Act [amending sections 802, 822, 823, 824, 827, 829a, 831, 841, 843, 882, and 958 of this title and sections 290bb–36d, 290dd–3, 1395*l*, 1395m, 1395cc–6, and 1396b of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section, section 823 of this title, and sections 241 and 284 of Title 42] may be cited as the 'Medical Marijuana and Cannabidiol Research Expansion Act'.''

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 117–53, § 1, Nov. 10, 2021, 135 Stat. 411, provided that: ''This Act [amending section 822 of this title] may be cited as the 'Ensuring Compliance Against Drug Diversion Act of 2021'.''

Pub. L. 117–36, § 1, Aug. 6, 2021, 135 Stat. 328, provided that: ''This Act [amending section 824 of this title] may be cited as the 'Debarment Enforcement of Bad Actor Registrants Act of 2021' or the 'DEBAR Act of 2021'.''

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115–271, title III, § 3211, Oct. 24, 2018, 132 Stat. 3947, provided that: ''This chapter [chapter 2 (§§ 3211, 3212) of subtitle B of title III of Pub. L. 115–271, enacting provisions set out as a note under section 829 of this title] may be cited as the 'Empowering Pharmacists in the Fight Against Opioid Abuse Act'.''

Pub. L. 115–271, title III, § 3221, Oct. 24, 2018, 132 Stat. 3947, provided that: ''This chapter [chapter 3 (§§ 3221–3223) of subtitle B of title III of Pub. L. 115–271, amending section 822 of this title and enacting provisions set out as notes under section 822 of this title] may be cited as the 'Safe Disposal of Unused Medication Act'.''

Pub. L. 115–271, title III, § 3231, Oct. 24, 2018, 132 Stat. 3949, provided that: ''This chapter [chapter 4 (§§ 3231, 3232) of subtitle B of title III of Pub. L. 115–271, amending section 831 of this title] may be cited as the 'Special Registration for Telemedicine Clarification Act of 2018'.''

Pub. L. 115–271, title III, § 3271, Oct. 24, 2018, 132 Stat. 3952, provided that: ''This chapter [chapter 7 (§§ 3271–3274) of subtitle B of title III of Pub. L. 115–271, amending sections 827, 842, and 873 of this title and enacting provisions set out as a note under section 827 of this title] may be cited as the 'Using Data To Prevent Opioid Diversion Act of 2018'.''

Pub. L. 115–271, title III, § 3281, Oct. 24, 2018, 132 Stat. 3954, provided that: ''This chapter [chapter 8 (§§ 3281, 3282) of subtitle B of title III of Pub. L. 115–271, amending section 826 of this title and enacting provisions set out as a note under section 826 of this title] may be cited as the 'Opioid Quota Reform Act'.''

Pub. L. 115–271, title III, § 3291, Oct. 24, 2018, 132 Stat. 3956, provided that: ''This chapter [chapter 9 (§§ 3291, 3292) of subtitle B of title III of Pub. L. 115–271, enacting section 832 of this title and amending section 802 of this title] may be cited as the 'Preventing Drug Diversion Act of 2018'.''

SHORT TITLE OF 2017 AMENDMENT

Pub. L. 115–83, § 1, Nov. 17, 2017, 131 Stat. 1267, provided that: ''This Act [amending section 823 of this title] may be cited as the 'Protecting Patient Access to Emergency Medications Act of 2017'.''

SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114–145, § 1, Apr. 19, 2016, 130 Stat. 354, provided that: ''This Act [amending sections 823 and 824 of this title] may be cited as the 'Ensuring Patient Access and Effective Drug Enforcement Act of 2016'.''

SHORT TITLE OF 2014 AMENDMENT

Pub. L. 113–260, § 1, Dec. 18, 2014, 128 Stat. 2929, provided that: ''This Act [amending sections 802, 811, 825, 842, and 960 of this title and enacting provisions set out as a note under section 825 of this title] may be cited as the 'Designer Anabolic Steroid Control Act of 2014'.''

Pub. L. 113–143, § 1, Aug. 1, 2014, 128 Stat. 1750, provided that: ''This Act [amending section 822 of this title] may be cited as the 'Veterinary Medicine Mobility Act of 2014'.''

SHORT TITLE OF 2012 AMENDMENT

Pub. L. 112–144, title XI, § 1151, July 9, 2012, 126 Stat. 1130, provided that: ''This subtitle [subtitle D

(§§ 1151–1153) of title XI of Pub. L. 112–144, amending sections 811 and 812 of this title] may be cited as the 'Synthetic Drug Abuse Prevention Act of 2012'.''

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–273, § 1, Oct. 12, 2010, 124 Stat. 2858, provided that: ''This Act [amending sections 822 and 828 of this title and enacting provisions set out as a note under section 822 of this title and listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Secure and Responsible Drug Disposal Act of 2010'.''

Pub. L. 111–268, § 1, Oct. 12, 2010, 124 Stat. 2847, provided that: ''This Act [amending sections 830 and 842 of this title and enacting provisions set out as notes under section 830 of this title] may be cited as the 'Combat Methamphetamine Enhancement Act of 2010'.''

Pub. L. 111–220, § 1, Aug. 3, 2010, 124 Stat. 2372, provided that: ''This Act [amending sections 841, 844, and 960 of this title and enacting provisions listed in a table relating to sentencing guidelines set out under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Fair Sentencing Act of 2010'.''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–425, § 1, Oct. 15, 2008, 122 Stat. 4820, provided that: ''This Act [enacting section 831 of this title, amending sections 802, 823, 827, 829, 841, 843, 882, and 960 of this title, and enacting provisions set out as notes under section 802 of this title and listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Ryan Haight Online Pharmacy Consumer Protection Act of 2008'.''

Pub. L. 110–415, § 1, Oct. 14, 2008, 122 Stat. 4349, provided that: ''This Act [amending section 830 of this title] may be cited as the 'Methamphetamine Production Prevention Act of 2008'.''

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, § 701, Mar. 9, 2006, 120 Stat. 256, provided that: ''This title [see Tables for classification] may be cited as the 'Combat Methamphetamine Epidemic Act of 2005'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–57, § 1(a), Aug. 2, 2005, 119 Stat. 592, provided that: ''This Act [amending section 953 of this title] may be cited as the 'Controlled Substances Export Reform Act of 2005'.''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–358, § 1, Oct. 22, 2004, 118 Stat. 1661, provided that: ''This Act [enacting section 290bb–25f of Title 42, The Public Health and Welfare, amending sections 802 and 811 of this title, enacting provisions set out as notes under section 802 of this title and section 290aa–4 of Title 42 and listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure, and amending provisions set out as a note under section 802 of this title] may be cited as the 'Anabolic Steroid Control Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–21, title VI, § 608(a), Apr. 30, 2003, 117 Stat. 691, provided that: ''This section [amending sections 843 and 856 of this title and enacting provisions listed in a table relating to sentencing guidelines set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Illicit Drug Anti-Proliferation Act of 2003'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–310, div. B, title XXXV, § 3501, Oct. 17, 2000, 114 Stat. 1222, provided that: ''This title [amending sections 823 and 824 of this title] may be cited as the 'Drug Addiction Treatment Act of 2000'.''

Pub. L. 106–310, div. B, title XXXVI, § 3601, Oct. 17, 2000, 114 Stat. 1227, provided that: ''This title [enacting section 864 of this title and sections 290aa–5b and 290bb–9 of Title 42, The Public Health and Welfare, amending sections 802, 830, 853, 856, and 863 of this title, sections 3663 and 3663A of Title 18, Crimes and Criminal Procedure, section 524 of Title 28, Judiciary and Judicial Procedure, and sections 285*o*–2 and 3751 of Title 42, and enacting provisions set out as notes under this section and sections 802, 872, 873, 886, and 1706 of this title, sections 524 and 994 of Title 28, and sections 201, 290aa–4, 290aa–5b and 3751 of Title 42] may be cited as the 'Methamphetamine Anti-Proliferation Act of 2000'.''

Pub. L. 106–172, § 1, Feb. 18, 2000, 114 Stat. 7, provided that: ''This Act [amending sections 802, 827, 841 and 960 of this title and enacting provisions set out as notes under this section and section 812 of this title] may be cited as the 'Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–277, div. C, title VIII, § 801(a), Oct. 21, 1998, 112 Stat. 2681–693, provided that: ''This title [enacting section 1713 of this title and section 2291–5 of Title 22, Foreign Relations and Intercourse, amending section 956 of this title, and enacting provisions set out as notes under sections 801 and 956 of this title and section 2291 of Title 22] may be cited as the 'Western Hemisphere Drug Elimination Act'.''

Pub. L. 105–277, div. C, title VIII, subtitle G (§§ 871, 872), § 871, Oct. 21, 1998, 112 Stat. 2681–707, and Pub. L. 105–357, § 1, Nov. 10, 1998, 112 Stat. 3271, provided that such subtitle and such Act, which amended section 956 of this title and enacted provisions set out as notes under section 956 of this title ''may be cited as the 'Controlled Substances Trafficking Prohibition Act'.''

Pub. L. 105–277, div. E, § 1, Oct. 21, 1998, 112 Stat. 2681–759, provided that: ''This division [amending sections 841 and 960 of this title and section 13705 of Title 42, The Public Health and Welfare] may be cited as the 'Methamphetamine Trafficking Penalty Enhancement Act of 1998'.''

SHORT TITLE OF 1996 AMENDMENTS

Pub. L. 104–305, § 1, Oct. 13, 1996, 110 Stat. 3807, provided that: ''This Act [amending sections 841, 844, 959, and 960 of this title and enacting provisions set out as notes under section 872 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Drug-Induced Rape Prevention and Punishment Act of 1996'.''

Pub. L. 104–237, § 1(a), Oct. 3, 1996, 110 Stat. 3099, provided that: ''This Act [enacting section 872a of this title, amending sections 802, 814, 830, 841 to 844, 853, 881, 959, and 960 of this title and section 1607 of Title 19, Customs Duties, and enacting provisions set out as notes under this section and sections 802, 872, and 971 of this title, section 994 of Title 28, Judiciary and Judicial Procedure, and section 290aa–4 of Title 42, The Public Health and Welfare] may be cited as the 'Comprehensive Methamphetamine Control Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–322, title XVIII, § 180201(a), Sept. 13, 1994, 108 Stat. 2046, provided that: ''This section [enacting section 849 of this title, amending section 841 of this title, and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'Drug Free Truck Stop Act'.''

SHORT TITLE OF 1993 AMENDMENT

Pub. L. 103–200, § 1, Dec. 17, 1993, 107 Stat. 2333, provided that: ''This Act [enacting section 814 of this title, amending sections 802, 821 to 824, 830, 843, 880, 957, 958, 960, and 971 of this title, and enacting provisions set out as a note under section 802 of this title] may be cited as the 'Domestic Chemical Diversion Control Act of 1993'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–647, title XIX, § 1901, Nov. 29, 1990, 104 Stat. 4851, provided that: ''This Act [probably means title XIX of Pub. L. 101–647, which amended sections 333, 802, 812, and 844 of this title and section 290aa–6 of Title 42, The Public Health and Welfare, repealed section 333a of this title, and enacted provisions set out as notes under sections 802 and 829 of this title] may be cited as the 'Anabolic Steroids Control Act of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–690, title VI, § 6001, Nov. 18, 1988, 102 Stat. 4312, provided that: ''This title [see Tables for classification] may be cited as the 'Anti-Drug Abuse Amendments Act of 1988'.''

Pub. L. 100–690, title VI, § 6051, Nov. 18, 1988, 102 Stat. 4312, provided that: ''This subtitle [subtitle A (§§ 6051–6061) of title VI of Pub. L. 100–690, enacting section 971 of this title, amending sections 802, 830, 841 to 843, 872, 876, 881, 960, and 961 of this title, and enacting provisions set out as notes under sections 802 and 971 of this title] may be cited as the 'Chemical Diversion and Trafficking Act of 1988'.''

Pub. L. 100–690, title VI, § 6071, Nov. 18, 1988, 102 Stat. 4320, provided that: ''This subtitle [subtitle B (§§ 6071–6080) of title VI of Pub. L. 100–690, enacting sections 881–1, 887, and 1509 of this title, amending section 881 of this title, section 1594 of Title 19, Customs Duties, section 524 of Title 28, Judiciary and Judicial Procedure, and section 782 of former Title 49, Transportation, and enacting provisions set out as notes under section 881 of this title] may be cited as the 'Asset Forfeiture Amendments Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–570, § 1, Oct. 27, 1986, 100 Stat. 3207, provided that: ''This Act [see Tables for classification] may be cited as the 'Anti-Drug Abuse Act of 1986'.''

Pub. L. 99–570, title I, § 1001, Oct. 27, 1986, 100 Stat. 3207–2, provided that: ''This subtitle [subtitle A (§§ 1001–1009) of title I of Pub. L. 99–570, amending sections 802, 841, 845, 845a, 848, 881, 960, and 962 of this title, sections 3553 and 3583 of Title 18, Crimes and Criminal Procedure, rule 35 of the Federal Rules of Criminal Procedure, Title 18, Appendix, and section 994 of Title 28, Judiciary and Judicial Procedure, and enacting provisions set out as notes under section 841 of this title, sections 3553 and 3583 of Title 18, and rule 35 of the Federal Rules of Criminal Procedure] may be cited as the 'Narcotics Penalties and Enforcement Act of 1986'.''

Pub. L. 99–570, title I, § 1051, Oct. 27, 1986, 100 Stat. 3207–8, provided that: ''This subtitle [subtitle B (§§ 1051, 1052) of title I of Pub. L. 99–570, amending section 844 of this title] may be cited as the 'Drug Possession Penalty Act of 1986'.''

Pub. L. 99–570, title I, § 1101, Oct. 27, 1986, 100 Stat. 3207–10, provided that: ''This subtitle [subtitle C (§§ 1101–1105) of title I of Pub. L. 99–570, enacting section 845b of this title and amending sections 841, 845, and 845a of this title] may be cited as the 'Juvenile Drug Trafficking Act of 1986'.''

Pub. L. 99–570, title I, § 1201, Oct. 27, 1986, 100 Stat. 3207–13, provided that: ''This subtitle [subtitle E (§§ 1201–1204) of title I of Pub. L. 99–570, enacting section 813 of this title and amending section 802 of this title] may be cited as the 'Controlled Substance Analogue Enforcement Act of 1986'.''

Pub. L. 99–570, title I, § 1251, Oct. 27, 1986, 100 Stat. 3207–14, provided that: ''This subtitle [subtitle F (§§ 1251–1253) of title I of Pub. L. 99–570, amending section 848 of this title] may be cited as the 'Continuing Drug Enterprises Act of 1986'.''

Pub. L. 99–570, title I, § 1301, Oct. 27, 1986, 100 Stat. 3207–15, provided that: ''This subtitle [subtitle G (§§ 1301, 1302) of title I of Pub. L. 99–570, amending section 960 of this title] may be cited as the 'Controlled Substances Import and Export Penalties Enhancement Act of 1986'.''

Pub. L. 99–570, title I, § 1821, Oct. 27, 1986, 100 Stat. 3207–51, which provided that subtitle O (§§ 1821–1823) of title I of Pub. L. 99–570, enacting section 857 of this title and provisions set out as a note under section 857 of this title, was to be cited as the ''Mail Order Drug Paraphernalia Control Act'', was repealed by Pub. L. 101–647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859.

Pub. L. 99–570, title I, § 1991, Oct. 27, 1986, 100 Stat. 3207–59, provided that: ''This subtitle [subtitle U (§§ 1991, 1992) of title I of Pub. L. 99–570, amending section 881 of this title] may be cited as the 'Federal Drug Law Enforcement Agent Protection Act of 1986'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–473, title II, § 501, Oct. 12, 1984, 98 Stat. 2068, provided that: ''This chapter [chapter V (§§ 501–525) of title II of Pub. L. 98–473, enacting section 845a of this title, amending sections 802, 811, 812, 822–824, 827, 841, 843, 845, 873, 881, 952, 953, 957, 958, 960, and 962 of this title, and enacting provisions set out as a note under this section] may be cited as the 'Controlled Substances Penalties Amendments Act of 1984'.''

Pub. L. 98–473, title II, § 506(a), Oct. 12, 1984, 98 Stat. 2070, provided that: ''This part [part B of chapter V (§§ 506–525) of title II of Pub. L. 98–473, amending sections 802, 811, 812, 822–824, 827, 843, 873, 881, 952, 953, 957, and 958 of this title] may be cited as the 'Dangerous Drug Diversion Control Act of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–633, § 1, Nov. 10, 1978, 92 Stat. 3768, provided: ''That this Act [enacting sections 801a, 830, and 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealing section 830 of this title (effective Jan. 1, 1981), and enacting provisions set out as notes under sections 801a, 812, and 830 of this title] may be cited as the 'Psychotropic Substances Act of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–281, § 1, May 14, 1974, 88 Stat. 124, provided: ''That this Act [amending sections 802, 823, 824, and 827 of this title] may be cited as the 'Narcotic Addict Treatment Act of 1974'.''

SHORT TITLE

Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, provided: ''That this Act [enacting this chapter and sections 257a, 2688*l*–1, 2688n–1, and 3509 of Title 42, The Public Health and Welfare, amending sections 162, 198a, 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114, 1952, and 4251 of Title 18, Crimes and Criminal Procedure, sections 1584, 2078, 2079, and 2080 of Title 19, Customs Duties, sections 4901, 4905, 6808, 7012, 7103, 7326, 7607, 7609, 7641, 7651, and 7655 of Title 26, Internal Revenue Code, section 2901 of Title 28, Judiciary and Judicial Procedure, section 304m of former Title 40, Public Buildings, Property, and Works, sections 201, 225a, 242, 242a, 246, 257, 258, 259, 260, 261, 261a, 2688k, 2688*l*, 2688m, 2688n, 2688*o*, 2688r, and 3411 of Title 42, The Public Health and Welfare, section 239a of former Title 46, Shipping, and section 787 of Title 49, Appendix, Transportation, repealing sections 171 to 174, 176 to 185, 188 to 188n, 191 to 193, 197, 198, 199, 360a, and 501 to 517 of this title, sections 1401 to 1407 and 3616 of Title 18, sections 4701 to 4707, 4711 to 4716, 4721 to 4726, 4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, 4771 to 4776, 7237, 7238, and 7491 of Title 26, sections 529a and 529g of former Title 31, Money and Finance, and section 1421m of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section and sections 171, 321, 822, 951, and 957 of this title] may be cited as the 'Comprehensive Drug Abuse Prevention and Control Act of 1970'.''

Pub. L. 91–513, title II, § 100, Oct. 27, 1970, 84 Stat. 1242, provided that: ''This title [enacting this subchapter, repealing section 360a of this title, amending sections 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114 and 1952 of Title 18, Crimes and Criminal Procedure, and section 242 of Title 42, The Public Health and Wel-

fare, and enacting provisions set out as notes under this section and sections 321 and 822 of this title] may be cited as the 'Controlled Substances Act'.''

For short title and complete classification of title III of Pub. L. 91–513, which enacted subchapter II of this chapter, as the ''Controlled Substances Import and Export Act'', see section 1000 of Pub. L. 91–513, set out as a note under section 951 of this title.

SEVERABILITY

Pub. L. 106–310, div. B, title XXXVI, §3673, Oct. 17, 2000, 114 Stat. 1246, provided that: ''Any provision of this title [see Short Title of 2000 Amendments note above] held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.''

CONTINUATION OF ORDERS, RULES, AND REGULATIONS

Pub. L. 91–513, title II, §705, Oct. 27, 1970, 84 Stat. 1284, provided that: ''Any orders, rules, and regulations which have been promulgated under any law affected by this title [see Short Title note above] and which are in effect on the day preceding enactment of this title [Oct. 27, 1970] shall continue in effect until modified, superseded, or repealed.''

DOCTOR-PATIENT RELATIONSHIP

Pub. L. 117–215, title III, §301, Dec. 2, 2022, 136 Stat. 2265, provided that: ''It shall not be a violation of the Controlled Substances Act (21 U.S.C. 801 et seq.) for a State-licensed physician to discuss—

''(1) the currently known potential harms and benefits of marijuana derivatives, including cannabidiol, as a treatment with the legal guardian of the patient of the physician if the patient is a child; or

''(2) the currently known potential harms and benefits of marijuana and marijuana derivatives, including cannabidiol, as a treatment with the patient or the legal guardian of the patient of the physician if the patient is a legal adult.''

[For definitions of ''State'', ''marijuana'', and ''cannabidiol'' as used in section 301 of Pub. L. 117–215, set out above, see section 2(a) of Pub. L. 117–215, set out below.]

ANTI-DRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET SITES

Pub. L. 106–391, title III, §320, Oct. 30, 2000, 114 Stat. 1597, provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 30, 2000], the Administrator [of the National Aeronautics and Space Administration], in consultation with the Director of the Office of National Drug Control Policy, shall place anti-drug messages on Internet sites controlled by the National Aeronautics and Space Administration.''

Pub. L. 106–310, div. B, title XXXVI, §3671, Oct. 17, 2000, 114 Stat. 1245, provided that: ''Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2000], the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place antidrug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.''

PROTOCOLS FOR INVESTIGATIONS AND PROSECUTIONS RELATING TO DATE-RAPE DRUGS AND OTHER CONTROLLED SUBSTANCES; ANNUAL REPORT; NATIONAL AWARENESS CAMPAIGN

Pub. L. 106–172, §§6, 7, Feb. 18, 2000, 114 Stat. 11, as amended by Pub. L. 111–8, div. G, title I, §1301(d), Mar. 11, 2009, 123 Stat. 829, provided that:

''SEC. 6. DEVELOPMENT OF MODEL PROTOCOLS, TRAINING MATERIALS, FORENSIC FIELD TESTS, AND COORDINATION MECHANISM FOR INVESTIGATIONS AND PROSECUTIONS RELATING TO GAMMA HYDROXYBUTYRIC ACID, OTHER CONTROLLED SUBSTANCES, AND DESIGNER DRUGS.

''(a) IN GENERAL.—The Attorney General, in consultation with the Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation, shall—

''(1) develop—

''(A) model protocols for the collection of toxicology specimens and the taking of victim statements in connection with investigations into and prosecutions related to possible violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving abuse of gamma hydroxybutyric acid, other controlled substances, or so-called 'designer drugs'; and

''(B) model training materials for law enforcement personnel involved in such investigations; and

''(2) make such protocols and training materials available to Federal, State, and local personnel responsible for such investigations.

''(b) GRANT.—

''(1) IN GENERAL.—The Attorney General shall make a grant, in such amount and to such public or private person or entity as the Attorney General considers appropriate, for the development of forensic field tests to assist law enforcement officials in detecting the presence of gamma hydroxybutyric acid and related substances.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

''(c) REPORT.—Not later than 180 days after the date of the enactment of this Act [Feb. 18, 2000], the Attorney General shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on current mechanisms for coordinating Federal, State, and local investigations into and prosecutions related to possible violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] or other Federal or State laws that result in or contribute to rape, other crimes of violence, or other crimes involving the abuse of gamma hydroxybutyric acid, other controlled substances, or so-called 'designer drugs'. The report shall also include recommendations for the improvement of such mechanisms.

''SEC. 7. ANNUAL REPORT REGARDING DATE-RAPE DRUGS; NATIONAL AWARENESS CAMPAIGN.

''(a) ANNUAL REPORT.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary') shall periodically submit to Congress reports each of which provides an estimate of the number of incidents of the abuse of date-rape drugs (as defined in subsection (c)) that occurred during the most recent 1-year period for which data are available. The first such report shall be submitted not later than January 15, 2000, and subsequent reports shall be submitted annually thereafter.

''(b) NATIONAL AWARENESS CAMPAIGN.—

''(1) DEVELOPMENT OF PLAN; RECOMMENDATIONS OF ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall develop a plan for carrying out a national campaign to educate individuals described in subparagraph (B) on the following:

''(i) The dangers of date-rape drugs.

''(ii) The applicability of the Controlled Substances Act [21 U.S.C. 801 et seq.] to such drugs, including penalties under such Act.

''(iii) Recognizing the symptoms that indicate an individual may be a victim of such drugs, including symptoms with respect to sexual assault.

''(iv) Appropriately responding when an individual has such symptoms.

''(B) INTENDED POPULATION.—The individuals referred to in subparagraph (A) are young adults, youths, law enforcement personnel, educators, school nurses, counselors of rape victims, and emergency room personnel in hospitals.

''(C) ADVISORY COMMITTEE.—Not later than 180 days after the date of the enactment of this Act [Feb. 18, 2000], the Secretary shall establish an advisory committee to make recommendations to the Secretary regarding the plan under subparagraph (A). The committee shall be composed of individuals who collectively possess expertise on the effects of date-rape drugs and on detecting and controlling the drugs.

''(2) IMPLEMENTATION OF PLAN.—Not later than 180 days after the date on which the advisory committee under paragraph (1) is established, the Secretary, in consultation with the Attorney General, shall commence carrying out the national campaign under such paragraph in accordance with the plan developed under such paragraph. The campaign may be carried out directly by the Secretary and through grants and contracts.

''(c) DEFINITION.—For purposes of this section, the term 'date-rape drugs' means gamma hydroxybutyric acid and its salts, isomers, and salts of isomers and such other drugs or substances as the Secretary, after consultation with the Attorney General, determines to be appropriate.''

CONGRESSIONAL FINDINGS REGARDING METHAMPHETAMINE MANUFACTURE AND ABUSE

Pub. L. 104–237, § 2, Oct. 3, 1996, 110 Stat. 3100, provided that: ''The Congress finds the following:

''(1) Methamphetamine is a very dangerous and harmful drug. It is highly addictive and is associated with permanent brain damage in long-term users.

''(2) The abuse of methamphetamine has increased dramatically since 1990. This increased use has led to devastating effects on individuals and the community, including—

''(A) a dramatic increase in deaths associated with methamphetamine ingestion;

''(B) an increase in the number of violent crimes associated with methamphetamine ingestion; and

''(C) an increase in criminal activity associated with the illegal importation of methamphetamine and precursor compounds to support the growing appetite for this drug in the United States.

''(3) Illegal methamphetamine manufacture and abuse presents an imminent public health threat that warrants aggressive law enforcement action, increased research on methamphetamine and other substance abuse, increased coordinated efforts to prevent methamphetamine abuse, and increased monitoring of the public health threat methamphetamine presents to the communities of the United States.''

SUPPORT FOR INTERNATIONAL EFFORTS TO CONTROL METHAMPHETAMINE AND PRECURSORS

Pub. L. 104–237, title I, § 101, Oct. 3, 1996, 110 Stat. 3100, provided that: ''The Attorney General, in consultation with the Secretary of State, shall coordinate international drug enforcement efforts to decrease the movement of methamphetamine and methamphetamine precursors into the United States.''

INTERAGENCY METHAMPHETAMINE TASK FORCE

Pub. L. 104–237, title V, § 501, Oct. 3, 1996, 110 Stat. 3111, provided for the establishment of a Methamphetamine Interagency Task Force to design and implement education, prevention, and treatment strategies with respect to methamphetamine and other synthetic stimulants and for the task force to terminate 4 years after Oct. 3, 1996.

SUSPICIOUS ORDERS TASK FORCE

Pub. L. 104–237, title V, § 504, Oct. 3, 1996, 110 Stat. 3112, directed the Attorney General to establish a Suspicious Orders Task Force which would develop proposals to define suspicious orders of listed chemicals for registrants to use in determining if an order was a suspicious order that must be reported to DEA and would terminate upon presentation of its report to the Attorney General, or two years after Oct. 3, 1996, whichever was sooner.

JOINT FEDERAL TASK FORCE ON ILLEGAL DRUG LABORATORIES

Pub. L. 100–690, title II, § 2405, Nov. 18, 1988, 102 Stat. 4231, provided that:

''(a) ESTABLISHMENT OF TASK FORCE.—There is established the Joint Federal Task Force on Illegal Drug Laboratories (hereafter in this section referred to as the 'Task Force').

''(b) APPOINTMENT AND MEMBERSHIP OF TASK FORCE.—The members of the Task Force shall be appointed by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration (hereafter in this section referred to as the 'Administrators'). The Task Force shall consist of at least 6 and not more than 20 members. Each Administrator shall appoint one-half of the members as follows: (1) the Administrator of the Environmental Protection Agency shall appoint members from among Emergency Response Technicians and other appropriate employees of the Agency; and (2) the Administrator of the Drug Enforcement Administration shall appoint members from among Special Agents assigned to field divisions and other appropriate employees of the Administration.

''(c) DUTIES OF TASK FORCE.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. In formulating such program, the Task Force shall consider the following factors:

''(1) The volume of hazardous waste produced by illegal drug laboratories.

''(2) The cost of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration in cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

''(5) The dissemination of information to law enforcement agencies that have responsibility for enforcement of drug laws.

''(d) GUIDELINES.—The Task Force shall recommend to the Administrators guidelines for cleanup of illegal drug laboratories to protect the public health and environment. Not later than 180 days after the date of the enactment of this subtitle [Nov. 18, 1988], the Administrators shall formulate and publish such guidelines.

''(e) DEMONSTRATION PROJECTS.—

''(1) The Attorney General shall make grants to, and enter into contracts with, State and local governments for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

''(2) The Attorney General may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (d).

''(3) The Attorney General shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this subsection and shall recommend appropriate legislation to the Congress.

''(f) FUNDING.—Of the amounts made available to carry out the Controlled Substances Act [21 U.S.C. 801 et seq.] for fiscal year 1989, not less than $5,000,000 shall be made available to carry out subsections (d) and (e).

''(g) REPORTS.—After consultation with the Task Force, the Administrators shall—

''(1) transmit to the President and to each House of Congress not later than 270 days after the date of the

enactment of this subtitle [Nov. 18, 1988] a report describing the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection);

''(2) periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection) and the progress made in the clean-up and disposal of hazardous waste produced by illegal drug laboratories; and

''(3) transmit to each House of Congress a report describing the findings made as a result of the evaluations referred to in subsection (e)(3).''

GREAT LAKES DRUG INTERDICTION

Pub. L. 100–690, title VII, §7404, Nov. 18, 1988, 102 Stat. 4484, provided that:

''(a) INTERAGENCY AGREEMENT.—The Secretary of Transportation and the Secretary of the Treasury shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

''(b) NEGOTIATIONS WITH CANADA ON DRUG ENFORCEMENT COOPERATION.—The Secretary of State is encouraged to enter into negotiations with appropriate officials of the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to law enforcement efforts conducted on the Great Lakes between the United States and Canada.''

[For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6. For establishment of U.S. Customs and Border Protection in the Department of Homeland Security, treated as if included in Pub. L. 107–296 as of Nov. 25, 2002, see section 211 of Title 6, as amended generally by Pub. L. 114–125, and section 802(b) of Pub. L. 114–125, set out as a note under section 211 of Title 6.]

GAO STUDY OF CAPABILITIES OF UNITED STATES TO CONTROL DRUG SMUGGLING INTO UNITED STATES

Pub. L. 100–180, div. A, title XII, §1241, Dec. 4, 1987, 101 Stat. 1162, directed Comptroller General of the United States to conduct a comprehensive study regarding smuggling of illegal drugs into United States and current capabilities of United States to deter such smuggling, with special consideration given to issues involving use of military and National Guard units along with Customs Service in cooperative drug smuggling interdiction efforts, and to issue, not later than Apr. 30, 1988, and Mar. 31, 1989, reports to Congress outlining results of this study.

COMPLIANCE WITH BUDGET ACT

Pub. L. 99–570, §3, Oct. 27, 1986, 100 Stat. 3207–1, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification], any spending authority and any credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. For purposes of this Act, the term 'spending authority' has the meaning provided in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)] and the term 'credit authority' has the meaning provided in section 3(10) of the Congresssional [sic] Budget Act of 1974 [2 U.S.C. 622(10)].''

DRUG INTERDICTION

Pub. L. 99–570, title III, §§3001–3003, 3301, Oct. 27, 1986, 100 Stat. 3207–73, 3207–74, 3207–98, as amended by Pub. L. 104–66, title I, §1091(a), Dec. 21, 1995, 109 Stat. 722, provided that:

''SEC. 3001. SHORT TITLE.

''This title [enacting section 379 of Title 10, Armed Forces, sections 1590, 1628, 1629, and 2081 of Title 19, Customs Duties, and section 312a of Title 47, Telecommunications, amending section 959 of this title, sections 374 and 911 of Title 10, sections 507, 1401, 1433, 1436, 1454, 1459, 1497, 1509, 1584 to 1586, 1594 to 1595a, 1613, 1613b, 1619, and 1622 of Title 19, section 5316 of Title 31, Money and Finance, section 12109 of Title 46, Shipping, sections 1901 to 1904 of Title 46, Appendix, Shipping, and sections 1401, 1472, 1474, and 1509 of former Title 49, Transportation, repealing section 1460 of Title 19, enacting provisions set out as notes under section 801 of this title, sections 371, 374, 525, and 9441 of Title 10, sections 1613b and 1654 of Title 19, section 403 of Title 23, Highways, section 1901 of Title 46, Appendix, section 11344 of Title 49, and section 1509 of former Title 49, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard] may be cited as the 'National Drug Interdiction Improvement Act of 1986'.

''SEC. 3002. FINDINGS.

''The Congress hereby finds that—

''(1) a balanced, coordinated, multifaceted strategy for combating the growing drug abuse and drug trafficking problem in the United States is essential in order to stop the flow and abuse of drugs within our borders;

''(2) a balanced, coordinated, multifaceted strategy for combating the narcotics drug abuse and trafficking in the United States should include—

''(A) increased investigations of large networks of drug smuggler organizations;

''(B) source country drug eradication;

''(C) increased emphasis on stopping narcotics traffickers in countries through which drugs are transshipped;

''(D) increased emphasis on drug education programs in the schools and workplace;

''(E) increased Federal Government assistance to State and local agencies, civic groups, school systems, and officials in their efforts to combat the drug abuse and trafficking problem at the local level; and

''(F) increased emphasis on the interdiction of drugs and drug smugglers at the borders of the United States, in the air, at sea, and on the land;

''(3) funds to support the interdiction of narcotics smugglers who threaten the transport of drugs through the air, on the sea, and across the land borders of the United States should be emphasized in the Federal Government budget process to the same extent as the other elements of a comprehensive anti-drug effort are emphasized;

''(4) the Department of Defense and the use of its resources should be an integral part of a comprehensive, natonal [national] drug interdiction program;

''(5) the Federal Government civilian agencies engaged in drug interdiction, particularly the United States Customs Service and the Coast Guard, currently lack the aircraft, ships, radar, command, control, communications, and intelligence (C3I) system, and manpower resources necessary to mount a comprehensive attack on the narcotics traffickers who threaten the United States;

''(6) the civilian drug interdiction agencies of the United States are currently interdicting only a small percentage of the illegal, drug smuggler penetrations in the United States every year;

''(7) the budgets for our civilian drug interdiction agencies, primarily the United States Customs Service and the Coast Guard, have not kept pace with those of the traditional investigative law enforcement agencies of the Department of Justice; and

''(8) since the amendment of the Posse Comitatus Act (18 U.S.C. 1385) in 1981, the Department of Defense has assisted in the effort to interdict drugs, but they can do more.

''SEC. 3003. PURPOSES.

''It is the purpose of this title—

''(1) to increase the level of funding and resources available to civilian drug interdiction agencies of the Federal Government;

''(2) to increase the level of support from the Department of Defense as consistent with the Posse Comitatus Act [18 U.S.C. 1385], for interdiction of the narcotics traffickers before such traffickers penetrate the borders of the United States; and

''(3) to improve other drug interdiction programs of the Federal Government.

''SEC. 3301. ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE

''(a) AUTHORIZATION OF APPROPRIATIONS.—

''(1) ESTABLISHMENT OF A UNITED STATES-BAHAMAS DRUG INTERDICTION TASK FORCE.—(A) There is authorized to be established a United States-Bahamas Drug Interdiction Task Force to be operated jointly by the United States Government and the Government of the Bahamas.

''(B) The Secretary of State, the Commandant of the Coast Guard, the Commissioner of Customs, the Attorney General, and the head of the National Narcotics Border Interdiction System (NNBIS), shall upon enactment of this Act [Oct. 27, 1986], immediately commence negotiations with the Government of the Bahamas to enter into a detailed agreement for the establishment and operation of a new drug interdiction task force, including plans for (i) the joint operation and maintenance of any drug interdiction assets authorized for the task force in this section and section 3141 [see 19 U.S.C. 2075], and (ii) any training and personnel enhancements authorized in this section and section 3141.

''(2) AMOUNTS AUTHORIZED.—There are authorized to be appropriated, in addition to any other amounts authorized to be appropriated in this title [see section 3001 of Pub. L. 99–570 set out above], $10,000,000 for the following:

''(A) $9,000,000 for 3 drug interdiction pursuit helicopters for use primarily for operations of the United States-Bahamas Drug Interdiction Task Force established under this section; and

''(B) $1,000,000 to enhance communications capabilities for the operation of a United States-Bahamas Drug Interdiction Task Force established under this section.

''(3) COAST GUARD-BAHAMAS DRUG INTERDICTION DOCKING FACILITY.—(A) There is authorized to be appropriated for acquisition, construction, and improvements for the Coast Guard for fiscal year 1987, $5,000,000, to be used for initial design engineering, and other activities for construction of a drug interdiction docking facility in the Bahamas to facilitate Coast Guard and Bahamian drug interdiction operations in and through the Bahama Islands. Of the amounts authorized to be appropriated in this subsection, such sums as may be necessary shall be available for necessary communication and air support.

''(B) The Commandant of the Coast Guard shall use such amounts appropriated pursuant to the authorization in this paragraph as may be necessary to establish a repair, maintenance, and boat lift facility to provide repair and maintenance services for both Coast Guard and Bahamian marine drug interdiction equipment, vessels, and related assets.

''(b) CONCURRENCE BY SECRETARY OF STATE.—Programs authorized by this section may be carried out only with the concurrence of the Secretary of State.''

INFORMATION ON DRUG ABUSE AT THE WORKPLACE

Pub. L. 99–570, title IV, § 4303, Oct. 27, 1986, 100 Stat. 3207–154, directed Secretary of Labor to collect such information as is available on the incidence of drug abuse in the workplace and efforts to assist workers, including counseling, rehabilitation and employee assistance programs, to conduct such additional research as is necessary to assess the impact and extent of drug abuse and remediation efforts, and submit the findings of such collection and research to Congress no later than two years from Oct. 27, 1986.

INTERAGENCY COORDINATION

Pub. L. 99–570, title IV, § 4304, Oct. 27, 1986, 100 Stat. 3207–154, provided that:

''(a) The Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor shall each designate an officer or employee of the Departments of Education, Health and Human Services, and Labor, respectively, to coordinate interagency drug abuse prevention activities to prevent duplication of effort.

''(b) Within one year after enactment of this Act [Oct. 27, 1986], a report shall be jointly submitted to the Congress by such Secretaries concerning the extent to which States and localities have been able to implement non-duplicative drug abuse prevention activities.''

SUBSTANCE ABUSE COVERAGE STUDY

Pub. L. 99–570, title VI, § 6005, Oct. 27, 1986, 100 Stat. 3207–160, as amended by Pub. L. 100–690, title II, § 2058(c), Nov. 18, 1988, 102 Stat. 4214, directed Secretary of Health and Human Services to contract with Institute of Medicine of National Academy of Sciences to conduct a study of extent to which cost of drug abuse treatment is covered by private insurance, public programs, and other sources of payment, and adequacy of such coverage for the rehabilitation of drug abusers, and not later than 18 months after execution of such contract to transmit to Congress a report of results of study, including recommendations of means to meet the needs identified in such study.

HEALTH INSURANCE COVERAGE FOR DRUG AND ALCOHOL TREATMENT

Pub. L. 99–570, title VI, § 6006, Oct. 27, 1986, 100 Stat. 3207–160, provided that:

''(a) FINDINGS.—The Congress finds that—

''(1) drug and alcohol abuse are problems of grave concern and consequence in American society;

''(2) over 500,000 individuals are known heroin addicts; 5 million individuals use cocaine; and at least 7 million individuals regularly use prescription drugs, mostly addictive ones, without medical supervision;

''(3) 10 million adults and 3 million children and adolescents abuse alcohol, and an additional 30 to 40 million people are adversely affected because of close family ties to alcoholics;

''(4) the total cost of drug abuse to the Nation in 1983 was over $60,000,000,000; and

''(5) the vast majority of health benefits plans provide only limited coverage for treatment of drug and alcohol addiction, which is a fact that can discourage the abuser from seeking treatment or, if the abuser does seek treatment, can cause the abuser to face significant out of pocket expenses for the treatment.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) all employers providing health insurance policies should ensure that the policies provide adequate coverage for treatment of drug and alcohol addiction in recognition that the health consequences and costs

for individuals and society can be as formidable as those resulting from other diseases and illnesses for which insurance coverage is much more adequate; and

''(2) State insurance commissioners should encourage employers providing health benefits plans to ensure that the policies provide more adequate coverage for treatment of drug and alcohol addiction.''

COMMISSION ON MARIHUANA AND DRUG ABUSE

Pub. L. 91–513, title II, § 601, Oct. 27, 1970, 84 Stat. 1280, as amended by Pub. L. 92–13, May 14, 1971, 85 Stat. 37, provided that:

''(a) [ESTABLISHMENT; COMPOSITION] There is established a commission to be known as the Commission on Marihuana and Drug Abuse (hereafter in this section referred to as the 'Commission'). The Commission shall be composed of—

''(1) two Members of the Senate appointed by the President of the Senate;

''(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

''(3) nine members appointed by the President of the United States.

At no time shall more than one of the members appointed under paragraph (1), or more than one of the members appointed under paragraph (2), or more than five of the members appointed under paragraph (3) be members of the same political party.

''(b) [CHAIRMAN; VICE CHAIRMAN; COMPENSATION OF MEMBERS; MEETINGS] (1) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

''(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

''(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

''(c) [PERSONNEL; EXPERTS; INFORMATION FROM DEPARTMENTS AND AGENCIES] (1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

''(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including traveltime. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

''(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

''(d) [MARIHUANA STUDY; REPORT TO THE PRESIDENT AND THE CONGRESS] (1) The Commission shall conduct a study of marihuana including, but not limited to, the following areas:

''(A) the extent of use of marihuana in the United States to include its various sources of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

''(B) an evaluation of the efficacy of existing marihuana laws;

''(C) a study of the pharmacology of marihuana and its immediate and long-term effects, both physiological and psychological;

''(D) the relationship of marihuana use to aggressive behavior and crime;

''(E) the relationship between marihuana and the use of other drugs; and

''(F) the international control of marihuana.

''(2) Within one year after the date on which funds first become available to carry out this section, the Commission shall submit to the President and the Congress a comprehensive report on its study and investigation under this subsection which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

''(e) [STUDY AND INVESTIGATION OF CAUSES OF DRUG ABUSE; REPORT TO THE PRESIDENT AND THE CONGRESS; TERMINATION OF COMMISSION] The Commission shall conduct a comprehensive study and investigation of the causes of drug abuse and their relative significance. The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

''(f) [LIMITATION ON EXPENDITURES] Total expenditures of the Commission shall not exceed $4,000,000.''

DEFINITIONS

Pub. L. 117–215, § 2(a), Dec. 2, 2022, 136 Stat. 2257, provided that:

''(a) IN GENERAL.—In this Act [see Short Title of 2022 Amendment note set out above]—

''(1) the term 'appropriately registered' means that an individual or entity is registered under the Controlled Substances Act (21 U.S.C. 801 et seq.) to engage in the type of activity that is carried out by the individual or entity with respect to a controlled substance on the schedule that is applicable to cannabidiol or marijuana, as applicable;

''(2) the term 'cannabidiol' means—

''(A) the substance, cannabidiol, as derived from marijuana that has a delta-9-tetrahydrocannabinol level that is greater than 0.3 percent; and

''(B) the synthetic equivalent of the substance described in subparagraph (A);

''(3) the terms 'controlled substance', 'dispense', 'distribute', 'manufacture', 'marijuana', and 'practitioner' have the meanings given such terms in section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by this Act;

''(4) the term 'covered institution of higher education' means an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that—

''(A)(i) has highest or higher research activity, as defined by the Carnegie Classification of Institutions of Higher Education; or

''(ii) is an accredited medical school or an accredited school of osteopathic medicine; and

''(B) is appropriately registered under the Controlled Substances Act (21 U.S.C. 801 et seq.);

''(5) the term 'drug' has the meaning given the term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1));

''(6) the term 'medical research for drug development' means medical research that is—

''(A) a preclinical study or clinical investigation conducted in accordance with section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) or otherwise permitted by the Department of Health and Human Services to determine the potential medical benefits of marijuana or cannabidiol as a drug; and

''(B) conducted by a covered institution of higher education, practitioner, or manufacturer that is appropriately registered under the Controlled Substances Act (21 U.S.C. 801 et seq.); and

''(7) the term 'State' means any State of the United States, the District of Columbia, and any territory of the United States.''

Executive Documents

EXECUTIVE ORDER NO. 11599

Ex. Ord. No. 11599, June 17, 1971, 36 F.R. 11793, which established the Special Action Office for Drug Abuse Prevention, was superseded. See Prior Provisions notes set out under section 1111 of this title.

EXECUTIVE ORDER NO. 11641

Ex. Ord. No. 11641, Jan. 28, 1972, 37 F.R. 2421, which established the Office for Drug Abuse Law Enforcement, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out below.

EXECUTIVE ORDER NO. 11676

Ex. Ord. No. 11676, July 27, 1972, 37 F.R. 15125, which established the Office of National Narcotics Intelligence, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out below.

EX. ORD. NO. 11727. DRUG LAW ENFORCEMENT

Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, provided:

Reorganization Plan No. 2 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees], which becomes effective on July 1, 1973, among other things establishes a Drug Enforcement Administration in the Department of Justice. In my message to the Congress transmitting that plan, I stated that all functions of the Office for Drug Abuse Law Enforcement (established pursuant to Executive Order No. 11641 of January 28, 1972) and the Office of National Narcotics Intelligence (established pursuant to Executive Order No. 11676 of July 27, 1972) would, together with other related functions, be merged in the new Drug Enforcement Administration.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including section 5317 of title 5 of the United States Code, as amended, it is hereby ordered as follows:

SECTION 1. The Attorney General, to the extent permitted by law, is authorized to coordinate all activities of executive branch departments and agencies which are directly related to the enforcement of laws respecting narcotics and dangerous drugs. Each department and agency of the Federal Government shall, upon request and to the extent permitted by law, assist the Attorney General in the performance of functions assigned to him pursuant to this order, and the Attorney General may, in carrying out those functions, utilize the services of any other agencies, Federal and State, as may be available and appropriate.

SEC. 2. Executive Order No. 11641 of January 28, 1972, is revoked and the Attorney General shall provide for the reassignment of the functions of the Office for Drug Abuse Law Enforcement and for the abolishment of that Office.

SEC. 3. Executive Order No. 11676 of July 27, 1972, is hereby revoked and the Attorney General shall provide for the reassignment of the functions of the Office of National Narcotics Intelligence and for the abolishment of that Office.

SEC. 4. Section 1 of Executive Order No. 11708 of March 23, 1973, as amended [set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level IV of the Executive Schedule is hereby further amended by deleting—

(1) ''(6) Director, Office for Drug Abuse Law Enforcement, Department of Justice.''; and

(2) ''(7) Director, Office of National Narcotics Intelligence, Department of Justice.''

SEC. 5. The Attorney General shall provide for the winding up of the affairs of the two offices and for the reassignment of their functions.

SEC. 6. This order shall be effective as of July 1, 1973.

RICHARD NIXON.

COMBATTING THE NATIONAL DRUG DEMAND AND OPIOID CRISIS

Memorandum of President of the United States, Oct. 26, 2017, 82 F.R. 50305, provided:

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby directed as follows:

SECTION 1. *Policy*. It shall be the policy of the United States to use all lawful means to combat the drug demand and opioid crisis currently afflicting our country. Individuals, families, and communities across the United States continue to be devastated by an unprecedented epidemic of drug abuse and overdose, including of prescription opioids, heroin, and illicit synthetic opioids. Last year, we lost at least 64,000 of our fellow Americans to drug overdose, primarily from opioids. This is an increase of approximately 12,000 people over the year before and more than ever recorded in United States history. Drug overdoses now kill more Americans than motor vehicle crashes or gun-related incidents, and more than 300,000 Americans have died of an opioid overdose since 2000. Further, more than 2.1 million of our fellow citizens are addicted to opioids, and in 2014 more than 1,500 people were treated each day in emergency departments for opioid-related emergencies.

This crisis has devastated our communities. It has been particularly harmful for children affected by their parents' drug abuse. The number of infants born drug-dependent increased by nearly 500 percent from 2000 to 2012. The number of children being placed into foster care due, at least in part, to parental drug abuse is increasing, and accounted for almost a third of all child removals in Fiscal Year 2015. Serious drug users are also more likely to be arrested for crimes such as burglary, robbery, and handling stolen goods. Moreover, the drug trafficking that supplies illegal drugs to our country is associated with other illegal activities, including murder and other violent crimes. All of this devastates lives and harms communities in both the United States and foreign countries involved in the illegal drug supply chain. Federal, State, and local governments; law enforcement; first responders; the medical, public health, and substance abuse treatment community; and faith-based and community organizations are working tirelessly and have even expanded their efforts to combat the drug demand and opioid crisis.

Three factors are driving the opioid aspect of this crisis in particular. First, since the 1990s, there has been a dramatic rise in opioid pain medication prescriptions. Second, heroin from Mexico has flooded the country. Third, the illicit manufacture and illegal importation of fentanyl—an extremely deadly synthetic opioid—and its analogues and related compounds have proliferated. Fentanyl is currently manufactured almost exclusively in China, and it is either shipped into the United States or smuggled across the southern border by drug traffickers. Between 2013 and 2016, the amount of fentanyl seized by Customs and Border Protection at the border increased more than 200 times over. Dealers are increasingly lacing fentanyl into other drugs and press-

ing it into counterfeit opioid pills. Because fentanyl is lethal in even miniscule doses, this is an extremely deadly tactic, as it too often causes users to ingest a fatal amount unknowingly.

SEC. 2. *Agency Action*. The Secretary of Health and Human Services shall, consistent with section 319 of the Public Health Service Act, 42 U.S.C. 247d, consider declaring that the drug demand and opioid crisis described in section 1 of this memorandum constitutes a Public Health Emergency. Additionally, the heads of executive departments and agencies, as appropriate and consistent with law, shall exercise all appropriate emergency authorities, as well as other relevant authorities, to reduce the number of deaths and minimize the devastation the drug demand and opioid crisis inflicts upon American communities.

SEC. 3. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Health and Human Services is hereby authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

§ 801a. Congressional findings and declarations: psychotropic substances

The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

(Pub. L. 95–633, title I, § 101, Nov. 10, 1978, 92 Stat. 3768; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in par. (2), is Pub. L. 95–633, Nov. 10, 1978, 92 Stat. 2768, as amended, known as the Psychotropic Substances Act of 1978, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in par. (3), is Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236, which is classified principally to this chapter [§ 801 et seq.]. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

CODIFICATION

Section was enacted as a part of the Psychotropic Substances Act of 1978, and not as a part of the Controlled Substances Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (3) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE

Pub. L. 95–633, title I, § 112, Nov. 10, 1978, 92 Stat. 3774, provided that: ''This title [enacting this section and section 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 872, 952, and 953 of this title and section 242a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 801 and 812 of this title] and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States.'' [The Convention entered into force in respect to the United States on July 15, 1980.]

§ 802. Definitions

As used in this subchapter:

(1) The term ''addict'' means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term ''administer'' refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term ''agent'' means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term ''Drug Enforcement Administration'' means the Drug Enforcement Administration in the Department of Justice.

(5) The term ''control'' means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise.

(6) The term ''controlled substance'' means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1986.

(7) The term ''counterfeit substance'' means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms ''deliver'' or ''delivery'' mean the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not there exists an agency relationship.

(9) The term ''depressant or stimulant substance'' means—

(A) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid; or

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term ''dispense'' means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term ''dispenser'' means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term ''distribute'' means to deliver (other than by administering or dispensing) a controlled substance or a listed chemical. The term ''distributor'' means a person who so delivers a controlled substance or a listed chemical.

(12) The term ''drug'' has the meaning given that term by section 321(g)(1) of this title.

(13) The term ''felony'' means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term ''isomer'' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I(c), the term ''isomer'' means any optical, positional, or geometric isomer. As used in schedule II(a)(4), the term ''isomer'' means any optical or geometric isomer.

(15) The term ''manufacture'' means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his administration or dispensing of such drug or substance in the course of his professional practice. The term ''manufacturer'' means a person who manufactures a drug or other substance.

(16)(A) Subject to subparagraph (B), the terms ''marihuana'' and ''marijuana'' mean all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin.

(B) The terms ''marihuana'' and ''marijuana'' do not include—

(i) hemp, as defined in section 1639*o* of title 7; or

(ii) the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(17) The term ''narcotic drug'' means any of the following whether produced directly or indi-

rectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(B) Poppy straw and concentrate of poppy straw.

(C) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).

(18) The term ''opiate'' or ''opioid'' means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(19) The term ''opium poppy'' means the plant of the species Papaver somniferum L., except the seed thereof.

(20) The term ''poppy straw'' means all parts, except the seeds, of the opium poppy, after mowing.

(21) The term ''practitioner'' means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(22) The term ''production'' includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(23) The term ''immediate precursor'' means a substance—

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(24) The term ''Secretary'', unless the context otherwise indicates, means the Secretary of Health and Human Services.

(25) The term ''serious bodily injury'' means bodily injury which involves—

(A) a substantial risk of death;

(B) protracted and obvious disfigurement; or

(C) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(26) The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(27) The term ''ultimate user'' means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(28) The term ''United States'', when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

(29) The term ''maintenance treatment'' means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(30) The term ''detoxification treatment'' means the dispensing, for a period not in excess of one hundred and eighty days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period.

(31) The term ''Convention on Psychotropic Substances'' means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term ''Single Convention on Narcotic Drugs'' means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.

(32)(A) Except as provided in subparagraph (C), the term ''controlled substance analogue'' means a substance—

(i) the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II;

(ii) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II; or

(iii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in schedule I or II.

(B) The designation of gamma butyrolactone or any other chemical as a listed chemical pursuant to paragraph (34) or (35) does not preclude a finding pursuant to subparagraph (A) of this paragraph that the chemical is a controlled substance analogue.

(C) Such term does not include—

(i) a controlled substance;

(ii) any substance for which there is an approved new drug application;

(iii) with respect to a particular person any substance, if an exemption is in effect for investigational use, for that person, under section 355 of this title to the extent conduct with respect to such substance is pursuant to such exemption; or

(iv) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

(33) The term ''listed chemical'' means any list I chemical or any list II chemical.

(34) The term ''list I chemical'' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter and is important to the manufacture of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following:

(A) Anthranilic acid, its esters, and its salts.

(B) Benzyl cyanide.

(C) Ephedrine, its salts, optical isomers, and salts of optical isomers.

(D) Ergonovine and its salts.

(E) Ergotamine and its salts.

(F) N-Acetylanthranilic acid, its esters, and its salts.

(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(H) Phenylacetic acid, its esters, and its salts.

(I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

(J) Piperidine and its salts.

(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

(L) 3,4-Methylenedioxyphenyl-2-propanone.

(M) Methylamine.

(N) Ethylamine.

(O) Propionic anhydride.

(P) Isosafrole.

(Q) Safrole.

(R) Piperonal.

(S) N-Methylephedrine.

(T) N-methylpseudoephedrine.

(U) Hydriodic acid.

(V) Benzaldehyde.

(W) Nitroethane.

(X) Gamma butyrolactone.

(Y) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (U) of this paragraph.

(35) The term ''list II chemical'' means a chemical (other than a list I chemical) specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this subchapter, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:

(A) Acetic anhydride.

(B) Acetone.

(C) Benzyl chloride.

(D) Ethyl ether.

(E) Repealed. Pub. L. 101–647, title XXIII, § 2301(b), Nov. 29, 1990, 104 Stat. 4858.

(F) Potassium permanganate.

(G) 2-Butanone (or Methyl Ethyl Ketone).

(H) Toluene.

(I) Iodine.

(J) Hydrochloric gas.

(36) The term ''regular customer'' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.

(37) The term ''regular importer'' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.

(38) The term ''regulated person'' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine.

(39) The term ''regulated transaction'' means—

(A) a distribution, receipt, sale, importation, or exportation of, or an international transaction involving shipment of, a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical, a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

(i) a domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

(ii) a delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this clause does not relieve a distributor, importer, or exporter from compliance with section 830 of this title;

(iii) any category of transaction or any category of transaction for a specific listed chemical or chemicals specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this subchapter or subchapter II;

(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], subject to clause (v), unless—

(I) the Attorney General has determined under section 814 of this title that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

(II) the quantity of the listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General;

(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 830(b)(3) of this title; or

(vi) any transaction in a chemical mixture which the Attorney General has by regulation designated as exempt from the application of this subchapter and subchapter II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered; and

(B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

(40) The term ''chemical mixture'' means a combination of two or more chemical substances, at least one of which is not a list I chemical or a list II chemical, except that such term does not include any combination of a list I chemical or a list II chemical with another chemical that is present solely as an impurity.

(41)(A) The term ''anabolic steroid'' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

(i) androstanediol—

(I) 3β,17β-dihydroxy-5α-androstane; and

(II) 3α,17β-dihydroxy-5α-androstane;

(ii) androstanedione (5α-androstan-3,17-dione);

(iii) androstenediol—

(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

(iv) androstenedione—

(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

(II) 4-androstenedione (androst-4-en-3,17-dione); and

(III) 5-androstenedione (androst-5-en-3,17-dione);

(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

(x) Δ 1-dihydrotestosterone (a.k.a. ''1-testosterone'') (17β-hydroxy-5α-androst-1-en-3-one);

(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

(xvii) 13β-ethyl-17β-hydroxygon-4-en-3-one;

(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

(xxv) 17α-methyl-3β, 17β-dihydroxy-5α-androstane;

(xxvi) 17α-methyl-3α,17β-dihydroxy-5α-androstane;

(xxvii) 17α-methyl-3β,17β-dihydroxyandrost-4-ene.

(xxviii) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

(xxix) methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

(xxx) methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

(xxxi) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

(xxxii) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

(xxxiii) 17α-methyl-Δ 1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. ''17-α-methyl-1-testosterone'');

(xxxiv) nandrolone (17β-hydroxyestr-4-en-3-one);

(xxxv) norandrostenediol—

(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

(xxxvi) norandrostenedione—

(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

(xxxvii) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

(xxxviii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

(xxxix) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

(xl) normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

(xli) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);
(xlii) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);
(xliii) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);
(xliv) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);
(xlv) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);
(xlvi) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
(xlvii) testosterone (17β-hydroxyandrost-4-en-3-one);
(xlviii) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);
(xlix) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one);
(l) 5α-Androstan-3,6,17-trione;
(li) 6-bromo-androstan-3,17-dione;
(lii) 6-bromo-androsta-1,4-diene-3,17-dione;
(liii) 4-chloro-17α-methyl-androsta-1,4-diene-3,17β-diol;
(liv) 4-chloro-17α-methyl-androst-4-ene-3β,17β-diol;
(lv) 4-chloro-17α-methyl-17β-hydroxy-androst-4-en-3-one;
(lvi) 4-chloro-17α-methyl-17β-hydroxy-androst-4-ene-3,11-dione;
(lvii) 4-chloro-17α-methyl-androsta-1,4-diene-3,17β-diol;
(lviii) 2α,17α-dimethyl-17β-hydroxy-5α-androstan-3-one;
(lix) 2α,17α-dimethyl-17β-hydroxy-5β-androstan-3-one;
(lx) 2α,3α-epithio-17α-methyl-5α-androstan-17β-ol;
(lxi) [3,2-c]-furazan-5α-androstan-17β-ol;
(lxii) 3β-hydroxy-estra-4,9,11-trien-17-one;
(lxiii) 17α-methyl-androst-2-ene-3,17β-diol;
(lxiv) 17α-methyl-androsta-1,4-diene-3,17β-diol;
(lxv) Estra-4,9,11-triene-3,17-dione;
(lxvi) 18a-Homo-3-hydroxy-estra-2,5(10)-dien-17-one;
(lxvii) 6α-Methyl-androst-4-ene-3,17-dione;
(lxviii) 17α-Methyl-androstan-3-hydroxyimine-17β-ol;
(lxix) 17α-Methyl-5α-androstan-17β-ol;
(lxx) 17β-Hydroxy-androstano[2,3-d]isoxazole;
(lxxi) 17β-Hydroxy-androstano[3,2-c]isoxazole;
(lxxii) 4-Hydroxy-androst-4-ene-3,17-dione[3,2-c]pyrazole-5α-androstan-17β-ol;
(lxxiii) [3,2-c]pyrazole-androst-4-en-17β-ol;
(lxxiv) [3,2-c]pyrazole-5α-androstan-17β-ol; and
(lxxv) any salt, ester, or ether of a drug or substance described in this paragraph.

The substances excluded under this subparagraph may at any time be scheduled by the Attorney General in accordance with the authority and requirements of subsections (a) through (c) of section 811 of this title.

(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).

(C)(i) Subject to clause (ii), a drug or hormonal substance (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone) that is not listed in subparagraph (A) and is derived from, or has a chemical structure substantially similar to, 1 or more anabolic steroids listed in subparagraph (A) shall be considered to be an anabolic steroid for purposes of this chapter if—

(I) the drug or substance has been created or manufactured with the intent of producing a drug or other substance that either—

(aa) promotes muscle growth; or

(bb) otherwise causes a pharmacological effect similar to that of testosterone; or

(II) the drug or substance has been, or is intended to be, marketed or otherwise promoted in any manner suggesting that consuming it will promote muscle growth or any other pharmacological effect similar to that of testosterone.

(ii) A substance shall not be considered to be a drug or hormonal substance for purposes of this subparagraph if it—

(I) is—

(aa) an herb or other botanical;

(bb) a concentrate, metabolite, or extract of, or a constituent isolated directly from, an herb or other botanical; or

(cc) a combination of 2 or more substances described in item (aa) or (bb);

(II) is a dietary ingredient for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); and

(III) is not anabolic or androgenic.

(iii) In accordance with section 885(a) of this title, any person claiming the benefit of an exemption or exception under clause (ii) shall bear the burden of going forward with the evidence with respect to such exemption or exception.

(42) The term ''international transaction'' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

(43) The terms ''broker'' and ''trader'' mean a person that assists in arranging an international transaction in a listed chemical by—

(A) negotiating contracts;

(B) serving as an agent or intermediary; or

(C) bringing together a buyer and seller, a buyer and transporter, or a seller and transporter.

(44) The term ''felony drug offense'' means an offense that is punishable by imprisonment for more than one year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, anabolic steroids, or depressant or stimulant substances.

(45)(A) The term ''scheduled listed chemical product'' means, subject to subparagraph (B), a product that—

(i) contains ephedrine, pseudoephedrine, or phenylpropanolamine; and

(ii) may be marketed or distributed lawfully in the United States under the Federal, Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] as a nonprescription drug.

Each reference in clause (i) to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

(B) Such term does not include a product described in subparagraph (A) if the product contains a chemical specified in such subparagraph that the Attorney General has under section 811(a) of this title added to any of the schedules under section 812(c) of this title. In the absence of such scheduling by the Attorney General, a chemical specified in such subparagraph may not be considered to be a controlled substance.

(46) The term ''regulated seller'' means a retail distributor (including a pharmacy or a mobile retail vendor), except that such term does not include an employee or agent of such distributor.

(47) The term ''mobile retail vendor'' means a person or entity that makes sales at retail from a stand that is intended to be temporary, or is capable of being moved from one location to another, whether the stand is located within or on the premises of a fixed facility (such as a kiosk at a shopping center or an airport) or whether the stand is located on unimproved real estate (such as a lot or field leased for retail purposes).

(48) The term ''at retail'', with respect to the sale or purchase of a scheduled listed chemical product, means a sale or purchase for personal use, respectively.

(49)(A) The term ''retail distributor'' means a grocery store, general merchandise store, drug store, or other entity or person whose activities as a distributor relating to ephedrine, pseudoephedrine, or phenylpropanolamine products are limited almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

(B) For purposes of this paragraph, entities are defined by reference to the Standard Industrial Classification (SIC) code, as follows:

(i) A grocery store is an entity within SIC code 5411.

(ii) A general merchandise store is an entity within SIC codes 5300 through 5399 and 5499.

(iii) A drug store is an entity within SIC code 5912.

(50) The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected worldwide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol to such protocol, to communicate information of all kinds by wire or radio.

(51) The term ''deliver, distribute, or dispense by means of the Internet'' refers, respectively, to any delivery, distribution, or dispensing of a controlled substance that is caused or facilitated by means of the Internet.

(52) The term ''online pharmacy''—

(A) means a person, entity, or Internet site, whether in the United States or abroad, that knowingly or intentionally delivers, distributes, or dispenses, or offers or attempts to deliver, distribute, or dispense, a controlled substance by means of the Internet; and

(B) does not include—

(i) manufacturers or distributors registered under subsection (a), (b), (e), or (f) of section 823 of this title who do not dispense controlled substances to an unregistered individual or entity;

(ii) nonpharmacy practitioners who are registered under section 823(g) of this title and whose activities are authorized by that registration;

(iii) any hospital or other medical facility that is operated by an agency of the United States (including the Armed Forces), provided such hospital or other facility is registered under section 823(g) of this title;

(iv) a health care facility owned or operated by an Indian tribe or tribal organization, only to the extent such facility is carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.];

(v) any agent or employee of any hospital or facility referred to in clause (iii) or (iv), provided such agent or employee is lawfully acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee, with such hospital or facility, and, with respect to agents or employees of health care facilities specified in clause (iv), only to the extent such individuals are furnishing services pursuant to the contracts or compacts described in such clause;

(vi) mere advertisements that do not attempt to facilitate an actual transaction involving a controlled substance;

(vii) a person, entity, or Internet site that is not in the United States and does not facilitate the delivery, distribution, or dispensing of a controlled substance by means of the Internet to any person in the United States;

(viii) a pharmacy registered under section 823(g) of this title whose dispensing of controlled substances via the Internet consists solely of—

(I) refilling prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (55); or

(II) filling new prescriptions for controlled substances in schedule III, IV, or V, as defined in paragraph (56); or

(ix) any other persons for whom the Attorney General and the Secretary have jointly, by regulation, found it to be consistent with effective controls against diversion and otherwise consistent with the public health and safety to exempt from the definition of an ''online pharmacy''.

(53) The term ''homepage'' means the opening or main page or screen of the website of an online pharmacy that is viewable on the Internet.

(54) The term ''practice of telemedicine'' means, for purposes of this subchapter, the prac-

tice of medicine in accordance with applicable Federal and State laws by a practitioner (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a telecommunications system referred to in section 1395m(m) of title 42, which practice—

(A) is being conducted—

(i) while the patient is being treated by, and physically located in, a hospital or clinic registered under section 823(g) of this title; and

(ii) by a practitioner—

(I) acting in the usual course of professional practice;

(II) acting in accordance with applicable State law; and

(III) registered under section 823(g) of this title in the State in which the patient is located, unless the practitioner—

(aa) is exempted from such registration in all States under section 822(d) of this title; or

(bb) is—

(AA) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

(BB) registered under section 823(g) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(g) of this title;

(B) is being conducted while the patient is being treated by, and in the physical presence of, a practitioner—

(i) acting in the usual course of professional practice;

(ii) acting in accordance with applicable State law; and

(iii) registered under section 823(g) of this title in the State in which the patient is located, unless the practitioner—

(I) is exempted from such registration in all States under section 822(d) of this title; or

(II) is—

(aa) an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract; and

(bb) registered under section 823(g) of this title in any State or is using the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(g) of this title;

(C) is being conducted by a practitioner—

(i) who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact with the Indian Health Service under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.];

(ii) acting within the scope of the employment, contract, or compact described in clause (i); and

(iii) who is designated as an Internet Eligible Controlled Substances Provider by the Secretary under section 831(g)(2) of this title;

(D)(i) is being conducted during a public health emergency declared by the Secretary under section 247d of title 42; and

(ii) involves patients located in such areas, and such controlled substances, as the Secretary, with the concurrence of the Attorney General, designates, provided that such designation shall not be subject to the procedures prescribed by subchapter II of chapter 5 of title 5;

(E) is being conducted by a practitioner who has obtained from the Attorney General a special registration under section 831(h) of this title;

(F) is being conducted—

(i) in a medical emergency situation—

(I) that prevents the patient from being in the physical presence of a practitioner registered under section 823(g) of this title who is an employee or contractor of the Veterans Health Administration acting in the usual course of business and employment and within the scope of the official duties or contract of that employee or contractor;

(II) that prevents the patient from being physically present at a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(g) of this title;

(III) during which the primary care practitioner of the patient or a practitioner otherwise practicing telemedicine within the meaning of this paragraph is unable to provide care or consultation; and

(IV) that requires immediate intervention by a health care practitioner using controlled substances to prevent what the practitioner reasonably believes in good faith will be imminent and serious clinical consequences, such as further injury or death; and

(ii) by a practitioner that—

(I) is an employee or contractor of the Veterans Health Administration acting within the scope of that employment or contract;

(II) is registered under section 823(g) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(g) of this title; and

(III) issues a controlled substance prescription in this emergency context that is limited to a maximum of a 5-day supply which may not be extended or refilled; or

(G) is being conducted under any other circumstances that the Attorney General and the Secretary have jointly, by regulation, determined to be consistent with effective controls against diversion and otherwise consistent with the public health and safety.

(55) The term ''refilling prescriptions for controlled substances in schedule III, IV, or V''—

(A) means the dispensing of a controlled substance in schedule III, IV, or V in accordance with refill instructions issued by a practitioner as part of a valid prescription that meets the requirements of subsections (b) and (c) of section 829 of this title, as appropriate; and

(B) does not include the issuance of a new prescription to an individual for a controlled substance that individual was previously prescribed.

(56) The term ''filling new prescriptions for controlled substances in schedule III, IV, or V'' means filling a prescription for an individual for a controlled substance in schedule III, IV, or V, if—

(A) the pharmacy dispensing that prescription has previously dispensed to the patient a controlled substance other than by means of the Internet and pursuant to the valid prescription of a practitioner that meets the applicable requirements of subsections (b) and (c) of section 829 of this title (in this paragraph referred to as the ''original prescription'');

(B) the pharmacy contacts the practitioner who issued the original prescription at the request of that individual to determine whether the practitioner will authorize the issuance of a new prescription for that individual for the controlled substance described in subparagraph (A); and

(C) the practitioner, acting in the usual course of professional practice, determines there is a legitimate medical purpose for the issuance of the new prescription.

(57)[1] The term ''suspicious order'' may include, but is not limited to—

(A) an order of a controlled substance of unusual size;

(B) an order of a controlled substance deviating substantially from a normal pattern; and

(C) orders of controlled substances of unusual frequency.

(57)[1] The term ''serious drug felony'' means an offense described in section 924(e)(2) of title 18 for which—

(A) the offender served a term of imprisonment of more than 12 months; and

(B) the offender's release from any term of imprisonment was within 15 years of the commencement of the instant offense.

(58) The term ''serious violent felony'' means—

(A) an offense described in section 3559(c)(2) of title 18 for which the offender served a term of imprisonment of more than 12 months; and

(B) any offense that would be a felony violation of section 113 of title 18, if the offense were committed in the special maritime and territorial jurisdiction of the United States, for which the offender served a term of imprisonment of more than 12 months.

(Pub. L. 91–513, title II, §102, Oct. 27, 1970, 84 Stat. 1242; Pub. L. 93–281, §2, May 14, 1974, 88 Stat. 124; Pub. L. 95–633, title I, §102(b), Nov. 10, 1978, 92 Stat. 3772; Pub. L. 96–132, §16(a), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 98–473, title II, §507(a), (b), Oct. 12, 1984, 98 Stat. 2071; Pub. L. 98–509, title III, §301(a), Oct. 19, 1984, 98 Stat. 2364; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–570, title I, §§1003(b), 1203, 1870, Oct. 27, 1986, 100 Stat. 3207–6, 3207–13, 3207–56; Pub. L. 99–646, §83, Nov. 10, 1986, 100 Stat. 3619; Pub. L. 100–690, title VI, §6054, Nov. 18, 1988, 102 Stat. 4316; Pub. L. 101–647, title XIX, §1902(b), title XXIII, §2301, title XXXV, §3599I, Nov. 29, 1990, 104 Stat. 4852, 4858, 4932; Pub. L. 103–200, §§2(a), 7–9(a), Dec. 17, 1993, 107 Stat. 2333, 2340; Pub. L. 103–322, title IX, §90105(d), title XXXIII, §330024(a), (b), (d)(1), Sept. 13, 1994, 108 Stat. 1988, 2150; Pub. L. 104–237, title II, §§204(a), 209, title IV, §401(a), (b), Oct. 3, 1996, 110 Stat. 3102, 3104, 3106, 3107; Pub. L. 104–294, title VI, §§604(b)(4), 607(j), Oct. 11, 1996, 110 Stat. 3506, 3512; Pub. L. 105–115, title I, §126(c)(3), Nov. 21, 1997, 111 Stat. 2328; Pub. L. 106–172, §§3(c), 5(a), Feb. 18, 2000, 114 Stat. 9, 10; Pub. L. 106–310, div. B, title XXXVI, §3622(a), Oct. 17, 2000, 114 Stat. 1231; Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808; Pub. L. 108–358, §2(a), Oct. 22, 2004, 118 Stat. 1661; Pub. L. 109–162, title XI, §1180, Jan. 5, 2006, 119 Stat. 3126; Pub. L. 109–177, title VII, §§711(a)(1), (2)(A), 712(a)(1), Mar. 9, 2006, 120 Stat. 256, 257, 263; Pub. L. 110–425, §3(a), Oct. 15, 2008, 122 Stat. 4821; Pub. L. 113–260, §2(a), Dec. 18, 2014, 128 Stat. 2929; Pub. L. 114–198, title III, §303(a)(2), July 22, 2016, 130 Stat. 722; Pub. L. 115–271, title III, §§3202(c), 3292(a), Oct. 24, 2018, 132 Stat. 3945, 3956; Pub. L. 115–334, title XII, §12619(a), Dec. 20, 2018, 132 Stat. 5018; Pub. L. 115–391, title IV, §401(a)(1), Dec. 21, 2018, 132 Stat. 5220; Pub. L. 117–215, §2(b), title I, §103(b)(1)(A), Dec. 2, 2022, 136 Stat. 2258, 2262.)

[1] So in original. Two pars. (57) have been enacted.

Editorial Notes

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in pars. (6), (14), (32)(A), (52)(B)(viii), (55), and (56), are set out in section 812(c) of this title.

This subchapter, referred to in introductory provisions and in pars. (34), (35), (39)(A)(iii), (vi), and (54), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II, referred to in par. (39)(A)(iii), (vi), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in pars. (39)(A)(iv), (41)(C)(ii)(II), and (45)(A)(ii), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

This chapter, referred to in par. (41)(C)(i), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in pars. (52)(B)(iv) and (54)(C)(i), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

AMENDMENTS

2022—Par. (16)(A). Pub. L. 117–215, § 2(b)(1), substituted ''the terms 'marihuana' and 'marijuana' mean'' for ''the term 'marihuana' means''.

Par. (16)(B). Pub. L. 117–215, § 2(b)(2), substituted ''The terms 'marihuana' and 'marijuana' do not'' for ''The term 'marihuana' does not'' in introductory provisions.

Par. (52)(B). Pub. L. 117–215, § 103(b)(1)(A)(i)(I), substituted ''823(g)'' for ''823(f)'' wherever appearing.

Par. (52)(B)(i). Pub. L. 117–215, § 103(b)(1)(A)(i)(II), substituted ''(e), or (f)'' for ''(d), or (e)''.

Par. (54). Pub. L. 117–215, § 103(b)(1)(A)(ii), substituted ''823(g)'' for ''823(f)'' wherever appearing.

2018—Par. (16). Pub. L. 115–334 designated first sentence as subpar. (A), substituted ''Subject to subparagraph (B), the'' for ''The'', inserted subpar. (B) designation, introductory provisions, and cl. (i), designated second sentence as cl. (ii) of subpar. (B), and substituted ''the'' for ''Such term does not include the'' in cl. (ii).

Par. (24). Pub. L. 115–271, § 3202(c), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Par. (57). Pub. L. 115–391, § 401(a)(1), added par. (57) defining the term ''serious drug felony''.

Pub. L. 115–271, § 3292(a), added par. (57) defining the term ''suspicious order''.

Par. (58). Pub. L. 115–391, § 401(a)(1), added par. (58).

2016—Par. (18). Pub. L. 114–198 inserted ''or 'opioid' '' after ''The term 'opiate' ''.

2014—Par. (41)(A)(l) to (lxxv). Pub. L. 113–260, § 2(a)(1), added cls. (l) to (lxxiv) and redesignated former cl. (xlx) as (lxxv).

Par. (41)(C). Pub. L. 113–260, § 2(a)(2), added subpar. (C).

2008—Pars. (50) to (56). Pub. L. 110–425 added pars. (50) to (56).

2006—Par. (39)(A)(iv). Pub. L. 109–177, § 712(a)(1)(A)(i), amended cl. (iv) generally. Prior to amendment, cl. (iv) related to transactions involving drugs containing ephedrine, pseudoephedrine, or phenylpropanolamine.

Par. (39)(A)(v), (vi). Pub. L. 109–177, § 712(a)(1)(A)(ii), (iii), added cl. (v) and redesignated former cl. (v) as (vi).

Par. (41)(A)(xvii). Pub. L. 109–162, § 1180(1), substituted ''13β-ethyl-17β-hydroxygon-4-en-3-one;'' for ''13β-ethyl-17α-hydroxygon-4-en-3-one;''.

Par. (41)(A)(xliv). Pub. L. 109–162, § 1180(2), substituted ''(17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);'' for ''(17α-methyl-17α-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);''.

Par. (45). Pub. L. 109–177, §§ 711(a)(1)(B), 712(a)(1)(B), added par. (45) and struck out former par. (45) which defined ''ordinary over-the-counter pseudoephedrine or phenylpropanolamine product''.

Pars. (46) to (48). Pub. L. 109–177, §§ 711(a)(1)(B), added pars. (46) to (48). Former par. (46) redesignated (49).

Par. (49). Pub. L. 109–177, § 711(a)(1)(A), (2)(A), redesignated par. (46) as (49), substituted ''ephedrine, pseudoephedrine, or'' for ''pseudoephedrine or'' in subpar. (A), redesignated subpar. (C) as (B), and struck out former subpar. (B) which read as follows: ''For purposes of this paragraph, sale for personal use means the sale of below-threshold quantities in a single transaction to an individual for legitimate medical use.''

2004—Par. (41). Pub. L. 108–358, § 2(a)(1), realigned margins, added subpar. (A), and struck out former subpar. (A) which defined ''anabolic steroid''.

Par. (44). Pub. L. 108–358, § 2(a)(2), inserted ''anabolic steroids,'' after ''marihuana,''.

2002—Pars. (43), (44). Pub. L. 107–273 repealed Pub. L. 104–294, §§ 604(b)(4), 607(j)(2). See 1996 Amendment note below.

2000—Par. (32)(A). Pub. L. 106–172, § 5(a)(1), substituted ''subparagraph (C)'' for ''subparagraph (B)'' in introductory provisions.

Par. (32)(B), (C). Pub. L. 106–172, § 5(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Par. (34)(X), (Y). Pub. L. 106–172, § 3(c), added subpar. (X) and redesignated former subpar. (X) as (Y).

Par. (39)(A)(iv)(II). Pub. L. 106–310 substituted ''9 grams'' for ''24 grams'' in two places and inserted before semicolon at end ''and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base''.

1997—Par. (9)(A). Pub. L. 105–115 redesignated cl. (i) as subpar. (A) and struck out cl. (ii) which read as follows: ''any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 352(d) of this title; or''.

1996—Par. (26). Pub. L. 104–294, § 607(j)(1), amended par. (26) generally. Prior to amendment, par. (26) read as follows: ''The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.''

Par. (34)(P), (S), (U). Pub. L. 104–237, § 209(1), substituted ''Isosafrole'' for ''Insosafrole'' in subpar. (P), ''N-Methylephedrine'' for ''N-Methylepherdrine'' in subpar. (S), and ''Hydriodic acid'' for ''Hydriotic acid'' in subpar. (U).

Par. (35)(G). Pub. L. 104–237, § 209(2), amended subpar. (G) generally, inserting ''(or Methyl Ethyl Ketone)'' before period at end.

Par. (35)(I), (J). Pub. L. 104–237, § 204(a), added subpars. (I) and (J).

Par. (39)(A)(iv)(I)(aa). Pub. L. 104–237, § 401(a)(1), (b)(1), substituted '', pseudoephedrine or its salts, optical isomers, or salts of optical isomers, or phenylpropanolamine or its salts, optical isomers, or salts of optical isomers unless otherwise provided by regulation of the Attorney General issued pursuant to section 814(e) of this title, except that any sale of ordinary over-the-counter pseudoephedrine or phenylpropanolamine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996);'' for ''as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;''.

Par. (39)(A)(iv)(II). Pub. L. 104–237, § 401(a)(2), (b)(2), inserted '', pseudoephedrine, phenylpropanolamine,'' after ''ephedrine'' and inserted before semicolon '', except that the threshold for any sale of products containing pseudoephedrine or phenylpropanolamine products by retail distributors or by distributors required to submit reports by section 830(b)(3) of this title shall be 24 grams of pseudoephedrine or 24 grams of phenylpropanolamine in a single transaction''.

Pars. (43), (44). Pub. L. 104–294, §§ 604(b)(4), 607(j)(2), which provided for amendment to section identical to Pub. L. 104–237, § 401(b)(3), below, were repealed by Pub. L. 107–273, § 4002(c)(1).

Pub. L. 104–237, § 401(b)(3), redesignated par. (43), relating to felony drug offense, as (44).

Pars. (45), (46). Pub. L. 104–237, § 401(b)(4), added pars. (45) and (46).

1994—Par. (34)(V), (W). Pub. L. 103–322, § 330024(b), realigned margins and capitalized first letter.

Par. (35). Pub. L. 103–322, § 330024(d)(1), made technical correction to directory language of Pub. L. 103–200, § 2(a)(4)(B). See 1993 Amendment note below.

Par. (39)(A)(iv)(II). Pub. L. 103–322, § 330024(a), substituted ''; or'' for period at end.

Par. (43). Pub. L. 103–322, § 90105(d), added par. (43) defining ''felony drug offense''.

1993—Par. (33). Pub. L. 103–200, § 2(a)(1), substituted ''any list I chemical or any list II chemical'' for ''any listed precursor chemical or listed essential chemical''.

Par. (34). Pub. L. 103–200, § 2(a)(2), substituted ''list I chemical'' for ''listed precursor chemical'' and ''important to the manufacture'' for ''critical to the creation'' in introductory provisions.

Par. (34)(A), (F), (H). Pub. L. 103–200, § 2(a)(3), inserted '', its esters,'' before ''and''.

Par. (34)(O). Pub. L. 103–200, § 8(1), (2), redesignated subpar. (P) as (O) and struck out former subpar. (O) which read as follows: ''D-lysergic acid.''

Par. (34)(P) to (S). Pub. L. 103–200, §8(2), redesignated subpars. (Q) to (T) as (P) to (S), respectively. Former subpar. (P) redesignated (O).

Par. (34)(T). Pub. L. 103–200, §8(2), redesignated subpar. (V) as (T). Former subpar. (T) redesignated (S).

Par. (34)(U). Pub. L. 103–200, §8(1), (2), redesignated subpar. (X) as (U) and struck out former subpar. (U) which read as follows: ''N-ethylephedrine.''

Par. (34)(V). Pub. L. 103–200, §8(2), (4), added subpar. (V) and redesignated former subpar. (V) as (T).

Par. (34)(W). Pub. L. 103–200, §8(1), (4), added subpar. (W) and struck out former subpar. (W) which read as follows: ''N-ethylpseudoephedrine.''

Par. (34)(X). Pub. L. 103–200, §8(2), (3), redesignated subpar. (Y) as (X) and substituted ''through (U)'' for ''through (X)''.

Par. (34)(Y). Pub. L. 103–200, §8(2), redesignated subpar. (Y) as (X).

Par. (35). Pub. L. 103–200, §2(a)(4)(A), (C), substituted ''list II chemical'' for ''listed essential chemical'' and struck out ''as a solvent, reagent, or catalyst'' before ''in manufacturing''.

Pub. L. 103–200, §2(a)(4)(B), as amended by Pub. L. 103–322, §330024(d)(1), inserted ''(other than a list I chemical)'' before ''specified'' the first time appearing.

Par. (37). Pub. L. 103–200, §9(a), amended par. (37) generally. Prior to amendment, par. (37) read as follows: ''The term 'regular supplier' means, with respect to a regulated person, a supplier with whom the regulated person has an established business relationship that is reported to the Attorney General.''

Par. (38). Pub. L. 103–200, §2(a)(5), inserted before period at end ''or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine''.

Par. (39)(A). Pub. L. 103–200, §§2(a)(6)(A), 7, in introductory provisions, substituted ''importation, or exportation of, or an international transaction involving shipment of,'' for ''importation or exportation of'' and inserted ''a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical,'' before ''a threshold amount,''.

Par. (39)(A)(iii). Pub. L. 103–200, §2(a)(6)(B), inserted ''or any category of transaction for a specific listed chemical or chemicals'' after ''transaction''.

Par. (39)(A)(iv). Pub. L. 103–200, §2(a)(6)(C), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: ''any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or''.

Par. (39)(A)(v). Pub. L. 103–200, §2(a)(6)(D), inserted before semicolon at end ''which the Attorney General has by regulation designated as exempt from the application of this subchapter and subchapter II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered''.

Par. (40). Pub. L. 103–200, §2(a)(7), substituted ''list I chemical or a list II chemical'' for ''listed precursor chemical or a listed essential chemical'' in two places.

Pars. (42), (43). Pub. L. 103–200, §2(a)(8), added pars. (42) and (43).

1990—Par. (32)(A). Pub. L. 101–647, §3599I, substituted ''the stimulant'' for ''the stimulent'' in cl. (ii) and ''a stimulant'' for ''a stimulent'' in cl. (iii).

Par. (34)(M) to (Y). Pub. L. 101–647, §2301(a), added subpars. (M) to (Y).

Par. (35)(E). Pub. L. 101–647, §2301(b), struck out subpar. (E) ''Hydriodic acid.''

Par. (41). Pub. L. 101–647, §1902(b), added par. (41).

1988—Par. (8). Pub. L. 100–690, §6054(1), inserted ''or a listed chemical'' after ''a controlled substance''.

Par. (11). Pub. L. 100–690, §6054(2), inserted ''or a listed chemical'' after ''a controlled substance'' in two places.

Pars. (33) to (40). Pub. L. 100–690, §6054(3), added pars. (33) to (40).

1986—Par. (6). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Par. (14). Pub. L. 99–570, §1870, and Pub. L. 99–646 amended par. (14) identically, substituting ''any optical'' for ''the optical'' in second and third sentences.

Par. (25). Pub. L. 99–570, §1003(b)(1), added par. (25). Former par. (25) redesignated (26).

Pars. (26) to (31). Pub. L. 99–570, §1003(b)(2), redesignated pars. (25) to (30) as (26) to (31), respectively.

Par. (32). Pub. L. 99–570, §1203, added par. (32).

1984—Pars. (14) to (16). Pub. L. 98–473, §507(a), added par. (14) and redesignated former pars. (14) to (16) as (15) to (17), respectively.

Par. (17). Pub. L. 98–473, §507, redesignated former par. (16) as (17), and expanded and revised definition of ''narcotic drug'', including within term poppy straw, cocaine, and ecgonine. Former par. (17) redesignated (18).

Pars. (18) to (28). Pub. L. 98–473, §507(a), redesignated former pars. (17) to (27) as (18) to (28), respectively.

Par. (29). Pub. L. 98–509 which directed the substitution of ''one hundred and eighty'' for ''twenty-one'' in par. (28), was executed to par. (29) in view of the redesignation of par. (28) as par. (29) by Pub. L. 98–473.

Pub. L. 98–473, §507(a), redesignated former par. (28) as (29). Former par. (29) redesignated (30).

Par. (30). Pub. L. 98–473, §507(a), redesignated former par. (29) as (30).

1979—Par. (4). Pub. L. 96–132 substituted provisions defining ''Drug Enforcement Administration'' for provisions defining ''Bureau of Narcotics and Dangerous Drugs''.

1978—Par. (29). Pub. L. 95–633 added par. (29).

1974—Pars. (27), (28). Pub. L. 93–281 added pars. (27) and (28).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–391, title IV, §401(c), Dec. 21, 2018, 132 Stat. 5221, provided that: ''This section [amending this section and sections 841 and 960 of this title], and the amendments made by this section, shall apply to any offense that was committed before the date of enactment of this Act [Dec. 21, 2018], if a sentence for the offense has not been imposed as of such date of enactment.''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–425, §3(j), Oct. 15, 2008, 122 Stat. 4832, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this Act [enacting section 831 of this title and amending this section and sections 823, 827, 829, 841, 843, 882 and 960 of this title] shall take effect 180 days after the date of enactment of this Act [Oct. 15, 2008].

''(2) DEFINITION OF PRACTICE OF TELEMEDICINE.—

''(A) IN GENERAL.—Until the earlier of 3 months after the date on which regulations are promulgated to carry out section 311(h) of the Controlled Substances Act [21 U.S.C. 831(h)], as amended by this Act, or 15 months after the date of enactment of this Act—

''(i) the definition of the term 'practice of telemedicine' in subparagraph (B) of this paragraph shall apply for purposes of the Controlled Substances Act [21 U.S.C. 801 et seq.]; and

''(ii) the definition of the term 'practice of telemedicine' in section 102(54) of the Controlled Substances Act [21 U.S.C. 802(54)], as amended by this Act, shall not apply.

''(B) TEMPORARY PHASE-IN OF TELEMEDICINE REGULATION.—During the period specified in subparagraph (A), the term 'practice of telemedicine' means the practice of medicine in accordance with applicable Federal and State laws by a practitioner (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) (other than a pharmacist) who is at a location remote from the patient and is communicating with the patient, or health care professional who is treating the patient, using a tele-

communications system referred to in section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)), if the practitioner is using an interactive telecommunications system that satisfies the requirements of section 410.78(a)(3) of title 42, Code of Federal Regulations.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to create a precedent that any specific course of conduct constitutes the 'practice of telemedicine' (as that term is defined in section 102(54) of the Controlled Substances Act, as amended by this Act) after the end of the period specified in subparagraph (A).''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–358, § 2(d), Oct. 22, 2004, 118 Stat. 1664, provided that: ''The amendments made by this section [amending this section, section 811 of this title, and provisions set out as a note under this section] shall take effect 90 days after the date of enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, § 4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–310, div. B, title XXXVI, § 3622(b), Oct. 17, 2000, 114 Stat. 1231, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect 1 year after the date of the enactment of this Act [Oct. 17, 2000].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–115 effective 90 days after Nov. 21, 1997, except as otherwise provided, see section 501 of Pub. L. 105–115, set out as a note under section 321 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 604(b)(4) of Pub. L. 104–294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104–294, set out as a note under section 13 of Title 18, Crimes and Criminal Procedure.

Pub. L. 104–237, title IV, § 401(g), Oct. 3, 1996, 110 Stat. 3110, provided that: ''Notwithstanding any other provision of this Act [see section 1(a) of Pub. L. 104–237, set out as a Short Title of 1996 Amendments note under section 801 of this title], this section [amending this section and section 814 of this title and enacting provisions set out as a note below] shall not apply to the sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after the date of enactment of this Act [Oct. 3, 1996], except that, on application of a manufacturer of a particular pseudoephedrine or phenylpropanolamine drug product, the Attorney General may, in her sole discretion, extend such effective date up to an additional six months. Notwithstanding any other provision of law, the decision of the Attorney General on such an application shall not be subject to judicial review.''

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–322, title XXXIII, § 330024(f), Sept. 13, 1994, 108 Stat. 2151, provided that: ''The amendments made by this section [amending this section and sections 824, 960, and 971 of this title] shall take effect as of the date that is 120 days after the date of enactment of the Domestic Chemical Diversion Control Act of 1993 [Dec. 17, 1993].''

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103–200, § 11, Dec. 17, 1993, 107 Stat. 2341, provided that: ''This Act [enacting section 814 of this title, amending this section and sections 821 to 824, 830, 843, 880, 957, 958, 960, and 971 of this title, and enacting provisions set out as a note under section 801 of this title] and the amendments made by this Act shall take effect on the date that is 120 days after the date of enactment of this Act [Dec. 17, 1993].''

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–647, title XIX, § 1902(d), Nov. 29, 1990, 104 Stat. 4852, provided that: ''This section [amending this section and section 812 of this title and enacting provisions set out as a note under section 829 of this title] and the amendment made by this section shall take effect 90 days after the date of enactment of this Act [Nov. 29, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–690, title VI, § 6061, Nov. 18, 1988, 102 Stat. 4320, provided that: ''Except as otherwise provided in this subtitle, this subtitle [subtitle A (§§ 6051–6061) of title VI of Pub. L. 100–690, enacting section 971 of this title, amending this section and sections 830, 841 to 843, 872, 876, 881, 960, and 961 of this title, and enacting provisions set out as notes under this section and section 971 of this title] shall take effect 120 days after the enactment of this Act [Nov. 18, 1988].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

REGULATIONS

Pub. L. 110–425, § 3(k)(1), Oct. 15, 2008, 122 Stat. 4833, provided that: ''The Attorney General may promulgate and enforce any rules, regulations, and procedures which may be necessary and appropriate for the efficient execution of functions under this Act [see Short Title of 2008 Amendment note set out under section 801 of this title] or the amendments made by this Act, and, with the concurrence of the Secretary of Health and Human Services where this Act or the amendments made by this Act so provide, promulgate any interim rules necessary for the implementation of this Act or the amendments made by this Act, prior to its effective date [see Effective Date of 2008 Amendment note above].''

Pub. L. 98–509, title III, § 301(b), Oct. 19, 1984, 98 Stat. 2364, provided that: ''The Secretary of Health and Human Services shall, within ninety days of the date of the enactment of this Act [Oct. 19, 1984], promulgate regulations for the administration of section 102(28) of the Controlled Substances Act [21 U.S.C. 802(29)] as amended by subsection (a) and shall include in the first report submitted under section 505(b) [503(b)] of the Public Health Service Act [former 42 U.S.C. 290aa–2(b)] after the expiration of such ninety days the findings of the Secretary with respect to the effect of the amendment made by subsection (a).''

CONSTRUCTION OF 2008 AMENDMENT

Pub. L. 110–425, § 4, Oct. 15, 2008, 122 Stat. 4834, provided that: ''Nothing in this Act [see Short Title of 2008 Amendment note set out under section 801 of this title] or the amendments made by this Act shall be construed as authorizing, prohibiting, or limiting the use of electronic prescriptions for controlled substances.''

PRESERVATION OF STATE AUTHORITY TO REGULATE SCHEDULED LISTED CHEMICALS

Pub. L. 109–177, title VII, § 711(g), Mar. 9, 2006, 120 Stat. 263, provided that: ''This section [amending this section and sections 830, 841, 842, and 844 of this title and enacting provisions set out as notes under sections 830 and 844 of this title] and the amendments made by this section may not be construed as having any legal effect on section 708 of the Controlled Substances Act [21 U.S.C. 903] as applied to the regulation of scheduled

listed chemicals (as defined in section 102(45) of such Act [21 U.S.C. 802(45)]).''

REPORT ON DIVERSION OF ORDINARY, OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS

Pub. L. 106–310, div. B, title XXXVI, §3642, Oct. 17, 2000, 114 Stat. 1237, provided that:

''(a) STUDY.—The Attorney General shall conduct a study of the use of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products in the clandestine production of illicit drugs. Sources of data for the study shall include the following:

''(1) Information from Federal, State, and local clandestine laboratory seizures and related investigations identifying the source, type, or brand of drug products being utilized and how they were obtained for the illicit production of methamphetamine and amphetamine.

''(2) Information submitted voluntarily from the pharmaceutical and retail industries involved in the manufacture, distribution, and sale of drug products containing ephedrine, pseudoephedrine, and phenylpropanolamine, including information on changes in the pattern, volume, or both, of sales of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products.

''(b) REPORT.—

''(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act [Oct. 17, 2000], the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

''(2) ELEMENTS.—The report shall include—

''(A) the findings of the Attorney General as a result of the study; and

''(B) such recommendations on the need to establish additional measures to prevent diversion of ordinary, over-the-counter pseudoephedrine and phenylpropanolamine (such as a threshold on ordinary, over-the-counter pseudoephedrine and phenylpropanolamine products) as the Attorney General considers appropriate.

''(3) MATTERS CONSIDERED.—In preparing the report, the Attorney General shall consider the comments and recommendations including the comments on the Attorney General's proposed findings and recommendations, of State and local law enforcement and regulatory officials and of representatives of the industry described in subsection (a)(2).

''(c) REGULATION OF RETAIL SALES.—

''(1) IN GENERAL.—Notwithstanding section 401(d) of the Comprehensive Methamphetamine Control Act of 1996 [Pub. L. 104–237] (21 U.S.C. 802 note) and subject to paragraph (2), the Attorney General shall establish by regulation a single-transaction limit of not less than 24 grams of ordinary, over-the-counter pseudoephedrine or phenylpropanolamine (as the case may be) for retail distributors, if the Attorney General finds, in the report under subsection (b), that—

''(A) there is a significant number of instances (as set forth in paragraph (3)(A) of such section 401(d) for purposes of such section) where ordinary, over-the-counter pseudoephedrine products, phenylpropanolamine products, or both such products that were purchased from retail distributors were widely used in the clandestine production of illicit drugs; and

''(B) the best practical method of preventing such use is the establishment of single-transaction limits for retail distributors of either or both of such products.

''(2) DUE PROCESS.—The Attorney General shall establish the single-transaction limit under paragraph (1) only after notice, comment, and an informal hearing.''

REGULATION OF RETAIL SALES OF CERTAIN PRECURSOR CHEMICALS; EFFECT ON THRESHOLDS; COMBINATION EPHEDRINE PRODUCTS

Pub. L. 104–237, title IV, §401(d)–(f), Oct. 3, 1996, 110 Stat. 3108, which authorized the Attorney General to establish a single-transaction limit of 24 grams for pseudoephedrine, phenylpropanolamine, and combination ephedrine products for retail distributors, was repealed by Pub. L. 109–177, title VII, §712(b), Mar. 9, 2006, 120 Stat. 264.

EXEMPTION FOR SUBSTANCES IN PARAGRAPH (41)

Pub. L. 101–647, title XIX, §1903, Nov. 29, 1990, 104 Stat. 4853, as amended by Pub. L. 108–358, §2(c), Oct. 22, 2004, 118 Stat. 1663, provided that:

''(a) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 [1902] of this Act) is—

''(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

''(2) does not have a significant potential for abuse, the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

''(b) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act [Nov. 29, 1990], except that the regulations required under section 3(a) [former 1903(a)] shall be issued not later than 180 days after the date of enactment of this Act.''

§ 803. Repealed. Pub. L. 95–137, § 1(b), Oct. 18, 1977, 91 Stat. 1169

Section, Pub. L. 91–513, title II, §103, Oct. 27, 1970, 84 Stat. 1245, authorized Bureau of Narcotics and Dangerous Drugs to add, during fiscal year 1971, 300 agents, together with necessary supporting personnel, and provided for appropriations of $6,000,000 to carry out such addition.

PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

§ 811. Authority and criteria for classification of substances

(a) Rules and regulations of Attorney General; hearing

The Attorney General shall apply the provisions of this subchapter to the controlled substances listed in the schedules established by section 812 of this title and to any other drug or other substance added to such schedules under this subchapter. Except as provided in subsections (d) and (e), the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking

procedures prescribed by subchapter II of chapter 5 of title 5. Proceedings for the issuance, amendment, or repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

(b) Evaluation of drugs and other substances

The Attorney General shall, before initiating proceedings under subsection (a) to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a).

(c) Factors determinative of control or removal from schedules

In making any finding under subsection (a) of this section or under subsection (b) of section 812 of this title, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

(1) Its actual or relative potential for abuse.

(2) Scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the drug or other substance.

(4) Its history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) What, if any, risk there is to the public health.

(7) Its psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

(d) International treaties, conventions, and protocols requiring control; procedures respecting changes in drug schedules of Convention on Psychotropic Substances

(1) If control is required by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section.

(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health and Human Services who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health and Human Services shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health and Human Services of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health and Human Services shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a ''schedule notice'') that existing legal controls applicable under this subchapter to a drug or substance and the controls required by the Federal Food, Drug, and Cos-

metic Act [21 U.S.C. 301 et seq.] do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health and Human Services after consultation with the Attorney General, shall first determine whether existing legal controls under this subchapter applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

(A) If such requirements are met by such existing controls but the Secretary of Health and Human Services nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

(B) If such requirements are not met by such existing controls and the Secretary of Health and Human Services concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

(C) If such requirements are not met by such existing controls and the Secretary of Health and Human Services does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

(4)(A) If the Attorney General determines, after consultation with the Secretary of Health and Human Services, that proceedings initiated under recommendations made under paragraph[1] (B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health and Human Services and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

(i) the decision is reversed, and

(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum

[1] So in original. Probably should be ''subparagraph''.

United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 812(b) of this title and without regard to the procedures prescribed by subsection (a) or (b) of this section.

(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health and Human Services or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.

(e) Immediate precursors

The Attorney General may, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

(f) Abuse potential

If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

(g) Exclusion of non-narcotic substances sold over the counter without a prescription; dextromethorphan; exemption of substances lacking abuse potential

(1) The Attorney General shall by regulation exclude any non-narcotic drug which contains a controlled substance from the application of this subchapter and subchapter II of this chapter if such drug may, under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], be lawfully sold over the counter without a prescription.

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this subchapter unless controlled after October 27, 1970 pursuant to the foregoing provisions of this section.

(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this subchapter if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for prescription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.

(h) Temporary scheduling to avoid imminent hazards to public safety

(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 812 of this title or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355]. Such an order may not be issued before the expiration of thirty days from—

(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

(B) the date the Attorney General has transmitted the notice required by paragraph (4).

(2) The scheduling of a substance under this subsection shall expire at the end of 2 years from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) with respect to the substance, extend the temporary scheduling for up to 1 year.

(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors

set forth in paragraphs (4), (5), and (6) of subsection (c), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) with respect to such substance.

(6) An order issued under paragraph (1) is not subject to judicial review.

(i) Temporary and permanent scheduling of recently emerged anabolic steroids

(1) The Attorney General may issue a temporary order adding a drug or other substance to the definition of anabolic steroids if the Attorney General finds that—

(A) the drug or other substance satisfies the criteria for being considered an anabolic steroid under section 802(41) of this title but is not listed in that section or by regulation of the Attorney General as being an anabolic steroid; and

(B) adding such drug or other substance to the definition of anabolic steroids will assist in preventing abuse or misuse of the drug or other substance.

(2) An order issued under paragraph (1) shall not take effect until 30 days after the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued. The order shall expire not later than 24 months after the date it becomes effective, except that the Attorney General may, during the pendency of proceedings under paragraph (6), extend the temporary scheduling order for up to 6 months.

(3) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

(4) A temporary scheduling order issued under paragraph (1) shall be vacated upon the issuance of a permanent scheduling order under paragraph (6).

(5) An order issued under paragraph (1) is not subject to judicial review.

(6) The Attorney General may, by rule, issue a permanent order adding a drug or other substance to the definition of anabolic steroids if such drug or other substance satisfies the criteria for being considered an anabolic steroid under section 802(41) of this title. Such rulemaking may be commenced simultaneously with the issuance of the temporary order issued under paragraph (1).

(j) Interim final rule; date of issuance; procedure for final rule

(1) With respect to a drug referred to in subsection (f), if the Secretary of Health and Human Services recommends that the Attorney General control the drug in schedule II, III, IV, or V pursuant to subsections (a) and (b), the Attorney General shall, not later than 90 days after the date described in paragraph (2), issue an interim final rule controlling the drug in accordance with such subsections and section 812(b) of this title using the procedures described in paragraph (3).

(2) The date described in this paragraph shall be the later of—

(A) the date on which the Attorney General receives the scientific and medical evaluation and the scheduling recommendation from the Secretary of Health and Human Services in accordance with subsection (b); or

(B) the date on which the Attorney General receives notification from the Secretary of Health and Human Services that the Secretary has approved an application under section 505(c), 512, or 571 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(c), 360b, 360ccc] or section 262(a) of title 42, or indexed a drug under section 572 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360ccc–1], with respect to the drug described in paragraph (1).

(3) A rule issued by the Attorney General under paragraph (1) shall become immediately effective as an interim final rule without requiring the Attorney General to demonstrate good cause therefor. The interim final rule shall give interested persons the opportunity to comment and to request a hearing. After the conclusion of such proceedings, the Attorney General shall issue a final rule in accordance with the scheduling criteria of subsections (b), (c), and (d) of this section and section 812(b) of this title.

(Pub. L. 91–513, title II, §201, Oct. 27, 1970, 84 Stat. 1245; Pub. L. 95–633, title I, §102(a), Nov. 10, 1978, 92 Stat. 3769; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98–473, title II, §§508, 509(a), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 108–358, §2(b), Oct. 22, 2004, 118 Stat. 1663; Pub. L. 112–144, title XI, §1153, July 9, 2012, 126 Stat. 1132; Pub. L. 113–260, §2(b), Dec. 18, 2014, 128 Stat. 2930; Pub. L. 114–89, §2(b), Nov. 25, 2015, 129 Stat. 700.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (c)(8), (d)(3), (4)(A), (B), and (g)(2), (3), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (d)(3) and (g)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules I, II, III, IV, and V, referred to in subsecs. (d)(4)(A), (B), (h)(1), and (j)(1), are set out in section 812(c) of this title.

The Psychotropic Substances Act of 1978, referred to in subsec. (d)(5), is Pub. L. 95–633, Nov. 10, 1978, 92 Stat.

3768, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

This subchapter and subchapter II of this chapter, referred to in subsec. (g)(1), was in the original ''titles II and III of the Comprehensive Drug Abuse Prevention and Control Act'', which was translated as meaning titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, 1285, to reflect the probable intent of Congress. Title II is classified principally to this subchapter and part A of title III comprises subchapter II of this chapter. For complete classification of this Act to the Code, see Short Title notes set out under section 801 of this title and Tables.

AMENDMENTS

2015—Subsec. (j). Pub. L. 114–89 added subsec. (j).

2014—Subsec. (i). Pub. L. 113–260 added subsec. (i).

2012—Subsec. (h)(2). Pub. L. 112–144 substituted ''2 years'' for ''one year'' and ''1 year'' for ''six months''.

2004—Subsec. (g)(1). Pub. L. 108–358, § 2(b)(1), substituted ''drug which contains a controlled substance from the application of this subchapter and subchapter II of this chapter if such drug'' for ''substance from a schedule if such substance''.

Subsec. (g)(3)(C). Pub. L. 108–358, § 2(b)(2), added subpar. (C).

1984—Subsec. (g)(3). Pub. L. 98–473, § 509(a), added par. (3).

Subsec. (h). Pub. L. 98–473, § 508, added subsec. (h).

1978—Subsec. (d). Pub. L. 95–633 designated existing provisions as par. (1) and added pars. (2) to (5).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (d)(2), (3), (4)(A), (B), (5) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–358 effective 90 days after Oct. 22, 2004, see section 2(d) of Pub. L. 108–358, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 812. Schedules of controlled substances

(a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.[1]

[1] See Amendment of Schedules of Controlled Substances note below.

(b) Placement on schedules; findings required

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 811 of this title, consist of the following drugs or other substances,[1] by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacetylmathadol.[2]
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethadol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.
(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Racemoramide.
(42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-Oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methylhydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-Oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.
(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxyamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marihuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols, except for tetrahydrocannabinols in hemp (as defined under section 1639*o* of title 7).
(18) 4-methylmethcathinone (Mephedrone).
(19) 3,4-methylenedioxypyrovalerone (MDPV).
(20) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E).
(21) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D).
(22) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C).
(23) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I).
(24) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2).
(25) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4).
(26) 2-(2,5-Dimethoxyphenyl)ethanamine (2C–H).
(27) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C–N).
(28) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P).

(d)(1) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(2) In paragraph (1):

(A) The term ''cannabimimetic agents'' means any substance that is a cannabinoid re-

[2] So in original. Probably should be ''Alphacetylmethadol.''

ceptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(B) Such term includes—

(i) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP–47,497);

(ii) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP–47,497 C8-homolog);

(iii) 1-pentyl-3-(1-naphthoyl)indole (JWH–018 and AM678);

(iv) 1-butyl-3-(1-naphthoyl)indole (JWH–073);

(v) 1-hexyl-3-(1-naphthoyl)indole (JWH–019);

(vi) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH–200);

(vii) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH–250);

(viii) 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH–081);

(ix) 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH–122);

(x) 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH–398);

(xi) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

(xii) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

(xiii) 1-pentyl-3-[(4-methoxy)-benzoyl]indole (SR–19 and RCS–4);

(xiv) 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR–18 and RCS–8); and

(xv) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH–203).

SCHEDULE II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances 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 and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) coca[3] leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Alphaprodine.
(2) Anileridine.
(3) Bezitramide.
(4) Dihydrocodeine.
(5) Diphenoxylate.
(6) Fentanyl.
(7) Isomethadone.
(8) Levomethorphan.
(9) Levorphanol.
(10) Metazocine.
(11) Methadone.
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
(14) Pethidine.
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
(18) Phenazocine.
(19) Piminodine.
(20) Racemethorphan.
(21) Racemorphan.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

SCHEDULE III

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any

[3] So in original. Probably should be capitalized.

quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.

(2) Chorhexadol.[4]

(3) Glutethimide.

(4) Lysergic acid.

(5) Lysergic acid amide.

(6) Methyprylon.

(7) Phencyclidine.

(8) Sulfondiethylmethane.

(9) Sulfonethylmethane.

(10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Anabolic steroids.

SCHEDULE IV

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate.
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

SCHEDULE V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(Pub. L. 91–513, title II, §202, Oct. 27, 1970, 84 Stat. 1247; Pub. L. 95–633, title I, §103, Nov. 10, 1978, 92 Stat. 3772; Pub. L. 98–473, title II, §§507(c), 509(b), Oct. 12, 1984, 98 Stat. 2071, 2072; Pub. L. 99–570, title I, §1867, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, §84, Nov. 10, 1986, 100 Stat. 3619; Pub. L. 101–647, title XIX, §1902(a), Nov. 29, 1990, 104 Stat. 4851; Pub. L. 112–144, title XI, §1152, July 9, 2012, 126 Stat. 1130; Pub. L. 115–334, title XII, §12619(b), Dec. 20, 2018, 132 Stat. 5018.)

Editorial Notes

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–334 inserted '', except for tetrahydrocannabinols in hemp (as defined under section 1639*o* of title 7)'' after ''Tetrahydrocannabinols'' in schedule I(c)(17).

2012—Subsec. (c). Pub. L. 112–144, §1152(b), added schedule I(c)(18) to (28).

Pub. L. 112–144, §1152(a), added schedule I(d).

1990—Subsec. (c). Pub. L. 101–647 added item (e) at end of schedule III.

1986—Subsec. (c). Pub. L. 99–646 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows: ''Coca leaves (except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed); cocaine, its salts, optical and geometric isomers, and salts of isomers; and ecgonine, its derivatives, their salts, isomers, and salts of isomers.''

[4] So in original. Probably should be ''Chlorhexadol.''

Pub. L. 99–570 amended schedule II(a)(4) generally. Prior to amendment, schedule II(a)(4) read as follows: ''Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.''

1984—Subsec. (c). Pub. L. 98–473, § 507(c), in schedule II(a)(4) added applicability to cocaine and ecgonine and their salts, isomers, etc.

Subsec. (d). Pub. L. 98–473, § 509(b), struck out subsec. (d) which related to authority of Attorney General to except stimulants or depressants containing active medicinal ingredients.

1978—Subsec. (d)(3). Pub. L. 95–633 added cl. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–647 effective 90 days after Nov. 29, 1990, see section 1902(d) of Pub. L. 101–647, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

AMENDMENT OF SCHEDULES OF CONTROLLED SUBSTANCES

For updated and republished schedules of controlled substances established by this section, see Code of Federal Regulations, Part 1308 of Title 21, Food and Drugs.

CONGRESSIONAL FINDING; EMERGENCY SCHEDULING OF GHB IN CONTROLLED SUBSTANCES ACT

Pub. L. 106–172, §§ 2, 3(a), Feb. 18, 2000, 114 Stat. 7, 8, provided that:

''SEC. 2. FINDINGS.

''Congress finds as follows:

''(1) Gamma hydroxybutyric acid (also called G, Liquid X, Liquid Ecstasy, Grievous Bodily Harm, Georgia Home Boy, Scoop) has become a significant and growing problem in law enforcement. At least 20 States have scheduled such drug in their drug laws and law enforcement officials have been experiencing an increased presence of the drug in driving under the influence, sexual assault, and overdose cases especially at night clubs and parties.

''(2) A behavioral depressant and a hypnotic, gamma hydroxybutyric acid ('GHB') is being used in conjunction with alcohol and other drugs with detrimental effects in an increasing number of cases. It is difficult to isolate the impact of such drug's ingestion since it is so typically taken with an ever-changing array of other drugs and especially alcohol which potentiates its impact.

''(3) GHB takes the same path as alcohol, processes via alcohol dehydrogenase, and its symptoms at high levels of intake and as impact builds are comparable to alcohol ingestion/intoxication. Thus, aggression and violence can be expected in some individuals who use such drug.

''(4) If taken for human consumption, common industrial chemicals such as gamma butyrolactone and 1.4-butanediol are swiftly converted by the body into GHB. Illicit use of these and other GHB analogues and precursor chemicals is a significant and growing law enforcement problem.

''(5) A human pharmaceutical formulation of gamma hydroxybutyric acid is being developed as a treatment for cataplexy, a serious and debilitating disease. Cataplexy, which causes sudden and total loss of muscle control, affects about 65 percent of the estimated 180,000 Americans with narcolepsy, a sleep disorder. People with cataplexy often are unable to work, drive a car, hold their children or live a normal life.

''(6) Abuse of illicit GHB is an imminent hazard to public safety that requires immediate regulatory action under the Controlled Substances Act (21 U.S.C. 801 et seq.).

''SEC. 3. EMERGENCY SCHEDULING OF GAMMA HYDROXYBUTYRIC ACID AND LISTING OF GAMMA BUTYROLACTONE AS LIST I CHEMICAL.

''(a) EMERGENCY SCHEDULING OF GHB.—

''(1) IN GENERAL.—The Congress finds that the abuse of illicit gamma hydroxybutyric acid is an imminent hazard to the public safety. Accordingly, the Attorney General, notwithstanding sections 201(a), 201(b), 201(c), and 202 of the Controlled Substances Act [21 U.S.C. 811(a)–(c), 812], shall issue, not later than 60 days after the date of the enactment of this Act [Feb. 18, 2000], a final order that schedules such drug (together with its salts, isomers, and salts of isomers) in the same schedule under section 202(c) of the Controlled Substances Act as would apply to a scheduling of a substance by the Attorney General under section 201(h)(1) of such Act (relating to imminent hazards to the public safety), except as follows:

''(A) For purposes of any requirements that relate to the physical security of registered manufacturers and registered distributors, the final order shall treat such drug, when the drug is manufactured, distributed, or possessed in accordance with an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(i)] (whether the exemption involved is authorized before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), as being in the same schedule as that recommended by the Secretary of Health and Human Services for the drug when the drug is the subject of an authorized investigational new drug application (relating to such section 505(i)). The recommendation referred to in the preceding sentence is contained in the first paragraph of the letter transmitted on May 19, 1999, by such Secretary (acting through the Assistant Secretary for Health) to the Attorney General (acting through the Deputy Administrator of the Drug Enforcement Administration), which letter was in response to the letter transmitted by the Attorney General (acting through such Deputy Administrator) on September 16, 1997. In publishing the final order in the Federal Register, the Attorney General shall publish a copy of the letter that was transmitted by the Secretary of Health and Human Services.

''(B) In the case of gamma hydroxybutyric acid that is contained in a drug product for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355] (whether the application involved is approved before, on, or after the date of the enactment of this Act [Feb. 18, 2000]), the final order shall schedule such drug in the same schedule as that recommended by the Secretary of Health and Human Services for authorized formulations of the drug. The recommendation referred to in the preceding sentence is contained in the last sentence of the fourth paragraph of the letter referred to in subparagraph (A) with respect to May 19, 1999.

''(2) FAILURE TO ISSUE ORDER.—If the final order is not issued within the period specified in paragraph (1), gamma hydroxybutyric acid (together with its salts, isomers, and salts of isomers) is deemed to be scheduled under section 202(c) of the Controlled Substances Act [21 U.S.C. 812(c)] in accordance with the policies described in paragraph (1), as if the Attorney

General had issued a final order in accordance with such paragraph.''

PLACEMENT OF PIPRADROL AND SPA IN SCHEDULE IV TO CARRY OUT OBLIGATION UNDER CONVENTION ON PSYCHOTROPIC SUBSTANCES

Pub. L. 95–633, title I, §102(c), Nov. 10, 1978, 92 Stat. 3772, provided that: ''For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act [this section and section 811 of this title], place such drugs in schedule IV of such Act [see subsec. (c) of this section].''

Provision of section 102(c) of Pub. L. 95–633, set out above, effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

§ 813. Treatment of controlled substance analogues

(a) In general

A controlled substance analogue shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in schedule I.

(b) Determination

In determining whether a controlled substance analogue was intended for human consumption under subsection (a), the following factors may be considered, along with any other relevant factors:

(1) The marketing, advertising, and labeling of the substance.

(2) The known efficacy or usefulness of the substance for the marketed, advertised, or labeled purpose.

(3) The difference between the price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold.

(4) The diversion of the substance from legitimate channels and the clandestine importation, manufacture, or distribution of the substance.

(5) Whether the defendant knew or should have known the substance was intended to be consumed by injection, inhalation, ingestion, or any other immediate means.

(6) Any controlled substance analogue that is manufactured, formulated, sold, distributed, or marketed with the intent to avoid the provisions of existing drug laws.

(c) Limitation

For purposes of this section, evidence that a substance was not marketed, advertised, or labeled for human consumption, by itself, shall not be sufficient to establish that the substance was not intended for human consumption.

(Pub. L. 91–513, title II, §203, as added Pub. L. 99–570, title I, §1202, Oct. 27, 1986, 100 Stat. 3207–13; amended Pub. L. 100–690, title VI, §6470(c), Nov. 18, 1988, 102 Stat. 4378; Pub. L. 115–271, title III, §3241, Oct. 24, 2018, 132 Stat. 3950.)

Editorial Notes

REFERENCES IN TEXT

Schedule I, referred to in subsec. (a), is set out in section 812(c) of this title.

AMENDMENTS

2018—Pub. L. 115–271 designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

1988—Pub. L. 100–690 substituted ''any Federal law'' for ''this subchapter and subchapter II of this chapter''.

§ 814. Removal of exemption of certain drugs

(a) Removal of exemption

The Attorney General shall by regulation remove from exemption under section 802(39)(A)(iv) of this title a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

(b) Factors to be considered

In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

(1) the scope, duration, and significance of the diversion;

(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

(c) Specificity of designation

The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

(d) Reinstatement of exemption with respect to particular drug products

(1) Reinstatement

On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

(2) Factors to be considered

In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

(A) the package sizes and manner of packaging of the drug product;

(B) the manner of distribution and advertising of the drug product;

(C) evidence of diversion of the drug product;

(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

(3) Status pending application for reinstatement

A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

(B) the Attorney General so notifies the applicant.

(4) Amendment and modification

A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

(B) there is a significant change in the data that led to the issuance of the regulation.

(Pub. L. 91–513, title II, § 204, as added Pub. L. 103–200, § 2(b)(1), Dec. 17, 1993, 107 Stat. 2334; amended Pub. L. 104–237, title IV, § 401(c), Oct. 3, 1996, 110 Stat. 3108; Pub. L. 109–177, title VII, § 712(a)(2), Mar. 9, 2006, 120 Stat. 263.)

Editorial Notes

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–177 struck out subsec. (e). Text read as follows: ''Pursuant to subsection (d)(1) of this section, the Attorney General shall by regulation reinstate the exemption with respect to a particular ephedrine, pseudoephedrine, or phenylpropanolamine drug product if the Attorney General determines that the drug product is manufactured and distributed in a manner that prevents diversion. In making this determination the Attorney General shall consider the factors listed in subsection (d)(2) of this section. Any regulation issued pursuant to this subsection may be amended or revoked based on the factors listed in subsection (d)(4) of this section.''

1996—Subsec. (e). Pub. L. 104–237 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–237 not applicable to sale of any pseudoephedrine or phenylpropanolamine product prior to 12 months after Oct. 3, 1996, except that, on application of manufacturer of particular drug product, Attorney General may exercise sole and judicially unreviewable discretion to extend such effective date up to additional 6 months, see section 401(g) of Pub. L. 104–237, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as an Effective Date of 1993 Amendment note under section 802 of this title.

PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

§ 821. Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances and to listed chemicals.

(Pub. L. 91–513, title II, § 301, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 103–200, § 3(a), Dec. 17, 1993, 107 Stat. 2336; Pub. L. 108–447, div. B, title VI, § 633(b), Dec. 8, 2004, 118 Stat. 2922.)

Editorial Notes

AMENDMENTS

2004—Pub. L. 108–447 substituted ''listed chemicals'' for ''the registration and control of regulated persons and of regulated transactions''.

1993—Pub. L. 103–200 inserted before period at end ''and to the registration and control of regulated persons and of regulated transactions''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 822. Persons required to register

(a) Period of registration

(1) Every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.

(3)(A) Except as provided in subparagraph (C), the registration of any registrant under this subchapter to manufacture, distribute, or dispense controlled substances or list I chemicals terminates if and when such registrant—

(i) dies;

(ii) ceases legal existence;

(iii) discontinues business or professional practice; or

(iv) surrenders such registration.

(B) In the case of such a registrant who ceases legal existence or discontinues business or professional practice, such registrant shall promptly notify the Attorney General in writing of such fact.

(C) No registration under this subchapter to manufacture, distribute, or dispense controlled substances or list I chemicals, and no authority conferred thereby, may be assigned or otherwise transferred except upon such conditions as the Attorney General may specify and then only pursuant to written consent. A registrant to whom a registration is assigned or transferred pursuant to the preceding sentence may not manufacture, distribute, or dispense controlled substances or list I chemicals pursuant to such registration until the Attorney General receives such written consent.

(D) In the case of a registrant under this subchapter to manufacture, distribute, or dispense controlled substances or list I chemicals desiring to discontinue business or professional practice altogether or with respect to controlled substances and list I chemicals (without assigning or transferring such business or professional practice to another entity), such registrant shall return to the Attorney General for cancellation—

(i) the registrant's certificate of registration;

(ii) any unexecuted order forms in the registrant's possession; and

(iii) any other documentation that the Attorney General may require.

(b) Authorized activities

Persons registered by the Attorney General under this subchapter to manufacture, distribute, or dispense controlled substances or list I chemicals are authorized to possess, manufacture, distribute, or dispense such substances or chemicals (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this subchapter.

(c) Exceptions

The following persons shall not be required to register and may lawfully possess any controlled substance or list I chemical under this subchapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance or list I chemical if such agent or employee is acting in the usual course of his business or employment.

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance or list I chemical is in the usual course of his business or employment.

(3) An ultimate user who possesses such substance for a purpose specified in section 802(25)[1] of this title.

[1] See References in Text note below.

(d) Waiver

The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

(e) Separate registration

(1) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances or list I chemicals.

(2) Notwithstanding paragraph (1), a registrant who is a veterinarian shall not be required to have a separate registration in order to transport and dispense controlled substances in the usual course of veterinary practice at a site other than the registrant's registered principal place of business or professional practice, so long as the site of transporting and dispensing is located in a State where the veterinarian is licensed to practice veterinary medicine and is not a principal place of business or professional practice.

(3) Notwithstanding paragraph (1), a registrant that is dispensing pursuant to section 823(g)[1] of this title narcotic drugs to individuals for maintenance treatment or detoxification treatment shall not be required to have a separate registration to incorporate one or more mobile medication units into the registrant's practice to dispense such narcotics at locations other than the registrant's principal place of business or professional practice described in paragraph (1), so long as the registrant meets such standards for operation of a mobile medication unit as the Attorney General may establish.

(f) Inspection

The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

(g) Delivery of controlled substances by ultimate users for disposal

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

(A) the person receiving the controlled substance is authorized under this subchapter 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, authorize long-term care facilities, as defined by the Attorney General by regulation, to dispose

of controlled substances 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 controls 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 lawfully 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.

(5)(A) In the case of a person receiving hospice care, an employee of a qualified hospice program, acting within the scope of employment, may handle, without being registered under this section, any controlled substance that was lawfully dispensed to the person receiving hospice care, for the purpose of disposal of the controlled substance so long as such disposal occurs onsite in accordance with all applicable Federal, State, Tribal, and local law and—

(i) the disposal occurs after the death of a person receiving hospice care;

(ii) the controlled substance is expired; or

(iii)(I) the employee is—

(aa) the physician of the person receiving hospice care; and

(bb) registered under section 823(g) of this title; and

(II) the hospice patient no longer requires the controlled substance because the plan of care of the hospice patient has been modified.

(B) For the purposes of this paragraph:

(i) The terms ''hospice care'' and ''hospice program'' have the meanings given to those terms in section 1395x(dd) of title 42.

(ii) The term ''employee of a qualified hospice program'' means a physician, physician assistant, nurse, or other person who—

(I) is employed by, or pursuant to arrangements made by, a qualified hospice program;

(II)(aa) is licensed to perform medical or nursing services by the jurisdiction in which the person receiving hospice care was located; and

(bb) is acting within the scope of such employment in accordance with applicable State law; and

(III) has completed training through the qualified hospice program regarding the disposal of controlled substances in a secure and responsible manner so as to discourage abuse, misuse, or diversion.

(iii) The term ''qualified hospice program'' means a hospice program that—

(I) has written policies and procedures for assisting in the disposal of the controlled substances of a person receiving hospice care after the person's death;

(II) at the time when the controlled substances are first ordered—

(aa) provides a copy of the written policies and procedures to the patient or patient representative and family;

(bb) discusses the policies and procedures with the patient or representative and the family in a language and manner that they understand to ensure that these parties are educated regarding the safe disposal of controlled substances; and

(cc) documents in the patient's clinical record that the written policies and procedures were provided and discussed; and

(III) at the time following the disposal of the controlled substances—

(aa) documents in the patient's clinical record the type of controlled substance, dosage, route of administration, and quantity so disposed; and

(bb) the time, date, and manner in which that disposal occurred.

(Pub. L. 91–513, title II, § 302, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 98–473, title II, § 510, Oct. 12, 1984, 98 Stat. 2072; Pub. L. 103–200, § 3(b), Dec. 17, 1993, 107 Stat. 2336; Pub. L. 111–273, § 3(a), Oct. 12, 2010, 124 Stat. 2859; Pub. L. 113–143, § 2, Aug. 1, 2014, 128 Stat. 1750; Pub. L. 115–271, title III, § 3222(a), Oct. 24, 2018, 132 Stat. 3948; Pub. L. 117–53, § 2, Nov. 10, 2021, 135 Stat. 411; Pub. L. 117–215, title I, § 103(b)(1)(B), Dec. 2, 2022, 136 Stat. 2263; Pub. L. 117–328, div. FF, title I, § 1252(a), Dec. 29, 2022, 136 Stat. 5681.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(3), (b), (c), and (g)(1), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Section 802(25) of this title, referred to in subsec. (c)(3), was redesignated section 802(26) of this title by Pub. L. 98–473, title II, § 507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99–570, title I, § 1003(b)(2), Oct. 27, 1986, 100 Stat. 3207–6.

Section 823(g) of this title, referred to in subsec. (e)(3), was redesignated section 823(h) of this title by Pub. L. 117–215, title I, § 103(a)(1), Dec. 2, 2022, 136 Stat. 2261.

AMENDMENTS

2022—Subsec. (e)(3). Pub. L. 117–328, § 1252(a), added par. (3).

Subsec. (g)(5)(A)(iii)(I)(bb). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)''.

2021—Subsec. (a)(3). Pub. L. 117–53 added par. (3).

2018—Subsec. (g)(5). Pub. L. 115–271 added par. (5).

2014—Subsec. (e). Pub. L. 113–143 designated existing provisions as par. (1) and added par. (2).

2010—Subsec. (g). Pub. L. 111–273 added subsec. (g).

1993—Subsec. (a)(1). Pub. L. 103–200, § 3(b)(1), inserted ''or list I chemical'' after ''controlled substance'' in two places.

Subsec. (b). Pub. L. 103–200, § 3(b)(2), inserted ''or list I chemicals'' after ''controlled substances'' and ''or chemicals'' after ''such substances''.

Subsec. (c). Pub. L. 103–200, § 3(b)(3), inserted ''or list I chemical'' after ''controlled substance'' wherever appearing.

Subsec. (e). Pub. L. 103–200, § 3(b)(4), inserted ''or list I chemicals'' after ''controlled substances''.

1984—Subsec. (a). Pub. L. 98–473 designated existing provisions as par. (1), struck out provisions relating to dispensing controlled substances, and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

RULE OF CONSTRUCTION RELATING TO STATE AND LOCAL LAW

Pub. L. 115–271, title III, §3222(c), Oct. 24, 2018, 132 Stat. 3949, provided that: ''Nothing in this section [amending this section and enacting provisions set out as a note below] or the amendments made by this section shall be construed to prevent a State or local government from imposing additional controls or restrictions relating to the regulation of the disposal of controlled substances in hospice care or hospice programs.''

GUIDANCE

Pub. L. 115–271, title III, §3222(b), Oct. 24, 2018, 132 Stat. 3949, provided that: ''The Attorney General may issue guidance to hospice programs (as defined in paragraph (5) of section 302(g) of the Controlled Substances Act (21 U.S.C. 822(g)), as added by subsection (a)) to assist the programs in satisfying the requirements under such paragraph (5).''

FINDINGS

Pub. L. 111–273, §2, Oct. 12, 2010, 124 Stat. 2858, provided that: ''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 Danger', 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 Administration 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. Drug take-back programs are also a convenient and effective means for individuals in various communities to reduce the introduction of some potentially harmful substances into the environment, particularly into water.

''(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 [see Short Title of 2010 Amendment note set out under section 801 of this title] gives the Attorney General authority to promulgate new regulations, within the framework of the Controlled Substances Act [21 U.S.C. 801 et seq.], 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 collection and disposal of controlled substances, including some pharmaceuticals, in a secure, convenient, and responsible manner. This will also serve to reduce instances of diversion and introduction of some potentially harmful substances into the environment.''

PROVISIONAL REGISTRATION

Pub. L. 91–513, title II, §703, Oct. 27, 1970, 84 Stat. 1283, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a)(1) Any person who—

''(A) is engaged in manufacturing, distributing, or dispensing any controlled substance on the day before the effective date of section 302 [this section], and

''(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section 360 of this title] or under section 4722 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4722 of Title 26],

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 303 [section 823 of this title] for the manufacture, distribution, or dispensing (as the case may be) of controlled substances.

''(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 [section 360 of this title] or under such section 4722 [section 4722 of Title 26] (as the case may be) shall be his registration number for purposes of section 303 of this title [section 823 of this title].

''(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

''(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

''(1) the date on which such person has registered with the Attorney General under section 303 [section 823 of this title] or has had his registration denied under such section, or

''(2) such date as may be prescribed by the Attorney General for registration of manufacturers, distributors, or dispensers, as the case may be,

whichever occurs first.''

§ 822a. Prescription drug take back expansion

(a) Definition of covered entity

In this section, the term ''covered entity'' means—

(1) a State, local, or tribal law enforcement agency;

(2) a manufacturer, distributor, or reverse distributor of prescription medications;

(3) a retail pharmacy;

(4) a registered narcotic treatment program;

(5) a hospital or clinic with an onsite pharmacy;

(6) an eligible long-term care facility; or

(7) any other entity authorized by the Drug Enforcement Administration to dispose of prescription medications.

(b) Program authorized

The Attorney General, in coordination with the Administrator of the Drug Enforcement Administration, the Secretary of Health and Human Services, and the Director of the Office of National Drug Control Policy, shall coordinate with covered entities in expanding or making available disposal sites for unwanted prescription medications.

(Pub. L. 114–198, title II, § 203, July 22, 2016, 130 Stat. 717.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Comprehensive Addiction and Recovery Act of 2016, and not as part of the Controlled Substances Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

ACCESS TO INCREASED DRUG DISPOSAL

Pub. L. 115–271, title III, subtitle B, ch. 6, Oct. 24, 2018, 132 Stat. 3950, provided that:

''SEC. 3251. SHORT TITLE.

''This chapter may be cited as the 'Access to Increased Drug Disposal Act of 2018'.

''SEC. 3252. DEFINITIONS.

''In this chapter—

''(1) the term 'Attorney General' means the Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs;

''(2) the term 'authorized collector' means a narcotic treatment program, a hospital or clinic with an on-site pharmacy, a retail pharmacy, or a reverse distributor, that is authorized as a collector under section 1317.40 of title 21, Code of Federal Regulations (or any successor regulation);

''(3) the term 'covered grant' means a grant awarded under section 3003 [probably means section 3253; no section 3003 of Pub. L. 115–271 has been enacted]; and

''(4) the term 'eligible collector' means a person who is eligible to be an authorized collector.

''SEC. 3253. AUTHORITY TO MAKE GRANTS.

''The Attorney General shall award grants to States to enable the States to increase the participation of eligible collectors as authorized collectors.

''SEC. 3254. APPLICATION.

''A State desiring a covered grant shall submit to the Attorney General an application that, at a minimum—

''(1) identifies the single State agency that oversees pharmaceutical care and will be responsible for complying with the requirements of the grant;

''(2) details a plan to increase participation rates of eligible collectors as authorized collectors; and

''(3) describes how the State will select eligible collectors to be served under the grant.

''SEC. 3255. USE OF GRANT FUNDS.

''A State that receives a covered grant, and any subrecipient of the grant, may use the grant amounts only for the costs of installation, maintenance, training, purchasing, and disposal of controlled substances associated with the participation of eligible collectors as authorized collectors.

''SEC. 3256. ELIGIBILITY FOR GRANT.

''The Attorney General shall award a covered grant to 5 States, not less than 3 of which shall be States in the lowest quartile of States based on the participation rate of eligible collectors as authorized collectors, as determined by the Attorney General.

''SEC. 3257. DURATION OF GRANTS.

''The Attorney General shall determine the period of years for which a covered grant is made to a State.

''SEC. 3258. ACCOUNTABILITY AND OVERSIGHT.

''A State that receives a covered grant shall submit to the Attorney General a report, at such time and in such manner as the Attorney General may reasonably require, that—

''(1) lists the ultimate recipients of the grant amounts;

''(2) describes the activities undertaken by the State using the grant amounts; and

''(3) contains performance measures relating to the effectiveness of the grant, including changes in the participation rate of eligible collectors as authorized collectors.

''SEC. 3259. DURATION OF PROGRAM.

''The Attorney General may award covered grants for each of the first 5 fiscal years beginning after the date of enactment of this Act [Oct. 24, 2018].

''SEC. 3260. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to the Attorney General such sums as may be necessary to carry out this chapter.''

§ 823. Registration requirements

(a) Manufacturers of controlled substances in schedule I or II

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(b) Distributors of controlled substances in schedule I or II

The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

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

(c) Manufacturers of marijuana for research purposes

(1)(A) As it relates to applications to manufacture marijuana for research purposes, when the Attorney General places a notice in the Federal Register to increase the number of entities registered under this chapter to manufacture marijuana to supply appropriately registered researchers in the United States, the Attorney General shall, not later than 60 days after the date on which the Attorney General receives a completed application—

(i) approve the application; or

(ii) request supplemental information.

(B) For purposes of subparagraph (A), an application shall be deemed complete when the applicant has submitted documentation showing each of the following:

(i) The requirements designated in the notice in the Federal Register are satisfied.

(ii) The requirements under this chapter are satisfied.

(iii) The applicant will limit the transfer and sale of any marijuana manufactured under this subsection—

(I) to researchers who are registered under this chapter to conduct research with controlled substances in schedule I; and

(II) for purposes of use in preclinical research or in a clinical investigation pursuant to an investigational new drug exemption under 355(i)[1] of this title.

(iv) The applicant will transfer or sell any marijuana manufactured under this subsection only with prior, written consent for the transfer or sale by the Attorney General.

(v) The applicant has completed the application and review process under subsection (a) for the bulk manufacture of controlled substances in schedule I.

(vi) The applicant has established and begun operation of a process for storage and handling of controlled substances in schedule I, including for inventory control and monitoring security in accordance with section 105 of the Medical Marijuana and Cannabidiol Research Expansion Act.

(vii) The applicant is licensed by each State in which the applicant will conduct operations under this subsection, to manufacture marijuana, if that State requires such a license.

(C) Not later than 30 days after the date on which the Attorney General receives supplemental information requested under subparagraph (A)(ii) with respect to an application, the Attorney General shall approve or deny the application.

(2) If an application described in this subsection is denied, the Attorney General shall provide a written explanation of the basis of denial to the applicant.

(d) Limits of authorized activities

Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 826 of this title.

(e) Manufacturers of controlled substances in schedule III, IV, or V

The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(f) Distributors of controlled substances in schedule III, IV, or V

The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the pub-

[1] So in original. Probably should be preceded by ''section''.

lic interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

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

(g) Research by practitioners; pharmacies; research applications; construction of Article 7 of the Convention on Psychotropic Substances

(1) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedule II, III, IV, or V and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration or such modification of registration if the Attorney General determines that the issuance of such registration or modification would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(C) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required.

(2)(A) Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 824(a) of this title.

(B)(i) The Attorney General shall register a practitioner to conduct research with marijuana (including any derivative, extract, preparation, and compound thereof) if—

(I) the applicant's research protocol has been reviewed and allowed—

(aa) by the Secretary of Health and Human Services under section 355(i) of this title;

(bb) by the National Institutes of Health or another Federal agency that funds scientific research; or

(cc) pursuant to sections 1301.18 and 1301.32 of title 21, Code of Federal Regulations, or any successors thereto; and

(II) the applicant has demonstrated to the Attorney General that there are effective procedures in place to adequately safeguard against diversion of the controlled substance for legitimate medical or scientific use pursuant to section 105 of the Medical Marijuana and Cannabidiol Research Expansion Act, including demonstrating that the security measures are adequate for storing the quantity of marijuana the applicant would be authorized to possess.

(ii) The Attorney General may deny an application for registration under this subparagraph only if the Attorney General determines that the issuance of the registration would be inconsistent with the public interest. In determining the public interest, the Attorney General shall consider the factors listed in—

(I) subparagraphs (B) through (E) of paragraph (1); and

(II) subparagraph (A) of paragraph (1), if the applicable State requires practitioners conducting research to register with a board or authority described in such subparagraph (A).

(iii)(I) Not later than 60 days after the date on which the Attorney General receives a complete application for registration under this subparagraph, the Attorney General shall—

(aa) approve the application; or

(bb) request supplemental information.

(II) For purposes of subclause (I), an application shall be deemed complete when the applicant has submitted documentation showing that the requirements under clause (i) are satisfied.

(iv) Not later than 30 days after the date on which the Attorney General receives supplemental information as described in clause (iii)(I)(bb) in connection with an application described in this subparagraph, the Attorney General shall approve or deny the application.

(v) If an application described in this subparagraph is denied, the Attorney General shall provide a written explanation of the basis of denial to the applicant.

(vi)(I) If the Attorney General grants an application for registration under clause (i), the registrant may amend or supplement the research protocol without notification to, or review by, the Drug Enforcement Administration if the registrant does not change—

(aa) the quantity or type of marijuana or cannabidiol (including any derivative, extract, preparation, and compound thereof);

(bb) the source of such marijuana or cannabidiol; or

(cc) the conditions under which such marijuana or cannabidiol is stored, tracked, or administered.

(II)(aa) If a registrant under clause (i) seeks to change the type of marijuana or cannabidiol (including any derivative, extract, preparation, and compound thereof), the source of such marijuana or cannabidiol, or the conditions under which such marijuana or cannabidiol is stored, tracked, or administered, the registrant shall notify the Attorney General via registered mail, or an electronic means permitted by the Attorney General, not later than 30 days before implementing an amended or supplemental research protocol.

(bb) A registrant may proceed with an amended or supplemental research protocol described in item (aa) if the Attorney General does not explicitly object during the 30-day period beginning on the date on which the Attorney General receives the notice under item (aa).

(cc) The Attorney General may only object to an amended or supplemental research protocol under this subclause if additional security measures are needed to safeguard against diversion or abuse.

(dd) If a registrant under clause (i) seeks to address additional security measures identified by the Attorney General under item (cc), the registrant shall notify the Attorney General via registered mail, or an electronic means permitted by the Attorney General, not later than 30 days before implementing an amended or supplemental research protocol.

(ee) A registrant may proceed with an amended or supplemental research protocol described in item (dd) if the Attorney General does not explicitly object during the 30-day period beginning on the date on which the Attorney General receives the notice under item (dd).

(III)(aa) If a registrant under clause (i) seeks to change the quantity of marijuana needed for research and the change in quantity does not impact the factors described in item (bb) or (cc) of subclause (I) of this clause, the registrant shall notify the Attorney General via registered mail or using an electronic means permitted by the Attorney General.

(bb) A notification under item (aa) shall include—

(AA) the Drug Enforcement Administration registration number of the registrant;

(BB) the quantity of marijuana or cannabidiol already obtained;

(CC) the quantity of additional marijuana or cannabidiol needed to complete the research; and

(DD) an attestation that the change in quantity does not impact the source of the marijuana or cannabidiol or the conditions under which the marijuana or cannabidiol is stored, tracked, or administered.

(cc) The Attorney General shall ensure that—

(AA) any registered mail return receipt with respect to a notification under item (aa) is submitted for delivery to the registrant providing the notification not later than 3 days after receipt of the notification by the Attorney General; and

(BB) notice of receipt of a notification using an electronic means permitted under item (aa) is provided to the registrant providing the notification not later than 3 days after receipt of the notification by the Attorney General.

(dd)(AA) On and after the date described in subitem (BB), a registrant that submits a notification in accordance with item (aa) may proceed with the research as if the change in quantity has been approved on such date, unless the Attorney General notifies the registrant of an objection described in item (ee).

(BB) The date described in this subitem is the date on which a registrant submitting a notification under item (aa) receives the registered mail return receipt with respect to the notification or the date on which the registrant receives notice that the notification using an electronic means permitted under item (aa) was received by the Attorney General, as the case may be.

(ee) A notification submitted under item (aa) shall be deemed to be approved unless the Attorney General, not later than 10 days after receiving the notification, explicitly objects based on a finding that the change in quantity—

(AA) does impact the source of the marijuana or cannabidiol or the conditions under which the marijuana or cannabidiol is stored, tracked, or administered; or

(BB) necessitates that the registrant implement additional security measures to safeguard against diversion or abuse.

(IV) Nothing in this clause shall limit the authority of the Secretary of Health and Human Services over requirements related to research protocols, including changes in—

(aa) the method of administration of marijuana or cannabidiol;

(bb) the dosing of marijuana or cannabidiol; and

(cc) the number of individuals or patients involved in research.

(3) Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this subchapter.

(h) Practitioners dispensing narcotic drugs for narcotic treatment; annual registration; separate registration; qualifications

Practitioners who dispense narcotic drugs (other than narcotic drugs in schedule III, IV, or V) to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment (or both)—

(1) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;

(2) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (A) security of stocks of narcotic drugs for such treatment, and (B) the maintenance of records (in accordance with section 827 of this title) on such drugs; and

(3) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(i) Applicants for distribution of list I chemicals

The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under clause (iv) or (v) of section 802(39)(A) of this title. In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

(2) compliance by the applicant with applicable Federal, State, and local law;

(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

(5) such other factors as are relevant to and consistent with the public health and safety.

(j) Registration to manufacture certain controlled substances for use only in a clinical trial

(1) For purposes of registration to manufacture a controlled substance under subsection (e) for use only in a clinical trial, the Attorney General shall register the applicant, or serve an order to show cause upon the applicant in accordance with section 824(c) of this title, not later than 180 days after the date on which the application is accepted for filing.

(2) For purposes of registration to manufacture a controlled substance under subsection (a) for use only in a clinical trial, the Attorney General shall, in accordance with the regulations issued by the Attorney General, issue a notice of application not later than 90 days after the application is accepted for filing. Not later than 90 days after the date on which the period for comment pursuant to such notice ends, the Attorney General shall register the applicant, or serve an order to show cause upon the applicant in accordance with section 824(c) of this title, unless the Attorney General has granted a hearing on the application under section 958(i) of this title.

(k) Emergency medical services that administer controlled substances

(1) Registration

For the purpose of enabling emergency medical services professionals to administer controlled substances in schedule II, III, IV, or V to ultimate users receiving emergency medical services in accordance with the requirements of this subsection, the Attorney General—

(A) shall register an emergency medical services agency if the agency submits an application demonstrating it is authorized to conduct such activity under the laws of each State in which the agency practices; and

(B) may deny an application for such registration if the Attorney General determines that the issuance of such registration would be inconsistent with the requirements of this subsection or the public interest based on the factors listed in subsection (g).

(2) Option for single registration

In registering an emergency medical services agency pursuant to paragraph (1), the Attorney General shall allow such agency the option of a single registration in each State where the agency administers controlled substances in lieu of requiring a separate registration for each location of the emergency medical services agency.

(3) Hospital-based agency

If a hospital-based emergency medical services agency is registered under subsection (g), the agency may use the registration of the hospital to administer controlled substances in accordance with this subsection without being registered under this subsection.

(4) Administration outside physical presence of medical director or authorizing medical professional

Emergency medical services professionals of a registered emergency medical services agency may administer controlled substances in schedule II, III, IV, or V outside the physical presence of a medical director or authorizing medical professional in the course of providing emergency medical services if the administration is—

(A) authorized by the law of the State in which it occurs; and

(B) pursuant to—

(i) a standing order that is issued and adopted by one or more medical directors of the agency, including any such order that may be developed by a specific State authority; or

(ii) a verbal order that is—

(I) issued in accordance with a policy of the agency; and

(II) provided by a medical director or authorizing medical professional in response to a request by the emergency medical services professional with respect to a specific patient—

(aa) in the case of a mass casualty incident; or

(bb) to ensure the proper care and treatment of a specific patient.

(5) Delivery

A registered emergency medical services agency may deliver controlled substances from a registered location of the agency to an unregistered location of the agency only if the agency—

(A) designates the unregistered location for such delivery; and

(B) notifies the Attorney General at least 30 days prior to first delivering controlled substances to the unregistered location.

(6) Storage

A registered emergency medical services agency may store controlled substances—

(A) at a registered location of the agency;

(B) at any designated location of the agency or in an emergency services vehicle situated at a registered or designated location of the agency; or

(C) in an emergency medical services vehicle used by the agency that is—

(i) traveling from, or returning to, a registered or designated location of the agency in the course of responding to an emergency; or

(ii) otherwise actively in use by the agency under circumstances that provide for security of the controlled substances consistent with the requirements established by regulations of the Attorney General.

(7) No treatment as distribution

The delivery of controlled substances by a registered emergency medical services agency pursuant to this subsection shall not be treated as distribution for purposes of section 828 of this title.

(8) Restocking of emergency medical services vehicles at a hospital

Notwithstanding paragraph (13)(J), a registered emergency medical services agency may receive controlled substances from a hospital for purposes of restocking an emergency medical services vehicle following an emergency response, and without being subject to the requirements of section 828 of this title, provided all of the following conditions are satisfied:

(A) The registered or designated location of the agency where the vehicle is primarily situated maintains a record of such receipt in accordance with paragraph (9).

(B) The hospital maintains a record of such delivery to the agency in accordance with section 827 of this title.

(C) If the vehicle is primarily situated at a designated location, such location notifies the registered location of the agency within 72 hours of the vehicle receiving the controlled substances.

(9) Maintenance of records

(A) In general

A registered emergency medical services agency shall maintain records in accordance with subsections (a) and (b) of section 827 of this title of all controlled substances that are received, administered, or otherwise disposed of pursuant to the agency's registration, without regard to subsection 827(c)(1)(B) of this title.

(B) Requirements

Such records—

(i) shall include records of deliveries of controlled substances between all locations of the agency; and

(ii) shall be maintained, whether electronically or otherwise, at each registered and designated location of the agency where the controlled substances involved are received, administered, or otherwise disposed of.

(10) Other requirements

A registered emergency medical services agency, under the supervision of a medical director, shall be responsible for ensuring that—

(A) all emergency medical services professionals who administer controlled substances using the agency's registration act in accordance with the requirements of this subsection;

(B) the recordkeeping requirements of paragraph (9) are met with respect to a registered location and each designated location of the agency;

(C) the applicable physical security requirements established by regulation of the Attorney General are complied with wherever controlled substances are stored by the agency in accordance with paragraph (6); and

(D) the agency maintains, at a registered location of the agency, a record of the standing orders issued or adopted in accordance with paragraph (9).

(11) Regulations

The Attorney General may issue regulations—

(A) specifying, with regard to delivery of controlled substances under paragraph (5)—

(i) the types of locations that may be designated under such paragraph; and

(ii) the manner in which a notification under paragraph (5)(B) must be made;

(B) specifying, with regard to the storage of controlled substances under paragraph (6), the manner in which such substances must be stored at registered and designated locations, including in emergency medical service vehicles; and

(C) addressing the ability of hospitals, emergency medical services agencies, registered locations, and designated locations to deliver controlled substances to each other in the event of—

(i) shortages of such substances;

(ii) a public health emergency; or

(iii) a mass casualty event.

(12) Rule of construction

Nothing in this subsection shall be construed—

(A) to limit the authority vested in the Attorney General by other provisions of this subchapter to take measures to prevent diversion of controlled substances; or

(B) to override the authority of any State to regulate the provision of emergency medical services consistent with this subsection.

(13) Definitions

In this section:

(A) The term ''authorizing medical professional'' means an emergency or other physician, or another medical professional (including an advanced practice registered nurse or physician assistant)—

(i) who is registered under this chapter;
(ii) who is acting within the scope of the registration; and
(iii) whose scope of practice under a State license or certification includes the ability to provide verbal orders.

(B) The term ''designated location'' means a location designated by an emergency medical services agency under paragraph (5).

(C) The term ''emergency medical services'' means emergency medical response and emergency mobile medical services provided outside of a fixed medical facility.

(D) The term ''emergency medical services agency'' means an organization providing emergency medical services, including such an organization that—
(i) is governmental (including fire-based and hospital-based agencies), nongovernmental (including hospital-based agencies), private, or volunteer-based;
(ii) provides emergency medical services by ground, air, or otherwise; and
(iii) is authorized by the State in which the organization is providing such services to provide emergency medical care, including the administering of controlled substances, to members of the general public on an emergency basis.

(E) The term ''emergency medical services professional'' means a health care professional (including a nurse, paramedic, or emergency medical technician) licensed or certified by the State in which the professional practices and credentialed by a medical director of the respective emergency medical services agency to provide emergency medical services within the scope of the professional's State license or certification.

(F) The term ''emergency medical services vehicle'' means an ambulance, fire apparatus, supervisor truck, or other vehicle used by an emergency medical services agency for the purpose of providing or facilitating emergency medical care and transport or transporting controlled substances to and from the registered and designated locations.

(G) The term ''hospital-based'' means, with respect to an agency, owned or operated by a hospital.

(H) The term ''medical director'' means a physician who is registered under subsection (g) and provides medical oversight for an emergency medical services agency.

(I) The term ''medical oversight'' means supervision of the provision of medical care by an emergency medical services agency.

(J) The term ''registered emergency medical services agency'' means—
(i) an emergency medical services agency that is registered pursuant to this subsection; or
(ii) a hospital-based emergency medical services agency that is covered by the registration of the hospital under subsection (g).

(K) The term ''registered location'' means a location that appears on the certificate of registration issued to an emergency medical services agency under this subsection or subsection (g), which shall be where the agency receives controlled substances from distributors.

(L) The term ''specific State authority'' means a governmental agency or other such authority, including a regional oversight and coordinating body, that, pursuant to State law or regulation, develops clinical protocols regarding the delivery of emergency medical services in the geographic jurisdiction of such agency or authority within the State that may be adopted by medical directors.

(M) The term ''standing order'' means a written medical protocol in which a medical director determines in advance the medical criteria that must be met before administering controlled substances to individuals in need of emergency medical services.

(N) The term ''verbal order'' means an oral directive that is given through any method of communication including by radio or telephone, directly to an emergency medical services professional, to contemporaneously administer a controlled substance to individuals in need of emergency medical services outside the physical presence of the medical director or authorizing medical professional.

(*l*)[2] "Factors as may be relevant to and consistent with the public health and safety" defined

In this section, the phrase ''factors as may be relevant to and consistent with the public health and safety'' means factors that are relevant to and consistent with the findings contained in section 801 of this title.

(*l*)[2] Required training for prescribers

(1) Training required

As a condition on registration under this section to dispense controlled substances in schedule II, III, IV, or V, the Attorney General shall require any qualified practitioner, beginning with the first applicable registration for the practitioner, to meet the following:

(A) If the practitioner is a physician (as defined under section 1395x(r) of title 42) and the practitioner meets one or more of the following conditions:
(i) The physician holds a board certification in addiction psychiatry or addiction medicine from the American Board of Medical Specialties.
(ii) The physician holds a board certification from the American Board of Addiction Medicine.
(iii) The physician holds a board certification in addiction medicine from the American Osteopathic Association.
(iv) The physician has, with respect to the treatment and management of patients with opioid or other substance use disorders, or the safe pharmacological management of dental pain and screening, brief intervention, and referral for appropriate treatment of patients with or at

[2] So in original. Two subsecs. (*l*) have been enacted.

risk of developing opioid or other substance use disorders, completed not less than 8 hours of training (through classroom situations, seminars at professional society meetings, electronic communications, or otherwise) that is provided by—

(I) the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Dental Association, the American Association of Oral and Maxillofacial Surgeons, the American Psychiatric Association, or any other organization accredited by the Accreditation Council for Continuing Medical Education (ACCME) or the Commission for Continuing Education Provider Recognition (CCEPR);

(II) any organization accredited by a State medical society accreditor that is recognized by the ACCME or the CCEPR;

(III) any organization accredited by the American Osteopathic Association to provide continuing medical education; or

(IV) any organization approved by the Assistant Secretary for Mental Health and Substance Use, the ACCME, or the CCEPR.

(v) The physician graduated in good standing from an accredited school of allopathic medicine, osteopathic medicine, dental surgery, or dental medicine in the United States during the 5-year period immediately preceding the date on which the physician first registers or renews under this section and has successfully completed a comprehensive allopathic or osteopathic medicine curriculum or accredited medical residency or dental surgery or dental medicine curriculum that included not less than 8 hours of training on—

(I) treating and managing patients with opioid or other substance use disorders, including the appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of a substance use disorder; or

(II) the safe pharmacological management of dental pain and screening, brief intervention, and referral for appropriate treatment of patients with or at risk of developing opioid and other substance use disorders.

(B) If the practitioner is not a physician (as defined under section 1395x(r) of title 42), the practitioner is legally authorized by the State to dispense controlled substances under schedule II, III, IV, or V and is dispensing such substances within such State in accordance with all applicable State laws, and the practitioner meets one or more of the following conditions:

(i) The practitioner has completed not fewer than 8 hours of training with respect to the treatment and management of patients with opioid or other substance use disorders (through classroom situations, seminars at professional society meetings, electronic communications, or otherwise) provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Nurses Credentialing Center, the American Psychiatric Association, the American Association of Nurse Practitioners, the American Academy of Physician Associates, or any other organization approved or accredited by the Assistant Secretary for Mental Health and Substance Use or the Accreditation Council for Continuing Medical Education.

(ii) The practitioner has graduated in good standing from an accredited physician assistant school or accredited school of advanced practice nursing in the United States during the 5-year period immediately preceding the date on which the practitioner first registers or renews under this section and has successfully completed a comprehensive physician assistant or advanced practice nursing curriculum that included not fewer than 8 hours of training on treating and managing patients with opioid and other substance use disorders, including the appropriate clinical use of all drugs approved by the Food and Drug Administration for the treatment of a substance use disorder.

(2) One-time training

(A) In general

The Attorney General shall not require any qualified practitioner to complete the training described in clause (iv) or (v) of paragraph (1)(A) or clause (i) or (ii) of paragraph (1)(B) more than once.

(B) Notification

Not later than 90 days after December 29, 2022, the Attorney General shall provide to qualified practitioners a single written, electronic notification of the training described in clauses (iv) and (v) of paragraph (1)(A) or clauses (i) and (ii) of paragraph (1)(B).

(3) Rule of construction

Nothing in this subsection shall be construed—

(A) to preclude the use, by a qualified practitioner, of training received pursuant to this subsection to satisfy registration requirements of a State or for some other lawful purpose; or

(B) to preempt any additional requirements by a State related to the dispensing of controlled substances under schedule II, III, IV, or V.

(4) Definitions

In this section:

(A) First applicable registration

The term ''first applicable registration'' means the first registration or renewal of registration by a qualified practitioner under this section that occurs on or after the date that is 180 days after December 29, 2022.

(B) Qualified practitioner

In this subsection, the term ''qualified practitioner'' means a practitioner who—

(i) is licensed under State law to prescribe controlled substances; and

(ii) is not solely a veterinarian.

(Pub. L. 91–513, title II, § 303, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 93–281, § 3, May 14, 1974, 88 Stat. 124; Pub. L. 95–633, title I, § 109, Nov. 10, 1978, 92 Stat. 3773; Pub. L. 98–473, title II, § 511, Oct. 12, 1984, 98 Stat. 2073; Pub. L. 103–200, § 3(c), Dec. 17, 1993, 107 Stat. 2336; Pub. L. 106–310, div. B, title XXXV, § 3502(a), Oct. 17, 2000, 114 Stat. 1222; Pub. L. 107–273, div. B, title II, § 2501, Nov. 2, 2002, 116 Stat. 1803; Pub. L. 109–56, § 1(a), (b), Aug. 2, 2005, 119 Stat. 591; Pub. L. 109–177, title VII, § 712(a)(3), Mar. 9, 2006, 120 Stat. 263; Pub. L. 109–469, title XI, § 1102, Dec. 29, 2006, 120 Stat. 3540; Pub. L. 110–425, § 3(b), Oct. 15, 2008, 122 Stat. 4824; Pub. L. 114–89, § 3, Nov. 25, 2015, 129 Stat. 701; Pub. L. 114–145, § 2(a)(1), Apr. 19, 2016, 130 Stat. 354; Pub. L. 114–198, title III, § 303(a)(1), (b), July 22, 2016, 130 Stat. 720, 723; Pub. L. 115–83, § 2, Nov. 17, 2017, 131 Stat. 1267; Pub. L. 115–271, title III, §§ 3201(a)–(d), 3202(a), Oct. 24, 2018, 132 Stat. 3943, 3944; Pub. L. 117–215, title I, §§ 101, 102(a), 103(a), Dec. 2, 2022, 136 Stat. 2258, 2260, 2261; Pub. L. 117–328, div. FF, title I, §§ 1262(a), 1263(a), Dec. 29, 2022, 136 Stat. 5681, 5683.)

Editorial Notes

REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a) to (g)(2), (k)(1), (4), and (*l*)(1), (3)(B), are set out in section 812(c) of this title.

This chapter, referred to in subsecs. (c)(1)(A), (B) and (k)(13)(A)(i), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

Section 105 of the Medical Marijuana and Cannabidiol Research Expansion Act, referred to in subsecs. (c)(1)(B)(vi) and (g)(2)(B)(i)(II), is section 105 of Pub. L. 117–215, which is set out as a note below.

This subchapter, referred to in subsecs. (g)(3) and (k)(12)(A), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

2022—Subsecs. (c) to (e). Pub. L. 117–215, § 103(a)(1), (2), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 117–215, § 103(a)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Pub. L. 117–215, § 101, designated introductory provisions through first sentence of concluding provisions as par. (1), redesignated former pars. (1) to (5) as subpars. (A) to (E), respectively, of par. (1), designated second to fourth sentences of concluding provisions as subpar. (A) of par. (2), added subpar. (B) of par. (2), and designated last sentence of concluding provisions as par. (3).

Subsec. (f)(2)(B)(vi). Pub. L. 117–215, § 102(a), added cl. (vi).

Subsec. (g). Pub. L. 117–215, § 103(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 117–328, § 1262(a), which directed amendment of subsec. (g) by substituting ''Practitioners who dispense narcotic drugs (other than narcotic drugs in schedule III, IV, or V) to individuals for maintenance treatment or detoxification treatment'' for ''(1) Except as provided in paragraph (2), practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment'', redesignating subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, redesignating cls. (i) and (ii) of par. (2) as subpars. (A) and (B), respectively, and striking former par. (2) which related to waiver of registration requirements, was executed to subsec. (h) to reflect the probable intent of Congress and the redesignation of subsec. (g) as (h) by Pub. L. 117–215, § 103(a)(1). See Amendment note below.

Pub. L. 117–215, § 103(a)(1), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (h)(2). Pub. L. 117–215, § 103(a)(3), substituted ''subsection (g)'' for ''subsection (f)'' wherever appearing.

Subsec. (i). Pub. L. 117–215, § 103(a)(1), redesignated subsec. (h) as (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 117–215, § 103(a)(1), redesignated subsec. (i) as (j). Former subsec. (j) redesignated (k).

Subsec. (j)(1). Pub. L. 117–215, § 103(a)(4), substituted ''subsection (e)'' for ''subsection (d)''.

Subsec. (k). Pub. L. 117–215, § 103(a)(1), (5), redesignated subsec. (j) as (k) and substituted ''subsection (g)'' for ''subsection (f)'' wherever appearing. Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 117–328, § 1263(a), added subsec. (*l*) relating to required training for prescribers.

Pub. L. 117–215, § 103(a)(1), redesignated subsec. (k) as (*l*).

2018—Subsec. (g)(2)(B)(iii)(II). Pub. L. 115–271, § 3201(a), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: ''The applicable number is 100 if, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients.''

Subsec. (g)(2)(G)(ii)(VIII). Pub. L. 115–271, § 3202(a), added subcl. (VIII).

Subsec. (g)(2)(G)(iii)(II). Pub. L. 115–271, § 3201(b), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: ''during the period beginning on July 22, 2016, and ending on October 1, 2021, a qualifying other practitioner, as defined in clause (iv).''

Subsec. (g)(2)(G)(iii)(III). Pub. L. 115–271, § 3201(b)(1), (c), added subcl. (III).

Subsec. (g)(2)(G)(iv). Pub. L. 115–271, § 3201(d), substituted ''nurse practitioner, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or physician assistant'' for ''nurse practitioner or physician assistant'' wherever appearing.

2017—Subsecs. (j), (k). Pub. L. 115–83 added subsec. (j) and redesignated former subsec. (j) as (k).

2016—Subsec. (g)(2)(B). Pub. L. 114–198, § 303(a)(1)(A), added cls. (i) to (iii) and struck out former cls. (i) to (iii) which read as follows:

''(i) The practitioner is a qualifying physician (as defined in subparagraph (G)).

''(ii) With respect to patients to whom the practitioner will provide such drugs or combinations of drugs, the practitioner has the capacity to refer the patients for appropriate counseling and other appropriate ancillary services.

''(iii) The total number of such patients of the practitioner at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. A second notification under this clause shall contain the certifications required by clauses (i) and (ii) of this subparagraph. The Secretary may by regulation change such total number.''

Subsec. (g)(2)(D)(ii). Pub. L. 114–198, § 303(a)(1)(B)(i), substituted ''Upon receiving a determination from the Secretary under clause (iii) finding that a practitioner meets all requirements for a waiver under subparagraph (B)'' for ''Upon receiving a notification under subparagraph (B)''.

Subsec. (g)(2)(D)(iii). Pub. L. 114–198, §303(a)(1)(B)(ii), inserted ''and shall forward such determination to the Attorney General'' after ''a waiver under subparagraph (B)'' and substituted ''assign the practitioner'' for ''assign the physician''.

Subsec. (g)(2)(G)(ii)(I). Pub. L. 114–198, §303(a)(1)(C)(i), amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: ''The physician holds a subspecialty board certification in addiction psychiatry from the American Board of Medical Specialties.''

Subsec. (g)(2)(G)(ii)(II). Pub. L. 114–198, §303(a)(1)(C)(ii), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: ''The physician holds an addiction certification from the American Society of Addiction Medicine.''

Subsec. (g)(2)(G)(ii)(III). Pub. L. 114–198, §303(a)(1)(C)(iii), struck out ''subspecialty'' before ''board certification''.

Subsec. (g)(2)(G)(ii)(IV). Pub. L. 114–198, §303(a)(1)(C)(iv), amended subcl. (IV) generally. Prior to amendment, subcl. (IV) read as follows: ''The physician has, with respect to the treatment and management of opiate-dependent patients, completed not less than eight hours of training (through classroom situations, seminars at professional society meetings, electronic communications, or otherwise) that is provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Secretary determines is appropriate for purposes of this subclause.''

Subsec. (g)(2)(G)(iii), (iv). Pub. L. 114–198, §303(a)(1)(C)(v), added cls. (iii) and (iv).

Subsec. (g)(2)(H)(i)(III). Pub. L. 114–198, §303(a)(1)(D)(i), added subcl. (III).

Subsec. (g)(2)(H)(ii). Pub. L. 114–198, §303(a)(1)(D)(ii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''Not later than 120 days after October 17, 2000, the Secretary shall issue a treatment improvement protocol containing best practice guidelines for the treatment and maintenance of opiate-dependent patients. The Secretary shall develop the protocol in consultation with the Director of the National Institute on Drug Abuse, the Administrator of the Drug Enforcement Administration, the Commissioner of Food and Drugs, the Administrator of the Substance Abuse and Mental Health Services Administration and other substance abuse disorder professionals. The protocol shall be guided by science.''

Subsec. (g)(2)(I), (J). Pub. L. 114–198, §303(b), added subpar. (I) and struck out former subpars. (I) and (J) which limited a State's ability to preclude a practitioner from dispensing or prescribing certain approved drugs and provided the effective date of the paragraph and authorized the Secretary and the Attorney General to make certain determinations.

Subsec. (j). Pub. L. 114–145 added subsec. (j).

2015—Subsec. (i). Pub. L. 114–89 added subsec. (i).

2008—Subsec. (f). Pub. L. 110–425, in introductory provisions, inserted ''and shall modify the registrations of pharmacies so registered to authorize them to dispense controlled substances by means of the Internet'' after ''schedule II, III, IV, or V'' and substituted ''or such modification of registration if the Attorney General determines that the issuance of such registration or modification'' for ''if he determines that the issuance of such registration''.

2006—Subsec. (g)(2)(B)(iii). Pub. L. 109–469, §1102(1), substituted ''unless, not sooner than 1 year after the date on which the practitioner submitted the initial notification, the practitioner submits a second notification to the Secretary of the need and intent of the practitioner to treat up to 100 patients. A second notification under this clause shall contain the certifications required by clauses (i) and (ii) of this subparagraph. The'' for ''except that the''.

Subsec. (g)(2)(J)(i). Pub. L. 109–469, §1102(2)(A), substituted ''thereafter.'' for ''thereafter except as provided in clause (iii) (relating to a decision by the Secretary or the Attorney General that this paragraph should not remain in effect).''

Subsec. (g)(2)(J)(ii). Pub. L. 109–469, §1102(2)(B), substituted ''December 29, 2006'' for ''October 17, 2000'' in introductory provisions.

Subsec. (g)(2)(J)(iii). Pub. L. 109–469, §1102(2)(C), substituted ''subparagraph (B)(iii) should be applied by limiting the total number of patients a practitioner may treat to 30, then the provisions in such subparagraph (B)(iii) permitting more than 30 patients shall not apply, effective'' for ''this paragraph should not remain in effect, this paragraph ceases to be in effect''.

Subsec. (h). Pub. L. 109–177 substituted ''clause (iv) or (v) of section 802(39)(A) of this title'' for ''section 802(39)(A)(iv) of this title'' in introductory provisions.

2005—Subsec. (g)(2)(B)(iii). Pub. L. 109–56, §1(b), substituted ''The total'' for ''In any case in which the practitioner is not in a group practice, the total''.

Subsec. (g)(2)(B)(iv). Pub. L. 109–56, §1(a), struck out cl. (iv) which read as follows: ''In any case in which the practitioner is in a group practice, the total number of such patients of the group practice at any one time will not exceed the applicable number. For purposes of this clause, the applicable number is 30, except that the Secretary may by regulation change such total number, and the Secretary for such purposes may by regulation establish different categories on the basis of the number of practitioners in a group practice and establish for the various categories different numerical limitations on the number of such patients that the group practice may have.''

2002—Subsec. (g)(2)(I). Pub. L. 107–273, §2501(1), which directed the substitution of ''on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribing such drug, or combination of such drugs,'' for ''on October 17, 2000, a State may not preclude a practitioner from dispensing or prescribing drugs in schedule III, IV, or V, or combinations of such drugs,'', was executed by making the substitution for the phrase which in the original began with ''on the date of the enactment of the Drug Addiction Treatment Act of 2000,'' rather than the editorial translation ''on October 17, 2000,'' to reflect the probable intent of Congress.

Subsec. (g)(2)(J)(i). Pub. L. 107–273, §2501(2), which directed the substitution of ''the date referred to in subparagraph (I),'' for ''October 17, 2000,'' was executed by making the substitution for text which in the original read ''the date of the enactment of the Drug Addiction Treatment Act of 2000,'' rather than the editorial translation ''October 17, 2000,'' to reflect the probable intent of Congress.

2000—Subsec. (g). Pub. L. 106–310 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), practitioners who dispense'' for ''Practitioners who dispense'', redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1) and redesignated former subpars. (A) and (B) of former par. (2) as cls. (i) and (ii), respectively, of subpar. (B) of par. (1), and added par. (2).

1993—Subsec. (h). Pub. L. 103–200 added subsec. (h).

1984—Subsec. (f). Pub. L. 98–473 amended subsec. (f) generally, substituting provisions relating to registration authority of Attorney General respecting dispensation or conduct of research with controlled research, and separate authority of Secretary respecting registration, for provisions relating to general registration requirements respecting dispensation or conduct of research with controlled or nonnarcotic controlled substances.

1978—Subsec. (f). Pub. L. 95–633 inserted provision relating to the construction of the Convention on Psychotropic Substances.

1974—Subsec. (g). Pub. L. 93–281 added subsec. (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section

3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–56, §1(c), Aug. 2, 2005, 119 Stat. 591, provided that: ''This section [amending this section] shall take effect on the date of enactment of this Act [Aug. 2, 2005].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

REGULATIONS

Pub. L. 117–215, title I, §102(b), Dec. 2, 2022, 136 Stat. 2261, provided that: ''Not later than 1 year after the date of enactment of this Act [Dec. 2, 2022], the Attorney General shall promulgate regulations to carry out the amendment made by this section [amending this section].''

UPDATE REGULATIONS

Pub. L. 117–328, div. FF, title I, §1252(b), Dec. 29, 2022, 136 Stat. 5681, provided that: ''Not later than 18 months after the date of enactment of this Act [Dec. 29, 2022], the Secretary of Health and Human Services shall revise section 8.12(e)(1) of title 42, Code of Federal Regulations (or successor regulations), to eliminate the requirement that an opioid treatment program only admit an individual for treatment under the program if the individual has been addicted to opioids for at least 1 year before being so admitted for treatment.''

Pub. L. 114–198, title III, §303(c), July 22, 2016, 130 Stat. 723, provided that: ''Not later than 18 months after the date of enactment of this Act [July 22, 2016], the Attorney General and the Secretary of Health and Human Services, as appropriate, shall update regulations regarding practitioners described in subsection (a)(3)(B)(vii) (as amended by this section) [probably means subsec. (a)(3)(B)(vii) ''of this section'', set out as a note below] to include nurse practitioners and physician assistants to ensure the quality of patient care and prevent diversion.''

ADEQUATE AND UNINTERRUPTED SUPPLY

Pub. L. 117–215, title I, §104, Dec. 2, 2022, 136 Stat. 2263, provided that:

''(a) IN GENERAL.—On an annual basis, the Attorney General, in consultation with the Secretary of Health and Human Services, shall assess whether there is an adequate and uninterrupted supply of marijuana, including of specific strains, for research purposes.

''(b) REPORT TO CONGRESS.—If the Attorney General, in consultation with the Secretary of Health and Human Services, determines there is an inadequate or interrupted supply of marijuana, including of specific strains for research purposes, the Attorney General shall report to Congress within 60 days of the determination on at least—

''(1) the factors contributing to the inadequate or interrupted supply of marijuana;

''(2) expected impacts of the inadequate or interrupted supply on ongoing research protocols; and

''(3) specific steps the Attorney General will take to restore an adequate and uninterrupted supply of marijuana, including of specific strains, for research purposes.''

[For definition of ''marijuana'' as used in section 104 of Pub. L. 117–215, set out above, see section 2(a) of Pub. L. 117–215, set out as a note under section 801 of this title.]

SECURITY REQUIREMENTS

Pub. L. 117–215, title I, §105, Dec. 2, 2022, 136 Stat. 2264, provided that:

''(a) IN GENERAL.—An individual or entity engaged in researching marijuana or its components shall store it in a securely locked, substantially constructed cabinet.

''(b) REQUIREMENTS FOR OTHER MEASURES.—Any other security measures required by the Attorney General to safeguard against diversion shall be consistent with those required for practitioners conducting research on other controlled substances in schedules I and II in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) that have a similar risk of diversion and abuse.''

[For definitions of ''marijuana'', ''controlled substances'', and ''practitioners'' as used in section 105 of Pub. L. 117–215, set out above, see section 2(a) of Pub. L. 117–215, set out as a note under section 801 of this title.]

DEVELOPMENT OF FOOD AND DRUG ADMINISTRATION-APPROVED DRUGS USING CANNABIDIOL AND MARIJUANA

Pub. L. 117–215, title II, Dec. 2, 2022, 136 Stat. 2264, provided that:

''SEC. 201. MEDICAL RESEARCH ON CANNABIDIOL.

''Notwithstanding any provision of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7101 et seq.), chapter 81 of title 41, United States Code, or any other Federal law, an appropriately registered covered institution of higher education, practitioner, or manufacturer may manufacture, distribute, dispense, or possess marijuana or cannabidiol if the marijuana or cannabidiol is manufactured, distributed, dispensed, or possessed, respectively, for purposes of medical research for drug development or subsequent commercial production in accordance with section 202.

''SEC. 202. REGISTRATION FOR THE COMMERCIAL PRODUCTION AND DISTRIBUTION OF FOOD AND DRUG ADMINISTRATION-APPROVED DRUGS.

''The Attorney General shall register an applicant to manufacture or distribute cannabidiol or marijuana for the purpose of commercial production of a drug containing or derived from marijuana that is approved by the Secretary of Health and Human Services under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), in accordance with the applicable requirements under subsection (a) or (b) of section 303 of the Controlled Substances Act (21 U.S.C. 823).''

[For definitions of terms used in title II of Pub. L. 117–215, set out above, see section 2(a) of Pub. L. 117–215, set out as a note under section 801 of this title.]

TREATMENT FOR CHILDREN

Pub. L. 115–271, title III, §3202(b), Oct. 24, 2018, 132 Stat. 3945, provided that: ''The Secretary of Health and Human Services shall consider ways to ensure that an adequate number of qualified practitioners, as defined in [former] subparagraph (G)(ii) of section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) [former 21 U.S.C. 823(h)(2)], who have a specialty in pediatrics or the treatment of children or adolescents, are granted a waiver under such section 303(g)(2) to treat children and adolescents with substance use disorders.''

GRANTS TO ENHANCE ACCESS TO SUBSTANCE USE DISORDER TREATMENT

Pub. L. 115–271, title III, §3203, Oct. 24, 2018, 132 Stat. 3945, provided that:

''(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a grant program under which the Secretary may make grants to accredited

schools of allopathic medicine or osteopathic medicine and teaching hospitals located in the United States to support the development of curricula that meet the requirements under [former] subclause (VIII) of section 303(g)(2)(G)(ii) of the Controlled Substances Act [former 21 U.S.C. 823(h)(2)(G)(ii)], as added by section 3202(a) of this Act.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, for grants under subsection (a), $4,000,000 for each of fiscal years 2019 through 2023.''

REPORTS TO CONGRESS

Pub. L. 114–198, title III, §303(a)(3), July 22, 2016, 130 Stat. 722, provided that:

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act [July 22, 2016] and not later than 3 years thereafter, the Secretary of Health and Human Services, in consultation with the Drug Enforcement Administration and experts in opioid use disorder research and treatment, shall—

''(i) perform a thorough review of the provision of opioid use disorder treatment services in the United States, including services provided in opioid treatment programs and other specialty and nonspecialty settings; and

''(ii) submit a report to the Congress on the findings and conclusions of such review.

''(B) CONTENTS.—Each report under subparagraph (A) shall include an assessment of—

''(i) compliance with the requirements of [former] section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) [former 21 U.S.C. 823(h)(2)], as amended by this section;

''(ii) the measures taken by the Secretary of Health and Human Services to ensure such compliance;

''(iii) whether there is further need to increase or decrease the number of patients a practitioner, pursuant to a waiver under [former] section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) [former 21 U.S.C. 823(h)(2)], is permitted to treat;

''(iv) the extent to which, and proportions with which, the full range of Food and Drug Administration-approved treatments for opioid use disorder are used in routine health care settings and specialty substance use disorder treatment settings;

''(v) access to, and use of, counseling and recovery support services, including the percentage of patients receiving such services;

''(vi) changes in State or local policies and legislation relating to opioid use disorder treatment;

''(vii) the use of prescription drug monitoring programs by practitioners who are permitted to dispense narcotic drugs to individuals pursuant to a waiver described in clause (iii);

''(viii) the findings resulting from inspections by the Drug Enforcement Administration of practitioners described in clause (vii); and

''(ix) the effectiveness of cross-agency collaboration between [the] Department of Health and Human Services and the Drug Enforcement Administration for expanding effective opioid use disorder treatment.''

PROVISIONAL REGISTRATION

For provisional registration of persons engaged in manufacturing, distributing, or dispensing of controlled substances on the day before the effective date of section 822 of this title who are registered on such date under section 360 of this title or section 4722 of Title 26, Internal Revenue Code, see section 703 of Pub. L. 91–513, set out as a note under section 822 of this title.

§ 824. Denial, revocation, or suspension of registration

(a) Grounds

A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance or a list I chemical may be suspended or revoked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II;

(2) has been convicted of a felony under this subchapter or subchapter II or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance or a list I chemical;

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances or list I chemicals or has had the suspension, revocation, or denial of his registration recommended by competent State authority;

(4) has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section; or

(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1320a–7(a) of title 42.

A registration pursuant to section 823(h)(1)[1] of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(h)(1)[1] of this title.

(b) Limits of revocation or suspension

The Attorney General may limit revocation or suspension of a registration to the particular controlled substance or list I chemical with respect to which grounds for revocation or suspension exist.

(c) Service of show cause order; proceedings

(1) Before taking action pursuant to this section, or pursuant to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended.

(2) An order to show cause under paragraph (1) shall—

(A) contain a statement of the basis for the denial, revocation, or suspension, including specific citations to any laws or regulations alleged to be violated by the applicant or registrant;

(B) direct the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but not less than 30 days after the date of receipt of the order; and

(C) notify the applicant or registrant of the opportunity to submit a corrective action plan on or before the date of appearance.

(3) Upon review of any corrective action plan submitted by an applicant or registrant pursuant to paragraph (2), the Attorney General shall determine whether denial, revocation, or suspension proceedings should be discontinued, or deferred for the purposes of modification, amendment, or clarification to such plan.

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[1] See References in Text note below.

(4) Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

(5) The requirements of this subsection shall not apply to the issuance of an immediate suspension order under subsection (d).

(d) Suspension of registration in cases of imminent danger

(1) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. A failure to comply with a standard referred to in section 823(h)(1)[1] of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. A suspension under this subsection shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(2) In this subsection, the phrase ''imminent danger to the public health or safety'' means that, due to the failure of the registrant to maintain effective controls against diversion or otherwise comply with the obligations of a registrant under this subchapter or subchapter II, there is a substantial likelihood of an immediate threat that death, serious bodily harm, or abuse of a controlled substance will occur in the absence of an immediate suspension of the registration.

(e) Suspension and revocation of quotas

The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 826 of this title.

(f) Disposition of controlled substances or list I chemicals

In the event the Attorney General suspends or revokes a registration granted under section 823 of this title, all controlled substances or list I chemicals owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances or list I chemicals under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances or list I chemicals. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances or list I chemicals (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title. All right, title, and interest in such controlled substances or list I chemicals shall vest in the United States upon a revocation order becoming final.

(g) Seizure or placement under seal of controlled substances or list I chemicals

The Attorney General may, in his discretion, seize or place under seal any controlled substances or list I chemicals owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances or list I chemicals shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance or list I chemical seized or placed under seal of the procedures to be followed to secure the return of the controlled substance or list I chemical and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance or list I chemical seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance or chemical was seized or placed under seal.

(h) Order to prohibit registration based on prior history

The Attorney General may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period as the Attorney General may determine, any person from being registered under this subchapter to manufacture, distribute, or dispense a controlled substance or a list I chemical, if the Attorney General finds that—

(1) such person meets or has met any of the conditions for suspension or revocation of registration under subsection (a); and

(2) such person has a history of prior suspensions or revocations of registration.

(Pub. L. 91–513, title II, § 304, Oct. 27, 1970, 84 Stat. 1255; Pub. L. 93–281, § 4, May 14, 1974, 88 Stat. 125; Pub. L. 98–473, title II, §§ 304, 512, 513, Oct. 12, 1984, 98 Stat. 2050, 2073; Pub. L. 100–93, § 8(j), Aug. 18, 1987, 101 Stat. 695; Pub. L. 103–200, § 3(d), Dec. 17, 1993, 107 Stat. 2337; Pub. L. 103–322, title XXXIII, § 330024(e), Sept. 13, 1994, 108 Stat. 2151; Pub. L. 106–310, div. B, title XXXV, § 3502(b), Oct. 17, 2000, 114 Stat. 1227; Pub. L. 114–145, § 2(a)(2), (b), Apr. 19, 2016, 130 Stat. 354; Pub. L. 117–36, § 2, Aug. 6, 2021, 135 Stat. 328; Pub. L. 117–215, title I, § 103(b)(1)(C), Dec. 2, 2022, 136 Stat. 2263; Pub. L. 117–328, div. FF, title I, § 1262(b)(1), Dec. 29, 2022, 136 Stat. 5682.)

Editorial Notes

REFERENCES IN TEXT

Section 823(h) of this title, referred to in subsecs. (a) and (d)(1), originally consisted of pars. (1) and (2). Par. (1) was redesignated as the entire subsec. (h), with its subpars. (A) to (C) redesignated pars. (1) to (3), and former par. (2) was struck out by Pub. L. 117–328, div. FF, title I, § 1262(a), Dec. 29, 2022, 136 Stat. 5681.

This subchapter, referred to in subsecs. (a)(1), (2), (c)(4), (d)(2), and (h), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to

the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II, referred to in subsecs. (a)(1), (2) and (d)(2), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–328, §1262(b)(1), which directed substitution of ''823(g)'' for ''823(g)(1)'' in two places in concluding provisions, could not be executed because of the intervening amendment by Pub. L. 117–215, §103(b)(1)(C). See Amendment note below.

Pub. L. 117–215, in concluding provisions, substituted ''823(h)(1)'' for ''823(g)(1)'' in two places.

Subsec. (d)(1). Pub. L. 117–328, §1262(b)(1), which directed substitution of ''823(g)'' for ''823(g)(1)'', could not be executed because of the intervening amendment by Pub. L. 117–215, §103(b)(1)(C). See Amendment note below.

Pub. L. 117–215 substituted ''823(h)(1)'' for ''823(g)(1)''.

2021—Subsec. (h). Pub. L. 117–36 added subsec. (h).

2016—Subsec. (c). Pub. L. 114–145, §2(b), struck out ''The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.'' after ''denied, revoked, or suspended.'', designated existing provisions as par. (1), and added pars. (2) to (5).

Subsec. (d). Pub. L. 114–145, §2(a)(2), designated existing provisions as par. (1) and added par. (2).

2000—Subsec. (a). Pub. L. 106–310, §3502(b)(1), substituted ''section 823(g)(1) of this title'' for ''section 823(g) of this title'' in two places in concluding provisions.

Subsec. (d). Pub. L. 106–310, §3502(b)(2), substituted ''section 823(g)(1) of this title'' for ''section 823(g) of this title''.

1994—Subsec. (g). Pub. L. 103–322 inserted ''or chemical'' after ''such substance'' in last sentence.

1993—Subsec. (a). Pub. L. 103–200, §3(d)(1), inserted ''or a list I chemical'' after ''controlled substance'' in introductory provisions and par. (2) and inserted ''or list I chemicals'' after ''controlled substances'' in par. (3).

Subsec. (b). Pub. L. 103–200, §3(d)(2), inserted ''or list I chemical'' after ''controlled substance''.

Subsec. (f). Pub. L. 103–200, §3(d)(3), inserted ''or list I chemicals'' after ''controlled substances'' wherever appearing.

Subsec. (g). Pub. L. 103–200, §3(d)(4), inserted ''or list I chemicals'' after ''controlled substances'' in two places and ''or list I chemical'' after ''controlled substance'' wherever appearing.

1987—Subsec. (a)(5). Pub. L. 100–93 added par. (5).

1984—Subsec. (a)(3). Pub. L. 98–473, §512(1), inserted provisions relating to suspension, etc., recommended by competent State authority.

Subsec. (a)(4). Pub. L. 98–473, §512(2), added par. (4).

Subsec. (f). Pub. L. 98–473, §304, inserted provisions relating to vesting of right, title, and interest in the United States.

Subsec. (g). Pub. L. 98–473, §513, added subsec. (g).

1974—Subsec. (a). Pub. L. 93–281, §4(a), provided for revocation or suspension of a registration pursuant to section 823(g) of this title for failure of a registrant to comply with standards referred to in such section 823(g).

Subsec. (d). Pub. L. 93–281, §4(b), substituted ''A suspension under this subsection'' for ''Such suspension'' in third sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–322 effective 120 days after Dec. 17, 1993, see section 330024(f) of Pub. L. 103–322, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–93 effective at end of fourteen-day period beginning Aug. 18, 1987, and inapplicable to administrative proceedings commenced before end of such period, see section 15(a) of Pub. L. 100–93, set out as a note under section 1320a–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

PROVISIONAL REGISTRATION

Applicability of this section to provisional registrations, see section 703 of Pub. L. 91–513, set out as a note under section 822 of this title.

§ 825. Labeling and packaging

(a) Symbol

It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 321(k) of this title) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances.

(b) Unlawful distribution without identifying symbol

It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 321(m) of this title) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a).

(c) Warning on label

The Secretary shall prescribe regulations under section 353(b) of this title which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient.

(d) Containers to be securely sealed

It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General.

(e) False labeling of anabolic steroids

(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense,

an anabolic steroid or product containing an anabolic steroid, unless the steroid or product bears a label clearly identifying an anabolic steroid or product containing an anabolic steroid by the nomenclature used by the International Union of Pure and Applied Chemistry (IUPAC).

(2)(A) A product described in subparagraph (B) is exempt from the International Union of Pure and Applied Chemistry nomenclature requirement of this subsection if such product is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(B) A product is described in this subparagraph if the product—

(i) is the subject of an approved application as described in section 505(b) or (j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355(b), (j)]; or

(ii) is exempt from the provisions of section 505 of such Act relating to new drugs because—

(I) it is intended solely for investigational use as described in section 505(i) of such Act; and

(II) such product is being used exclusively for purposes of a clinical trial that is the subject of an effective investigational new drug application.

(Pub. L. 91–513, title II, § 305, Oct. 27, 1970, 84 Stat. 1256; Pub. L. 113–260, § 3(a), Dec. 18, 2014, 128 Stat. 2931.)

Editorial Notes

REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in subsecs. (c) and (d), are set out in section 812(c) of this title.

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (e)(2)(A), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

AMENDMENTS

2014—Subsec. (e). Pub. L. 113–260 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, but with Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91–513, set out as a note under section 801 of this title.

IDENTIFICATION AND PUBLICATION OF LIST OF PRODUCTS CONTAINING ANABOLIC STEROIDS

Pub. L. 113–260, § 4, Dec. 18, 2014, 128 Stat. 2932, provided that:

''(a) IN GENERAL.—The Attorney General may, in the Attorney General's discretion, collect data and analyze products to determine whether they contain anabolic steroids and are properly labeled in accordance with this Act [see section 1 of Pub. L. 113–260, set out as a Short Title of 2014 Amendment note under section 801 of this title] and the amendments made by this Act. The Attorney General may publish in the Federal Register or on the website of the Drug Enforcement Administration a list of products which the Attorney General has determined, based on substantial evidence, contain an anabolic steroid and are not labeled in accordance with this Act and the amendments made by this Act.

''(b) ABSENCE FROM LIST.—The absence of a product from the list referred to in subsection (a) shall not constitute evidence that the product does not contain an anabolic steroid.''

§ 826. Production quotas for controlled substances

(a) Establishment of total annual needs

(1) The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Except as provided in paragraph (2), production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

(2) The Attorney General may, if the Attorney General determines it will assist in avoiding the overproduction, shortages, or diversion of a controlled substance, establish an aggregate or individual production quota under this subsection, or a procurement quota established by the Attorney General by regulation, in terms of pharmaceutical dosage forms prepared from or containing the controlled substance.

(b) Individual manufacturing quotas; revised quotas

The Attorney General shall limit or reduce individual manufacturing quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a). The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II or for ephedrine, pseudoephedrine, or phenylpropanolamine shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

(c) Manufacturing quotas for registered manufacturers

On or before December 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II and for ephedrine, pseudoephedrine, and phenylpropanolamine that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current

rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer'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.

(d) Quotas for registrants who have not manufactured controlled substance during one or more preceding years

The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance or ephedrine, pseudoephedrine, or phenylpropanolamine during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

(e) Quota increases

At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II or for ephedrine, pseudoephedrine, or phenylpropanolamine may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

(f) Incidental production exception

Notwithstanding any other provisions of this subchapter, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II or ephedrine, pseudoephedrine, or phenylpropanolamine as incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled substance or of ephedrine, pseudoephedrine, or phenylpropanolamine with respect to which its manufacturer is duly registered under this subchapter. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances or chemicals.

(g) Reference to ephedrine, pseudoephedrine, or phenylpropanolamine

Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

(h) Quotas applicable to drugs in shortage

(1) Not later than 30 days after the receipt of a request described in paragraph (2), the Attorney General shall—

(A) complete review of such request; and

(B)(i) as necessary to address a shortage of a controlled substance, increase the aggregate and individual production quotas under this section applicable to such controlled substance and any ingredient therein to the level requested; or

(ii) if the Attorney General determines that the level requested is not necessary to address a shortage of a controlled substance, the Attorney General shall provide a written response detailing the basis for the Attorney General's determination.

The Secretary shall make the written response provided under subparagraph (B)(ii) available to the public on the Internet Web site of the Food and Drug Administration.

(2) A request is described in this paragraph if—

(A) the request pertains to a controlled substance on the list of drugs in shortage maintained under section 356e of this title;

(B) the request is submitted by the manufacturer of the controlled substance; and

(C) the controlled substance is in schedule II.

(i) Strengthening considerations for DEA opioid quotas

(1)(A) In establishing any quota under this section, or any procurement quota established by the Attorney General by regulation, for fentanyl, oxycodone, hydrocodone, oxymorphone, or hydromorphone (in this subsection referred to as a ''covered controlled substance''), the Attorney General shall estimate the amount of diversion of the covered controlled substance that occurs in the United States.

(B) In estimating diversion under this paragraph, the Attorney General—

(i) shall consider information the Attorney General, in consultation with the Secretary of Health and Human Services, determines reliable on rates of overdose deaths and abuse and overall public health impact related to the covered controlled substance in the United States; and

(ii) may take into consideration whatever other sources of information the Attorney General determines reliable.

(C) After estimating the amount of diversion of a covered controlled substance, the Attorney General shall make appropriate quota reductions, as determined by the Attorney General, from the quota the Attorney General would have otherwise established had such diversion not been considered.

(2)(A) For any year for which the approved aggregate production quota for a covered controlled substance is higher than the approved aggregate production quota for the covered controlled substance for the previous year, the Attorney General, in consultation with the Secretary of Health and Human Services, shall include in the final order an explanation of why the public health benefits of increasing the

quota clearly outweigh the consequences of having an increased volume of the covered controlled substance available for sale, and potential diversion, in the United States.

(B) Not later than 1 year after October 24, 2018, and every year thereafter, the Attorney General shall submit to the Committee on the Judiciary, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate and the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Appropriations of the House of Representatives the following information with regard to each covered controlled substance:

(i) An anonymized count of the total number of manufacturers issued individual manufacturing quotas that year for the covered controlled substance.

(ii) An anonymized count of how many such manufacturers were issued an approved manufacturing quota that was higher than the quota issued to that manufacturer for the covered controlled substance in the previous year.

(3) Not later than 1 year after October 24, 2018, the Attorney General shall submit to Congress a report on how the Attorney General, when fixing and adjusting production and manufacturing quotas under this section for covered controlled substances, will—

(A) take into consideration changes in the accepted medical use of the covered controlled substances; and

(B) work with the Secretary of Health and Human Services on methods to appropriately and anonymously estimate the type and amount of covered controlled substances that are submitted for collection from approved drug collection receptacles, mail-back programs, and take-back events.

(Pub. L. 91–513, title II, § 306, Oct. 27, 1970, 84 Stat. 1257; Pub. L. 94–273, § 3(16), Apr. 21, 1976, 90 Stat. 377; Pub. L. 109–177, title VII, § 713, Mar. 9, 2006, 120 Stat. 264; Pub. L. 112–144, title X, § 1005, July 9, 2012, 126 Stat. 1105; Pub. L. 115–271, title III, § 3282(a), Oct. 24, 2018, 132 Stat. 3954.)

Editorial Notes

References in Text

Schedules I and II, referred to in text, are set out in section 812(c) of this title.

Amendments

2018—Subsec. (a). Pub. L. 115–271, § 3282(a)(1), designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2), production'' for ''Production'' in second sentence, and added par. (2).

Subsec. (b). Pub. L. 115–271, § 3282(a)(2), substituted ''reduce individual manufacturing'' for ''reduce individual production''.

Subsec. (c). Pub. L. 115–271, § 3282(a)(3), substituted ''December'' for ''October''.

Subsec. (i). Pub. L. 115–271, § 3282(a)(4), added subsec. (i).

2012—Subsec. (h). Pub. L. 112–144 added subsec. (h).

2006—Subsec. (a). Pub. L. 109–177, § 713(1), inserted ''and for ephedrine, pseudoephedrine, and phenylpropanolamine'' after ''for each basic class of controlled substance in schedules I and II''.

Subsec. (b). Pub. L. 109–177, § 713(2), inserted ''or for ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''for each basic class of controlled substance in schedule I or II''.

Subsec. (c). Pub. L. 109–177, § 713(3), inserted ''and for ephedrine, pseudoephedrine, and phenylpropanolamine'' after ''for the basic classes of controlled substances in schedules I and II''.

Subsec. (d). Pub. L. 109–177, § 713(4), inserted ''or ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''that basic class of controlled substance''.

Subsec. (e). Pub. L. 109–177, § 713(5), inserted ''or for ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''for a basic class of controlled substance in schedule I or II''.

Subsec. (f). Pub. L. 109–177, § 713(6), inserted ''or ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''controlled substances in schedules I and II'', ''or of ephedrine, pseudoephedrine, or phenylpropanolamine'' after ''the manufacture of a controlled substance'', and ''or chemicals'' after ''such incidentally produced substances''.

Subsec. (g). Pub. L. 109–177, § 713(7), added subsec. (g).

1976—Subsec. (c). Pub. L. 94–273 substituted ''October'' for ''July''.

Statutory Notes and Related Subsidiaries

Effective Date

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, but with Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91–513, set out as a note under section 801 of this title.

Change to Editorial Heading in United States Code

Pub. L. 115–271, title III, § 3282(b), Oct. 24, 2018, 132 Stat. 3955, provided that: ''The Law Revision Counsel is directed to amend the heading for subsection (b) of section 826 of title 21, United States Code, by striking 'Production' and inserting 'Manufacturing'.''

Coordination With United States Trade Representative

Pub. L. 109–177, title VII, § 718, Mar. 9, 2006, 120 Stat. 267, provided that: ''In implementing sections 713 through 717 and section 721 of this title [amending this section and sections 830, 842, 952, 960, and 971 of this title], the Attorney General shall consult with the United States Trade Representative to ensure implementation complies with all applicable international treaties and obligations of the United States.''

§ 826a. Attorney General report on drug shortages

Not later than 6 months after July 9, 2012, and annually thereafter, the Attorney General shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on the Judiciary of the Senate a report on drug shortages that—

(1) identifies the number of requests received under section 826(h) of this title (as added by section 1005 of this Act), the average review time for such requests, the number of requests granted and denied under such section, and, for each of the requests denied under such section, the basis for such denial;

(2) describes the coordination between the Drug Enforcement Administration and Food and Drug Administration on efforts to prevent or alleviate drug shortages; and

(3) identifies drugs containing a controlled substance subject to section 826 of this title when such a drug is determined by the Secretary to be in shortage.

(Pub. L. 112–144, title X, § 1006, July 9, 2012, 126 Stat. 1105.)

Editorial Notes

REFERENCES IN TEXT

Section 1005 of this Act, referred to in par. (1), means section 1005 of Pub. L. 112–144, which amended section 826 of this title.

CODIFICATION

Section was enacted as part of the Food and Drug Administration Safety and Innovation Act, and not as part of the Controlled Substances Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

DEFINITION OF ''SECRETARY''

The term ''Secretary'' as meaning the Secretary of Health and Human Services, see section 1001(b) of Pub. L. 112–144, set out as an Effect of Notification note under section 356c of this title.

§ 827. Records and reports of registrants

(a) Inventory

Except as provided in subsection (c)—

(1) every registrant under this subchapter shall, on May 1, 1971, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this subchapter manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after May 1, 1971, every registrant under this subchapter manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

(b) Availability of records

Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as may be required by, regulations of the Attorney General, (2) shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General.

(c) Nonapplicability

The foregoing provisions of this section shall not apply—

(1)(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or

(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;

(2)(A) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 355(i) or 360b(j) of this title;

(B) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this subchapter.

Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.

(d) Periodic reports to Attorney General

(1) Every manufacturer registered under section 823 of this title shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this subchapter the person or establishment (unless exempt from registration under section 822(d) of this title) to whom such sale, delivery, or other disposal was made.

(2) Each pharmacy with a modified registration under section 823(g) of this title that authorizes the dispensing of controlled substances by means of the Internet shall report to the Attorney General the controlled substances it dispenses, in the amount specified, and in such time and manner as the Attorney General by regulation shall require, except that the Attorney General, under this paragraph, may not re-

quire any pharmacy to report any information other than the total quantity of each controlled substance that the pharmacy has dispensed each month. For purposes of this paragraph, no reporting shall be required unless the pharmacy has met 1 of the following thresholds in the month for which the reporting is required:

(A) 100 or more prescriptions dispensed.

(B) 5,000 or more dosage units of all controlled substances combined.

(e) Reporting and recordkeeping requirements of drug conventions

In addition to the reporting and recordkeeping requirements under any other provision of this subchapter, each manufacturer registered under section 823 of this title shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this subchapter on manufacturers subject to the requirements of this subsection.

(f) Records and reports of registrants

(1) The Attorney General shall, not less frequently than quarterly, make the following information available to manufacturer and distributor registrants through the Automated Reports and Consolidated Orders System, or any subsequent automated system developed by the Drug Enforcement Administration to monitor selected controlled substances:

(A) The total number of distributor registrants that distribute controlled substances to a pharmacy or practitioner registrant, aggregated by the name and address of each pharmacy and practitioner registrant.

(B) The total quantity and type of opioids distributed, listed by Administration Controlled Substances Code Number, to each pharmacy and practitioner registrant described in subparagraph (A).

(2) The information required to be made available under paragraph (1) shall be made available not later than the 30th day of the first month following the quarter to which the information relates.

(3)(A) All registered manufacturers and distributors shall be responsible for reviewing the information made available by the Attorney General under this subsection.

(B) In determining whether to initiate proceedings under this subchapter against a registered manufacturer or distributor based on the failure of the registrant to maintain effective controls against diversion or otherwise comply with the requirements of this subchapter or the regulations issued thereunder, the Attorney General may take into account that the information made available under this subsection was available to the registrant.

(g) Investigational uses of drugs; procedures

Regulations under sections 355(i) and 360(j) of this title, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

(h) Change of address

Every registrant under this subchapter shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.

(i) Reporting requirements for GHB

In the case of a drug product containing gamma hydroxybutyric acid for which an application has been approved under section 355 of this title, the Attorney General may, in addition to any other requirements that apply under this section with respect to such a drug product, establish any of the following as reporting requirements:

(1) That every person who is registered as a manufacturer of bulk or dosage form, as a packager, repackager, labeler, relabeler, or distributor shall report acquisition and distribution transactions quarterly, not later than the 15th day of the month succeeding the quarter for which the report is submitted, and annually report end-of-year inventories.

(2) That all annual inventory reports shall be filed no later than January 15 of the year following that for which the report is submitted and include data on the stocks of the drug product, drug substance, bulk drug, and dosage forms on hand as of the close of business December 31, indicating whether materials reported are in storage or in process of manufacturing.

(3) That every person who is registered as a manufacturer of bulk or dosage form shall report all manufacturing transactions both inventory increases, including purchases, transfers, and returns, and reductions from inventory, including sales, transfers, theft, destruction, and seizure, and shall provide data on material manufactured, manufactured from other material, use in manufacturing other material, and use in manufacturing dosage forms.

(4) That all reports under this section must include the registered person's registration number as well as the registration numbers, names, and other identifying information of vendors, suppliers, and customers, sufficient to allow the Attorney General to track the receipt and distribution of the drug.

(5) That each dispensing practitioner shall maintain for each prescription the name of the prescribing practitioner, the prescribing practitioner's Federal and State registration numbers, with the expiration dates of these registrations, verification that the prescribing practitioner possesses the appropriate registration to prescribe this controlled substance, the patient's name and address, the name of the patient's insurance provider and documentation by a medical practitioner licensed and registered to prescribe the drug of the patient's medical need for the drug. Such information shall be available for inspection and copying by the Attorney General.

(6) That section 830(b)(3) of this title (relating to mail order reporting) applies with respect to gamma hydroxybutyric acid to the same extent and in the same manner as such section applies with respect to the chemicals and drug products specified in subparagraph (A)(i) of such section.

(j) Electronic reporting format

All of the reports required under this section shall be provided in an electronic format.

(Pub. L. 91–513, title II, § 307, Oct. 27, 1970, 84 Stat. 1258; Pub. L. 93–281, § 5, May 14, 1974, 88 Stat. 125; Pub. L. 95–633, title I, §§ 104, 110, Nov. 10, 1978, 92 Stat. 3772, 3773; Pub. L. 98–473, title II, §§ 514, 515, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 106–172, § 4, Feb. 18, 2000, 114 Stat. 9; Pub. L. 110–425, § 3(c), Oct. 15, 2008, 122 Stat. 4824; Pub. L. 115–271, title III, § 3273(a), Oct. 24, 2018, 132 Stat. 3952; Pub. L. 117–215, title I, § 103(b)(1)(D), Dec. 2, 2022, 136 Stat. 2263.)

Editorial Notes

REFERENCES IN TEXT

Schedules II, III, IV, and V, referred to in subsec. (c), are set out in section 812(c) of this title.

AMENDMENTS

2022—Subsec. (d)(2). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)'' in introductory provisions.

2018—Subsecs. (f) to (i). Pub. L. 115–271, § 3273(a)(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

Subsec. (j). Pub. L. 115–271, § 3273(a)(3), added subsec. (j).

2008—Subsec. (d). Pub. L. 110–425 designated existing provisions as par. (1) and added par. (2).

2000—Subsec. (h). Pub. L. 106–172 added subsec. (h).

1984—Subsec. (c)(1)(A). Pub. L. 98–473, § 514(a), substituted ''to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual'' for ''with respect to any narcotic controlled substance in schedule II, III, IV, or V, to the prescribing or administering of such substance by a practitioner in the lawful course of his professional practice unless such substance was prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual''.

Subsec. (c)(1)(B). Pub. L. 98–473, § 514(b), substituted ''to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual'' for ''with respect to nonnarcotic controlled substances in schedule II, III, IV, or V, to any practitioner who dispenses such substances to his patients, unless the practitioner is regularly engaged in charging his patients, either separately or together with charges for other professional services, for substances so dispensed''.

Subsec. (g). Pub. L. 98–473, § 515, added subsec. (g).

1978—Subsec. (c). Pub. L. 95–633, § 110, inserted provision following par. (3) relating to the construction of the Convention on Psychotropic Substances.

Subsecs. (e), (f). Pub. L. 95–633 added subsec. (e) and redesignated former subsec. (e) as (f).

1974—Subsec. (c)(1)(A). Pub. L. 93–281 substituted ''any narcotic controlled substance'' for ''narcotic controlled substances'' and made section applicable to any narcotic controlled substance prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

PURPOSE

Pub. L. 115–271, title III, § 3272, Oct. 24, 2018, 132 Stat. 3952, provided that:

''(a) IN GENERAL.—The purpose of this chapter [see section 3271 of Pub. L. 115–271, set out as a Short Title of 2018 Amendment note under section 801 of this title] is to provide drug manufacturers and distributors with access to anonymized information through the Automated Reports and Consolidated Orders System to help drug manufacturers and distributors identify, report, and stop suspicious orders of opioids and reduce diversion rates.

''(b) RULE OF CONSTRUCTION.—Nothing in this chapter should be construed to absolve a drug manufacturer, drug distributor, or other Drug Enforcement Administration registrant from the responsibility of the manufacturer, distributor, or other registrant to—

''(1) identify, stop, and report suspicious orders; or

''(2) maintain effective controls against diversion in accordance with section 303 of the Controlled Substances Act (21 U.S.C. 823) or any successor law or associated regulation.''

§ 828. Order forms

(a) Unlawful distribution of controlled substances

It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section.

(b) Nonapplicability of provisions

Nothing in subsection (a) shall apply to—

(1) the exportation of such substances from the United States in conformity with subchapter II;

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a); or

(3) the delivery of such a substance for the purpose of disposal by an ultimate user, long-term care facility, or other person acting in accordance with section 822(g) of this title.

(c) Preservation and availability

(1) Every person who in pursuance of an order required under subsection (a) distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

(2) Every person who gives an order required under subsection (a) shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

(d) Issuance

(1) The Attorney General shall issue forms pursuant to subsections (a) and (c)(2) only to persons validly registered under section 823 of this title (or exempted from registration under section 822(d) of this title). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith.

(e) Unlawful acts

It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research.

(Pub. L. 91–513, title II, § 308, Oct. 27, 1970, 84 Stat. 1259; Pub. L. 111–273, § 3(b), Oct. 12, 2010, 124 Stat. 2860.)

Editorial Notes

REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (a), are set out in section 812(c) of this title.

AMENDMENTS

2010—Subsec. (b)(3). Pub. L. 111–273 added par. (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 829. Prescriptions

(a) Schedule II substances

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act [21 U.S.C. 353(b)]. Prescriptions shall be retained in conformity with the requirements of section 827 of this title. No prescription for a controlled substance in schedule II may be refilled.

(b) Schedule III and IV substances

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act [21 U.S.C. 353(b)]. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(c) Schedule V substances

No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

(d) Non-prescription drugs with abuse potential

Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

(e) Controlled substances dispensed by means of the Internet

(1) No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] may be delivered, distributed, or dispensed by means of the Internet without a valid prescription.

(2) As used in this subsection:

(A) The term ''valid prescription'' means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by—

(i) a practitioner who has conducted at least 1 in-person medical evaluation of the patient; or

(ii) a covering practitioner.

(B)(i) The term ''in-person medical evaluation'' means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other health professionals.

(ii) Nothing in clause (i) shall be construed to imply that 1 in-person medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

(C) The term ''covering practitioner'' means, with respect to a patient, a practitioner who conducts a medical evaluation (other than an in-person medical evaluation) at the request of a practitioner who—

(i) has conducted at least 1 in-person medical evaluation of the patient or an evaluation of the patient through the practice of telemedicine, within the previous 24 months; and

(ii) is temporarily unavailable to conduct the evaluation of the patient.

(3) Nothing in this subsection shall apply to—

(A) the delivery, distribution, or dispensing of a controlled substance by a practitioner engaged in the practice of telemedicine; or

(B) the dispensing or selling of a controlled substance pursuant to practices as determined by the Attorney General by regulation, which shall be consistent with effective controls against diversion.

(f) Partial fills of schedule II controlled substances

(1) Partial fills

A prescription for a controlled substance in schedule II may be partially filled if—

(A) it is not prohibited by State law;

(B) the prescription is written and filled in accordance with this subchapter, regulations prescribed by the Attorney General, and State law;

(C) the partial fill is requested by the patient or the practitioner that wrote the prescription; and

(D) the total quantity dispensed in all partial fillings does not exceed the total quantity prescribed.

(2) Remaining portions

(A) In general

Except as provided in subparagraph (B), remaining portions of a partially filled prescription for a controlled substance in schedule II—

(i) may be filled; and

(ii) shall be filled not later than 30 days after the date on which the prescription is written.

(B) Emergency situations

In emergency situations, as described in subsection (a), the remaining portions of a partially filled prescription for a controlled substance in schedule II—

(i) may be filled; and

(ii) shall be filled not later than 72 hours after the prescription is issued.

(3) Currently lawful partial fills

Notwithstanding paragraph (1) or (2), in any circumstance in which, as of the day before July 22, 2016, a prescription for a controlled substance in schedule II may be lawfully partially filled, the Attorney General may allow such a prescription to be partially filled.

(Pub. L. 91–513, title II, §309, Oct. 27, 1970, 84 Stat. 1260; Pub. L. 110–425, §2, Oct. 15, 2008, 122 Stat. 4820; Pub. L. 114–198, title VII, §702(a), July 22, 2016, 130 Stat. 740.)

Editorial Notes

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (a), (b), (d), and (e)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules II, III, IV, and V, referred to in subsecs. (a) to (c), are set out in section 812(c) of this title.

AMENDMENTS

2016—Subsec. (f). Pub. L. 114–198 added subsec. (f).

2008—Subsec. (e). Pub. L. 110–425 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

CONSTRUCTION OF 2016 AMENDMENT

Pub. L. 114–198, title VII, §702(b), July 22, 2016, 130 Stat. 741, provided that: ''Nothing in this section [amending this section] shall be construed to affect the authority of the Attorney General to allow a prescription for a controlled substance in schedule III, IV, or V of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) to be partially filled.''

DISPENSATION OF NARCOTIC DRUGS FOR THE PURPOSE OF RELIEVING ACUTE WITHDRAWAL SYMPTOMS FROM OPIOID USE DISORDER

Pub. L. 116–215, div. B, title III, §1302, Dec. 11, 2020, 134 Stat. 1046, provided that: ''Not later than 180 days after the date of enactment of this Act [Dec. 11, 2020], the Attorney General shall revise section 1306.07(b) of title 21, Code of Federal Regulations, so that practitioners, in accordance with applicable State, Federal, or local laws relating to controlled substances, are allowed to dispense not more than a three-day supply of narcotic drugs to one person or for one person's use at one time for the purpose of initiating maintenance treatment or detoxification treatment (or both).''

PROGRAMS AND MATERIALS FOR TRAINING ON CERTAIN CIRCUMSTANCES UNDER WHICH A PHARMACIST MAY DECLINE TO FILL A PRESCRIPTION

Pub. L. 115–271, title III, §3212, Oct. 24, 2018, 132 Stat. 3947, as amended by Pub. L. 117–328, div. FF, title I, §1271(a), Dec. 29, 2022, 136 Stat. 5685, provided that:

''(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Administrator of the Drug Enforcement Administration, Com-

missioner of Food and Drugs, Director of the Centers for Disease Control and Prevention, and Assistant Secretary for Mental Health and Substance Use, shall develop and disseminate not later than 1 year after the date of enactment of the Restoring Hope for Mental Health and Well-Being Act of 2022 [Dec. 29, 2022], and update periodically thereafter, as appropriate, materials for pharmacists, health care providers, and patients on—

''(1) circumstances under which a pharmacist may, consistent with section 309 of the Controlled Substances Act (21 U.S.C. 829) and regulations thereunder, including section 1306.04 of title 21, Code of Federal Regulations, decline to fill a prescription for a controlled substance because the pharmacist suspects the prescription is fraudulent, forged, or of doubtful, questionable, or suspicious origin; and

''(2) other Federal requirements pertaining to declining to fill a prescription under such circumstances, including the partial fill of prescriptions for certain controlled substances.

''(b) MATERIALS INCLUDED.—In developing materials under subsection (a), the Secretary of Health and Human Services shall include information for—

''(1) pharmacists on how to verify the identity of the patient;

''(2) pharmacists on how to decline to fill a prescription and actions to take after declining to fill a prescription; and

''(3) other health care practitioners and the public on a pharmacist's ability to decline to fill prescriptions in certain circumstances and a description of those circumstances (as described in the materials developed under subsection (a)(1)).

''(c) STAKEHOLDER INPUT.—In developing the programs and materials required under subsection (a), the Secretary of Health and Human Services shall seek input from relevant national, State, and local associations, boards of pharmacy, medical societies, licensing boards, health care practitioners, and patients, including individuals with chronic pain.

''(d) MATERIALS FOR TRAINING ON VERIFICATION OF IDENTITY.—Not later than 1 year after the date of enactment of this subsection [Dec. 29, 2022], the Secretary of Health and Human Services, after seeking stakeholder input in accordance with subsection (c), shall—

''(1) update the materials developed under subsection (a) to include information for pharmacists on how to verify the identity of the patient; and

''(2) disseminate, as appropriate, the updated materials.''

EFFECT OF SCHEDULING ON PRESCRIPTIONS

Pub. L. 101–647, title XIX, § 1902(c), Nov. 29, 1990, 104 Stat. 4852, provided that any prescription for anabolic steroids subject to refill on or after Nov. 29, 1990, could be refilled without restriction under subsec. (a) of this section.

§ 829a. Delivery of a controlled substance by a pharmacy to an administering practitioner

(a) In general

Notwithstanding section 802(10) of this title, a pharmacy may deliver a controlled substance to a practitioner in accordance with a prescription that meets the requirements of this subchapter and the regulations issued by the Attorney General under this subchapter, for the purpose of administering the controlled substance by the practitioner if—

(1) the controlled substance is delivered by the pharmacy to the prescribing practitioner or the practitioner administering the controlled substance, as applicable, at the location listed on the practitioner's certificate of registration issued under this subchapter;

(2) the controlled substance is a narcotic drug in schedule III, IV, or V to be administered for the purpose of maintenance or detoxification treatment and is to be administered by injection or implantation;

(3) the pharmacy and the practitioner are authorized to conduct the activities specified in this section under the law of the State in which such activities take place;

(4) the prescription is not issued to supply any practitioner with a stock of controlled substances for the purpose of general dispensing to patients;

(5) except as provided in subsection (b), the controlled substance is to be administered only to the patient named on the prescription not later than 45 days after the date of receipt of the controlled substance by the practitioner; and

(6) notwithstanding any exceptions under section 827 of this title, the prescribing practitioner, and the practitioner administering the controlled substance, as applicable, maintain complete and accurate records of all controlled substances delivered, received, administered, or otherwise disposed of under this section, including the persons to whom controlled substances were delivered and such other information as may be required by regulations of the Attorney General.

(b) Modification of number of days before which controlled substance shall be administered

(1) Initial 2-year period

During the 2-year period beginning on October 24, 2018, the Attorney General, in coordination with the Secretary, may reduce the number of days described in subsection (a)(5) if the Attorney General determines that such reduction will—

(A) reduce the risk of diversion; or

(B) protect the public health.

(2) Modifications after submission of report

After the date on which the report described in section 3204(b) of the SUPPORT for Patients and Communities Act is submitted, the Attorney General, in coordination with the Secretary, may modify the number of days described in subsection (a)(5).

(3) Minimum number of days

Any modification under this subsection shall be for a period of not less than 7 days.

(Pub. L. 91–513, title II, § 309A, as added Pub. L. 115–271, title III, § 3204(a), Oct. 24, 2018, 132 Stat. 3945; amended Pub. L. 117–215, title I, § 103(b)(1)(E), Dec. 2, 2022, 136 Stat. 2263; Pub. L. 117–328, div. FF, title I, §§ 1262(b)(2), 1264, Dec. 29, 2022, 136 Stat. 5682, 5685.)

Editorial Notes

REFERENCES IN TEXT

Section 3204(b) of the SUPPORT for Patients and Communities Act, referred to in subsec. (b)(2), is section 3204(b) of Pub. L. 115–271, title III, Oct. 24, 2018, 132 Stat. 3946, which is not classified to the Code.

AMENDMENTS

2022—Subsec. (a)(2). Pub. L. 117–328, § 1262(b)(2), which directed substitution of ''the controlled substance is a narcotic drug in schedule III, IV, or V to be administered for the purpose of maintenance or detoxification

treatment and is to be administered by injection or implantation;'' for ''the controlled substance is to be administered for the purpose of maintenance or detoxification treatment under section 823(g)(2) and—''

''(A) the practitioner who issued the prescription is a qualifying practitioner authorized under, and acting within the scope of that section; and

''(B) the controlled substance is to be administered by injection or implantation;''

was executed by making the substitution for ''the controlled substance is to be administered for the purpose of maintenance or detoxification treatment under section 823(h)(2) and—'' and subpars. (A) and (B), to reflect the probable intent of Congress and the intervening amendment by Pub. L. 117–215. See Amendment note below.

Pub. L. 117–215 substituted ''823(h)(2)'' for ''823(g)(2)'' in introductory provisions.

Subsec. (a)(5). Pub. L. 117–328, §1264, substituted ''45 days'' for ''14 days''.

§ 830. Regulation of listed chemicals and certain machines

(a) Record of regulated transactions

(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction for two years after the date of the transaction.

(2) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer. Such record shall be available for inspection and copying by the Attorney General.

(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identity for purposes of this paragraph.

(b) Reports to Attorney General

(1) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation—

(A) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this subchapter;

(B) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

(C) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person; and

(D) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under subparagraph (A) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under subparagraph (B) unless the transaction is approved by the Attorney General. The Attorney General shall make available to regulated persons guidance documents describing transactions and circumstances for which reports are required under subparagraph (A) and subparagraph (C).

(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 802(39)(A)(iv) of this title.

(3) MAIL ORDER REPORTING.—(A) As used in this paragraph:

(i) The term ''drug product'' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act[1] [21 U.S.C. 301 et seq.] for distribution in the United States.

(ii) The term ''valid prescription'' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.

(B) Each regulated person who engages in a transaction with a nonregulated person or who engages in an export transaction which—

(i) involves ephedrine, pseudoephedrine, or phenylpropanolamine (including drug products containing these chemicals); and

(ii) uses or attempts to use the Postal Service or any private or commercial carrier;

shall, on a monthly basis, submit a report of each such transaction conducted during the previous month to the Attorney General in such form, containing such data, and at such times as the Attorney General shall establish by regulation.

(C) The data required for such reports shall include—

(i) the name of the purchaser;

(ii) the quantity and form of the ephedrine, pseudoephedrine, or phenylpropanolamine purchased; and

(iii) the address to which such ephedrine, pseudoephedrine, or phenylpropanolamine was sent.

(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):

(i) Distributions of sample packages of drug products when such packages contain not more than two solid dosage units or the equivalent of two dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an

[1] See References in Text note below.

individual or residential address in any 30-day period.

(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 802(49) of this title, except that this clause does not apply to sales of scheduled listed chemical products at retail.

(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.

(iv) Distributions of drug products pursuant to a valid prescription.

(v) Exports which have been reported to the Attorney General pursuant to section 954 or 971 of this title or which are subject to a waiver granted under section 971(f)(2) of this title.

(vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this subchapter or subchapter II.

(E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this subchapter or subchapter II. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 971(c)(1) of this title, and shall have the right to an expedited hearing as provided in section 971(c)(2) of this title.

(c) Confidentiality of information obtained by Attorney General; non-disclosure; exceptions

(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

(2) Information referred to in paragraph (1) may be disclosed only—

(A) to an officer or employee of the United States engaged in carrying out this subchapter, subchapter II, or the customs laws;

(B) when relevant in any investigation or proceeding for the enforcement of this subchapter, subchapter II, or the customs laws;

(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

(D) to a State or local official or employee in conjunction with the enforcement of controlled substances laws or chemical control laws.

(3) The Attorney General shall—

(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).

(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

(5) Notwithstanding paragraph (4), a civil action may not be brought under such paragraph against investigative or law enforcement personnel of the Drug Enforcement Administration.

(d) Scheduled listed chemicals; restrictions on sales quantity; requirements regarding nonliquid forms

With respect to ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product—

(1) the quantity of such base sold at retail in such a product by a regulated seller, or a distributor required to submit reports by subsection (b)(3) may not, for any purchaser, exceed a daily amount of 3.6 grams, without regard to the number of transactions; and

(2) such a seller or distributor may not sell such a product in nonliquid form (including gel caps) at retail unless the product is packaged in blister packs, each blister containing not more than 2 dosage units, or where the use of blister packs is technically infeasible, the product is packaged in unit dose packets or pouches.

(e) Scheduled listed chemicals; behind-the-counter access; logbook requirement; training of sales personnel; privacy protections

(1) Requirements regarding retail transactions

(A) In general

Each regulated seller shall ensure that, subject to subparagraph (F), sales by such seller of a scheduled listed chemical product at retail are made in accordance with the following:

(i) In offering the product for sale, the seller places the product such that customers do not have direct access to the product before the sale is made (in this paragraph referred to as ''behind-the-counter'' placement). For purposes of this paragraph, a behind-the-counter placement of a product includes circumstances in which the product is stored in a locked cabinet that is located in an area of the facility involved to which customers do have direct access.

(ii) The seller delivers the product directly into the custody of the purchaser.

(iii) The seller maintains, in accordance with criteria issued by the Attorney General, a written or electronic list of such sales that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the dates and times of the sales (which list is referred to in this subsection as the ''logbook''), except that

such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than 60 milligrams of pseudoephedrine.

(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does not sell such a product unless the sale is made in accordance with the following:

(I) The prospective purchaser—

(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after March 9, 2006); and

(bb) signs the written logbook and enters in the logbook his or her name, address, and the date and time of the sale, or for transactions involving an electronic logbook, the purchaser provides a signature using one of the following means:

(AA) Signing a device presented by the seller that captures signatures in an electronic format. Such device shall display the notice described in clause (v). Any device used shall preserve each signature in a manner that clearly links that signature to the other electronically-captured logbook information relating to the prospective purchaser providing that signature.

(BB) Signing a bound paper book. Such bound paper book shall include, for such purchaser, either (aaa) a printed sticker affixed to the bound paper book at the time of sale which either displays the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale, or a unique identifier which can be linked to that electronic information, or (bbb) a unique identifier which can be linked to that information and which is written into the book by the seller at the time of sale. The purchaser shall sign adjacent to the printed sticker or written unique identifier related to that sale. Such bound paper book shall display the notice described in clause (v).

(CC) Signing a printed document that includes, for such purchaser, the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale. Such document shall be printed by the seller at the time of the sale. Such document shall contain a clearly identified signature line for a purchaser to sign. Such printed document shall display the notice described in clause (v). Each signed document shall be inserted into a binder or other secure means of document storage immediately after the purchaser signs the document.

(II) The seller enters in the logbook the name of the product and the quantity sold. Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

(III) The logbook maintained by the seller includes the prospective purchaser's name, address, and the date and time of the sale, as follows:

(aa) If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct.

(bb) If the seller enters the information, the prospective purchaser must verify that the information is correct.

(cc) Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

(v) The written or electronic logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements or misrepresentations in the logbook, or supplying false information or identification that results in the entry of false statements or misrepresentations, may subject the purchasers to criminal penalties under section 1001 of title 18, which notice specifies the maximum fine and term of imprisonment under such section.

(vi) Regardless of whether the logbook entry is written or electronic, the seller maintains each entry in the logbook for not fewer than 2 years after the date on which the entry is made.

(vii) In the case of individuals who are responsible for delivering such products into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products, the seller has submitted to the Attorney General a self-certification that all such individuals have, in accordance with criteria under subparagraph (B)(ii), undergone training provided by the seller to ensure that the individuals understand the requirements that apply under this subsection and subsection (d).

(viii) The seller maintains a copy of such certification and records demonstrating that individuals referred to in clause (vii) have undergone the training.

(ix) If the seller is a mobile retail vendor:

(I) The seller complies with clause (i) by placing the product in a locked cabinet.

(II) The seller does not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.

(B) Additional provisions regarding certifications and training

(i) In general

A regulated seller may not sell any scheduled listed chemical product at retail unless the seller has submitted to the Attorney General the self-certification referred to in subparagraph (A)(vii). The certification is not effective for purposes of the preceding sentence unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, the certification includes a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements.

(ii) Issuance of criteria; self-certification

The Attorney General shall by regulation establish criteria for certifications under this paragraph. The criteria shall—

(I) provide that the certifications are self-certifications provided through the program under clause (iii);

(II) provide that a separate certification is required for each place of business at which a regulated seller sells scheduled listed chemical products at retail; and

(III) include criteria for training under subparagraph (A)(vii).

(iii) Program for regulated sellers

The Attorney General shall establish a program regarding such certifications and training in accordance with the following:

(I) The program shall be carried out through an Internet site of the Department of Justice and such other means as the Attorney General determines to be appropriate.

(II) The program shall inform regulated sellers that section 1001 of title 18 applies to such certifications.

(III) The program shall make available to such sellers an explanation of the criteria under clause (ii).

(IV) The program shall be designed to permit the submission of the certifications through such Internet site.

(V) The program shall be designed to automatically provide the explanation referred to in subclause (III), and an acknowledgement that the Department has received a certification, without requiring direct interactions of regulated sellers with staff of the Department (other than the provision of technical assistance, as appropriate).

(iv) Availability of certification to State and local officials

Promptly after receiving a certification under subparagraph (A)(vii), the Attorney General shall make available a copy of the certification to the appropriate State and local officials.

(v) Publication of list of self-certified persons

The Attorney General shall develop and make available a list of all persons who are currently self-certified in accordance with this section. This list shall be made publicly available on the website of the Drug Enforcement Administration in an electronically downloadable format.

(C) Privacy protections

In order to protect the privacy of individuals who purchase scheduled listed chemical products, the Attorney General shall by regulation establish restrictions on disclosure of information in logbooks under subparagraph (A)(iii). Such regulations shall—

(i) provide for the disclosure of the information as appropriate to the Attorney General and to State and local law enforcement agencies; and

(ii) prohibit accessing, using, or sharing information in the logbooks for any purpose other than to ensure compliance with this subchapter or to facilitate a product recall to protect public health and safety.

(D) False statements or misrepresentations by purchasers

For purposes of section 1001 of title 18, entering information in the logbook under subparagraph (A)(iii) shall be considered a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.

(E) Good faith protection

A regulated seller who in good faith releases information in a logbook under subparagraph (A)(iii) to Federal, State, or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(F) Inapplicability of requirements to certain sales

Subparagraph (A) does not apply to the sale at retail of a scheduled listed chemical product if a report on the sales transaction is required to be submitted to the Attorney General under subsection (b)(3).

(G) Certain measures regarding theft and diversion

A regulated seller may take reasonable measures to guard against employing individuals who may present a risk with respect to the theft and diversion of scheduled listed chemical products, which may include, notwithstanding State law, asking applicants for employment whether they have been convicted of any crime involving or related to such products or controlled substances.

(2) Mail-order reporting; verification of identity of purchaser; 30-day restriction on quantities for individual purchasers

Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General is subject to the following:

(A) The person shall, prior to shipping the product, confirm the identity of the purchaser in accordance with procedures established by the Attorney General. The Attor-

ney General shall by regulation establish such procedures.

(B) The person may not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period.

(C) Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General may not sell any scheduled listed chemical product at retail unless such regulated person has submitted to the Attorney General a self-certification including a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements. The Attorney General shall by regulation establish criteria for certifications of mail-order distributors that are consistent with the criteria established for the certifications of regulated sellers under paragraph (1)(B).

(3) Exemptions for certain products

Upon the application of a manufacturer of a scheduled listed chemical product, the Attorney General may by regulation provide that the product is exempt from the provisions of subsection (d) and paragraphs (1) and (2) of this subsection if the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine.

(Pub. L. 91–513, title II, §310, as added Pub. L. 95–633, title II, §202(a), Nov. 10, 1978, 92 Stat. 3774; amended Pub. L. 100–690, title VI, §6052(a), Nov. 18, 1988, 102 Stat. 4312; Pub. L. 103–200, §§2(c), 10, Dec. 17, 1993, 107 Stat. 2336, 2341; Pub. L. 104–237, title II, §208, title IV, §402, Oct. 3, 1996, 110 Stat. 3104, 3111; Pub. L. 106–310, div. B, title XXXVI, §3652, Oct. 17, 2000, 114 Stat. 1239; Pub. L. 109–177, title VII, §§711(a)(2)(B), (b)(1), (c)(1), (2), (d), 716(b)(2), Mar. 9, 2006, 120 Stat. 257, 261, 267; Pub. L. 110–415, §2, Oct. 14, 2008, 122 Stat. 4349; Pub. L. 111–268, §§2, 3, Oct. 12, 2010, 124 Stat. 2847.)

Editorial Notes

REFERENCES IN TEXT

The Food, Drug, and Cosmetic Act, referred to in subsec. (b)(3)(A)(i), probably means the Federal Food, Drug, and Cosmetic Act, act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

This subchapter, referred to in subsecs. (b)(3)(D)(vi), (E) and (e)(1)(C)(ii), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II, referred to in subsecs. (b)(3)(D)(iv), (E) and (c)(2)(A), (B), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

2010—Subsec. (e)(1)(B)(v). Pub. L. 111–268, §3, added cl. (v).

Subsec. (e)(2)(C). Pub. L. 111–268, §2, added subpar. (C).

2008—Subsec. (e)(1)(A)(iv) to (vi). Pub. L. 110–415 added cls. (iv) to (vi) and struck out former cls. (iv) to (vi) which related to procedures for sales subject to the logbook requirement.

2006—Subsec. (b)(3)(D)(ii). Pub. L. 109–177, §711(c)(2), inserted '', except that this clause does not apply to sales of scheduled listed chemical products at retail'' before period at end.

Pub. L. 109–177, §711(a)(2)(B), substituted ''section 802(49)'' for ''section 802(46)''.

Subsec. (b)(3)(D)(v). Pub. L. 109–177, §716(b)(2), substituted ''section 971(f)(2)'' for ''section 971(e)(2)''.

Subsec. (d). Pub. L. 109–177, §711(b)(1), added subsec. (d).

Subsec. (e)(1). Pub. L. 109–177, §711(b)(1), added subsec. heading and par. (1).

Subsec. (e)(2). Pub. L. 109–177, §711(c)(1), added par. (2).

Subsec. (e)(3). Pub. L. 109–177, §711(d), added par. (3).

2000—Subsec. (b)(3). Pub. L. 106–310 added subpars. (A), (D), and (E), redesignated former subpars. (A) and (B) as (B) and (C), respectively, and inserted ''or who engages in an export transaction'' after ''nonregulated person'' in introductory provisions of subpar. (B).

1996—Subsec. (a)(1). Pub. L. 104–237, §208, substituted ''for two years after the date of the transaction.'' for the dash after ''record of the transaction'' and struck out subpars. (A) and (B) which read as follows:

''(A) for 4 years after the date of the transaction, if the listed chemical is a list I chemical or if the transaction involves a tableting machine or an encapsulating machine; and

''(B) for 2 years after the date of the transaction, if the listed chemical is a list II chemical.''

Subsec. (b)(3). Pub. L. 104–237, §402, added par. (3).

1993—Subsec. (a)(1). Pub. L. 103–200, §2(c)(1), substituted ''list I chemical'' for ''precursor chemical'' in subpar. (A) and ''a list II chemical'' for ''an essential chemical'' in subpar. (B).

Subsec. (b). Pub. L. 103–200, §10, designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, in concluding provisions, substituted ''subparagraph (A)'' for ''paragraph (1)'' in two places, ''subparagraph (B)'' for ''paragraph (2)'', and ''subparagraph (C)'' for ''paragraph (3)'', and added par. (2).

Subsec. (c)(2)(D). Pub. L. 103–200, §2(c)(2), substituted ''chemical control laws'' for ''precursor chemical laws''.

1988—Pub. L. 100–690 amended section generally, substituting provisions relating to regulation of listed chemicals and certain machines for provisions relating to reporting by any person who distributes, sells, or imports any piperidine.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–268, §6(a), Oct. 12, 2010, 124 Stat. 2848, provided that: ''This Act [amending this section and section 842 of this title and enacting provisions set out as notes under this section and section 801 of this title] and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act [Oct. 12, 2010].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, §711(b)(2), Mar. 9, 2006, 120 Stat. 261, provided that: ''With respect to subsections (d) and (e)(1) of section 310 of the Controlled Substances Act [21 U.S.C. 830(d), (e)(1)], as added by paragraph (1) of this subsection:

''(A) Such subsection (d) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].

''(B) Such subsection (e)(1) applies on and after September 30, 2006.''

Pub. L. 109–177, title VII, §711(c)(3), Mar. 9, 2006, 120 Stat. 261, provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] apply on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE; TIME TO SUBMIT PIPERIDINE REPORT; REQUIRED INFORMATION

Pub. L. 95–633, title II, §203(a), Nov. 10, 1978, 92 Stat. 3776, provided that:

''(1) Except as provided under paragraph (2), the amendments made by this title [enacting this section and amending sections 841 to 843 of this title] shall take effect on the date of the enactment of this Act [Nov. 10, 1978].

''(2) Any person required to submit a report under section 310(a)(1) of the Controlled Substances Act [subsec. (a)(1) of this section] respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act [Nov. 10, 1978] may submit such report any time up to 97 days after such date of enactment.

''(3) Until otherwise provided by the Attorney General by regulation, the information required to be reported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) [subsec. (a)(1) of this section] with respect to the person's distribution, sale, or importation of piperidine shall—

''(A) be the information described in subparagraphs (A) and (B) of such section, and

''(B) except as provided in paragraph (2) of this subsection, be reported not later than seven days after the date of such distribution, sale, or importation.''

REPEALS

Pub. L. 96–359, §8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of this section effective Jan. 1, 1981.

REGULATIONS

Pub. L. 111–268, §6(b), Oct. 12, 2010, 124 Stat. 2848, provided that: ''In promulgating the regulations authorized by section 2 [amending this section], the Attorney General may issue regulations on an interim basis as necessary to ensure the implementation of this Act by the effective date [see Effective Date of 2010 Amendment note above].''

Pub. L. 95–633, title II, §203(b), Nov. 10, 1978, 92 Stat. 3777, required the Attorney General to publish proposed interim regulations for piperidine reporting under section 830(a) of this title not later than 30 days after enactment, and final interim regulations not later than 75 days after enactment, such final interim regulations to be effective on and after the ninety-first day after enactment.

REPORT TO PRESIDENT AND CONGRESS ON EFFECTIVENESS OF TITLE II OF PUB. L. 95–633

Pub. L. 95–633, title II, §203(c), Nov. 10, 1978, 92 Stat. 3777, required the Attorney General to analyze and evaluate the impact and effectiveness of the amendments made by title II of Pub. L. 95–633, and report to the President and Congress not later than Mar. 1, 1980.

§ 831. Additional requirements relating to online pharmacies and telemedicine

(a) In general

An online pharmacy shall display in a visible and clear manner on its homepage a statement that it complies with the requirements of this section with respect to the delivery or sale or offer for sale of controlled substances and shall at all times display on the homepage of its Internet site a declaration of compliance in accordance with this section.

(b) Licensure

Each online pharmacy shall comply with the requirements of State law concerning the licensure of pharmacies in each State from which it, and in each State to which it, delivers, distributes, or dispenses or offers to deliver, distribute, or dispense controlled substances by means of the Internet, pursuant to applicable licensure requirements, as determined by each such State.

(c) Internet pharmacy site disclosure information

Each online pharmacy shall post in a visible and clear manner on the homepage of each Internet site it operates, or on a page directly linked thereto in which the hyperlink is also visible and clear on the homepage, the following information for each pharmacy that delivers, distributes, or dispenses controlled substances pursuant to orders made on, through, or on behalf of, that website:

(1) The name and address of the pharmacy as it appears on the pharmacy's Drug Enforcement Administration certificate of registration.

(2) The pharmacy's telephone number and email address.

(3) The name, professional degree, and States of licensure of the pharmacist-in-charge, and a telephone number at which the pharmacist-in-charge can be contacted.

(4) A list of the States in which the pharmacy is licensed to dispense controlled substances.

(5) A certification that the pharmacy is registered under this part to deliver, distribute, or dispense by means of the Internet controlled substances.

(6) The name, address, telephone number, professional degree, and States of licensure of any practitioner who has a contractual relationship to provide medical evaluations or issue prescriptions for controlled substances, through referrals from the website or at the request of the owner or operator of the website, or any employee or agent thereof.

(7) The following statement, unless revised by the Attorney General by regulation: ''This online pharmacy will only dispense a controlled substance to a person who has a valid prescription issued for a legitimate medical purpose based upon a medical relationship with a prescribing practitioner. This includes at least one prior in-person medical evaluation or medical evaluation via telemedicine in accordance with applicable requirements of section 309.''.

(d) Notification

(1) In general

Thirty days prior to offering a controlled substance for sale, delivery, distribution, or dispensing, the online pharmacy shall notify the Attorney General, in such form and manner as the Attorney General shall determine,

and the State boards of pharmacy in any States in which the online pharmacy offers to sell, deliver, distribute, or dispense controlled substances.

(2) Contents

The notification required under paragraph (1) shall include—

(A) the information required to be posted on the online pharmacy's Internet site under subsection (c) and shall notify the Attorney General and the applicable State boards of pharmacy, under penalty of perjury, that the information disclosed on its Internet site under subsection (c) is true and accurate;

(B) the online pharmacy's Internet site address and a certification that the online pharmacy shall notify the Attorney General of any change in the address at least 30 days in advance; and

(C) the Drug Enforcement Administration registration numbers of any pharmacies and practitioners referred to in subsection (c), as applicable.

(3) Existing online pharmacies

An online pharmacy that is already operational as of the effective date of this section, shall notify the Attorney General and applicable State boards of pharmacy in accordance with this subsection not later than 30 days after such date.

(e) Declaration of compliance

On and after the date on which it makes the notification under subsection (d), each online pharmacy shall display on the homepage of its Internet site, in such form as the Attorney General shall by regulation require, a declaration that it has made such notification to the Attorney General.

(f) Reports

Any statement, declaration, notification, or disclosure required under this section shall be considered a report required to be kept under this part.

(g) Notice and designations concerning Indian tribes

(1) In general

For purposes of sections 802(52) and 882(c)(6)(B) of this title, the Secretary shall notify the Attorney General, at such times and in such manner as the Secretary and the Attorney General determine appropriate, of the Indian tribes or tribal organizations with which the Secretary has contracted or compacted under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] for the tribes or tribal organizations to provide pharmacy services.

(2) Designations

(A) In general

The Secretary may designate a practitioner described in subparagraph (B) as an Internet Eligible Controlled Substances Provider. Such designations shall be made only in cases where the Secretary has found that there is a legitimate need for the practitioner to be so designated because the population served by the practitioner is in a sufficiently remote location that access to medical services is limited.

(B) Practitioners

A practitioner described in this subparagraph is a practitioner who is an employee or contractor of the Indian Health Service, or is working for an Indian tribe or tribal organization under its contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] with the Indian Health Service.

(h) Special registration for telemedicine

(1) In general

The Attorney General may issue to a practitioner a special registration to engage in the practice of telemedicine for purposes of section 802(54)(E) of this title if the practitioner, upon application for such special registration—

(A) demonstrates a legitimate need for the special registration; and

(B) is registered under section 823(g) of this title in the State in which the patient will be located when receiving the telemedicine treatment, unless the practitioner—

(i) is exempted from such registration in all States under section 822(d) of this title; or

(ii) is an employee or contractor of the Department of Veterans Affairs who is acting in the scope of such employment or contract and is registered under section 823(g) of this title in any State or is utilizing the registration of a hospital or clinic operated by the Department of Veterans Affairs registered under section 823(g) of this title.

(2) Regulations

Not later than 1 year after October 24, 2018, in consultation with the Secretary, the Attorney General shall promulgate final regulations specifying—

(A) the limited circumstances in which a special registration under this subsection may be issued; and

(B) the procedure for obtaining a special registration under this subsection.

(3) Denials

Proceedings to deny an application for registration under this subsection shall be conducted in accordance with section 824(c) of this title.

(i) Reporting of telemedicine by VHA during medical emergency situations

(1) In general

Any practitioner issuing a prescription for a controlled substance under the authorization to conduct telemedicine during a medical emergency situation described in section 802(54)(F) of this title shall report to the Secretary of Veterans Affairs the authorization of that emergency prescription, in accordance with such requirements as the Secretary of Veterans Affairs shall, by regulation, establish.

(2) To Attorney General

Not later than 30 days after the date that a prescription described in subparagraph (A) is

issued, the Secretary of Veterans Affairs shall report to the Attorney General the authorization of that emergency prescription.

(j) Clarification concerning prescription transfers

Any transfer between pharmacies of information relating to a prescription for a controlled substance shall meet the applicable requirements under regulations promulgated by the Attorney General under this chapter.

(Pub. L. 91–513, title II, § 311, as added Pub. L. 110–425, § 3(d)(1), Oct. 15, 2008, 122 Stat. 4825; amended Pub. L. 115–271, title III, § 3232, Oct. 24, 2018, 132 Stat. 3950; Pub. L. 117–215, title I, § 103(b)(1)(F), Dec. 2, 2022, 136 Stat. 2263.)

Editorial Notes

REFERENCES IN TEXT

Section 309, referred to in subsec. (c)(7), is section 309 of Pub. L. 91–513, which is classified to section 829 of this title.

For effective date of this section, referred to in subsec. (d)(3), see Effective Date note below.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (g)(1), (2)(B), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§ 5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

This chapter, referred to in subsec. (j), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

2022—Subsec. (h)(1)(B). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)'' wherever appearing.

2018—Subsec. (h)(2). Pub. L. 115–271 amended par. (2) generally. Prior to amendment, text read as follows: ''The Attorney General shall, with the concurrence of the Secretary, promulgate regulations specifying the limited circumstances in which a special registration under this subsection may be issued and the procedures for obtaining such a special registration.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as an Effective Date of 2008 Amendment note under section 802 of this title.

§ 832. Suspicious orders

(a) Reporting

Each registrant shall—

(1) design and operate a system to identify suspicious orders for the registrant;

(2) ensure that the system designed and operated under paragraph (1) by the registrant complies with applicable Federal and State privacy laws; and

(3) upon discovering a suspicious order or series of orders, notify the Administrator of the Drug Enforcement Administration and the Special Agent in Charge of the Division Office of the Drug Enforcement Administration for the area in which the registrant is located or conducts business.

(b) Suspicious order database

(1) In general

Not later than 1 year after October 24, 2018, the Attorney General shall establish a centralized database for collecting reports of suspicious orders.

(2) Satisfaction of reporting requirements

If a registrant reports a suspicious order to the centralized database established under paragraph (1), the registrant shall be considered to have complied with the requirement under subsection (a)(3) to notify the Administrator of the Drug Enforcement Administration and the Special Agent in Charge of the Division Office of the Drug Enforcement Administration for the area in which the registrant is located or conducts business.

(c) Sharing information with the States

(1) In general

The Attorney General shall prepare and make available information regarding suspicious orders in a State, including information in the database established under subsection (b)(1), to the point of contact for purposes of administrative, civil, and criminal oversight relating to the diversion of controlled substances for the State, as designated by the Governor or chief executive officer of the State.

(2) Timing

The Attorney General shall provide information in accordance with paragraph (1) within a reasonable period of time after obtaining the information.

(3) Coordination

In establishing the process for the provision of information under this subsection, the Attorney General shall coordinate with States to ensure that the Attorney General has access to information, as permitted under State law, possessed by the States relating to prescriptions for controlled substances that will assist in enforcing Federal law.

(Pub. L. 91–513, title II, § 312, as added Pub. L. 115–271, title III, § 3292(b), Oct. 24, 2018, 132 Stat. 3956.)

PART D—OFFENSES AND PENALTIES

§ 841. Prohibited acts A

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 280 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(viii) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $10,000,000 if the defendant is an individual or $50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $20,000,000 if the defendant is an individual or $75,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years and fined in accordance with the preceding sentence. Notwithstanding section 3583 of title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(B) In the case of a violation of subsection (a) of this section involving—

(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 28 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

(viii) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of

title 18 or $5,000,000 if the defendant is an individual or $25,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $8,000,000 if the defendant is an individual or $50,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(C) In the case of a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam, except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

(D) In the case of less than 50 kilograms of marihuana, except in the case of 50 or more marihuana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil, such person shall, except as provided in paragraphs (4) and (5) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(E)(i) Except as provided in subparagraphs (C) and (D), in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,500,000 if the defendant is other than an individual, or both.

(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both.

(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or

$1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 4 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.

(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 844 of this title and section 3607 of title 18.

(5) Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

(A) the amount authorized in accordance with this section;

(B) the amount authorized in accordance with the provisions of title 18;

(C) $500,000 if the defendant is an individual; or

(D) $1,000,000 if the defendant is other than an individual;

or both.

(6) Any person who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(A) creates a serious hazard to humans, wildlife, or domestic animals,

(B) degrades or harms the environment or natural resources, or

(C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with title 18 or imprisoned not more than five years, or both.

(7) PENALTIES FOR DISTRIBUTION.—

(A) IN GENERAL.—Whoever, with intent to commit a crime of violence, as defined in section 16 of title 18 (including rape), against an individual, violates subsection (a) by distributing a controlled substance or controlled substance analogue to that individual without that individual's knowledge, shall be imprisoned not more than 20 years and fined in accordance with title 18.

(B) DEFINITION.—For purposes of this paragraph, the term ''without that individual's knowledge'' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.

(c) Offenses involving listed chemicals

Any person who knowingly or intentionally—

(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this subchapter;

(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this subchapter; or

(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 830 of this title, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be fined in accordance with title 18 or imprisoned not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical, or both.

(d) Boobytraps on Federal property; penalties; "boobytrap" defined

(1) Any person who assembles, maintains, places, or causes to be placed a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed shall be sentenced to a term of imprisonment for not more than 10 years or fined under title 18, or both.

(2) If any person commits such a violation after 1 or more prior convictions for an offense punishable under this subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years or fined under title 18, or both.

(3) For the purposes of this subsection, the term ''boobytrap'' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

(e) Ten-year injunction as additional penalty

In addition to any other applicable penalty, any person convicted of a felony violation of

this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) Wrongful distribution or possession of listed chemicals

(1) Whoever knowingly distributes a listed chemical in violation of this subchapter (other than in violation of a recordkeeping or reporting requirement of section 830 of this title) shall, except to the extent that paragraph (12), (13), or (14) of section 842(a) of this title applies, be fined under title 18 or imprisoned not more than 5 years, or both.

(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 830 of this title have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18 or imprisoned not more than one year, or both.

(g) Internet sales of date rape drugs

(1) Whoever knowingly uses the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that—

(A) the drug would be used in the commission of criminal sexual conduct; or

(B) the person is not an authorized purchaser;

shall be fined under this subchapter or imprisoned not more than 20 years, or both.

(2) As used in this subsection:

(A) The term ''date rape drug'' means—

(i) gamma hydroxybutyric acid (GHB) or any controlled substance analogue of GHB, including gamma butyrolactone (GBL) or 1,4–butanediol;

(ii) ketamine;

(iii) flunitrazepam; or

(iv) any substance which the Attorney General designates, pursuant to the rulemaking procedures prescribed by section 553 of title 5, to be used in committing rape or sexual assault.

The Attorney General is authorized to remove any substance from the list of date rape drugs pursuant to the same rulemaking authority.

(B) The term ''authorized purchaser'' means any of the following persons, provided such person has acquired the controlled substance in accordance with this chapter:

(i) A person with a valid prescription that is issued for a legitimate medical purpose in the usual course of professional practice that is based upon a qualifying medical relationship by a practitioner registered by the Attorney General. A ''qualifying medical relationship'' means a medical relationship that exists when the practitioner has conducted at least 1 medical evaluation with the authorized purchaser in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other heath[1] professionals. The preceding sentence shall not be construed to imply that 1 medical evaluation demonstrates that a prescription has been issued for a legitimate medical purpose within the usual course of professional practice.

(ii) Any practitioner or other registrant who is otherwise authorized by their registration to dispense, procure, purchase, manufacture, transfer, distribute, import, or export the substance under this chapter.

(iii) A person or entity providing documentation that establishes the name, address, and business of the person or entity and which provides a legitimate purpose for using any ''date rape drug'' for which a prescription is not required.

(3) The Attorney General is authorized to promulgate regulations for record-keeping and reporting by persons handling 1,4–butanediol in order to implement and enforce the provisions of this section. Any record or report required by such regulations shall be considered a record or report required under this chapter.

(h) Offenses involving dispensing of controlled substances by means of the Internet

(1) In general

It shall be unlawful for any person to knowingly or intentionally—

(A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this subchapter; or

(B) aid or abet (as such terms are used in section 2 of title 18) any activity described in subparagraph (A) that is not authorized by this subchapter.

(2) Examples

Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

(A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 823(g) of this title (unless exempt from such registration);

(B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet in violation of section 829(e) of this title;

(C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by sections[2] 823(g) or 829(e) of this title;

(D) offering to fill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire; and

(E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 831 of this title.

(3) Inapplicability

(A) This subsection does not apply to—

[1] So in original. Probably should be ''health''.

[2] So in original. Probably should be ''section''.

(i) the delivery, distribution, or dispensation of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter;

(ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

(iii) except as provided in subparagraph (B), any activity that is limited to—

(I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of title 47); or

(II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of title 47 shall not constitute such selection or alteration of the content of the communication.

(B) The exceptions under subclauses (I) and (II) of subparagraph (A)(iii) shall not apply to a person acting in concert with a person who violates paragraph (1).

(4) Knowing or intentional violation

Any person who knowingly or intentionally violates this subsection shall be sentenced in accordance with subsection (b).

(Pub. L. 91–513, title II, §401, Oct. 27, 1970, 84 Stat. 1260; Pub. L. 95–633, title II, §201, Nov. 10, 1978, 92 Stat. 3774; Pub. L. 96–359, §8(c), Sept. 26, 1980, 94 Stat. 1194; Pub. L. 98–473, title II, §§224(a), 502, 503(b)(1), (2), Oct. 12, 1984, 98 Stat. 2030, 2068, 2070; Pub. L. 99–570, title I, §§1002, 1003(a), 1004(a), 1005(a), 1103, title XV, §15005, Oct. 27, 1986, 100 Stat. 3207–2, 3207–5, 3207–6, 3207–11, 3207–192; Pub. L. 100–690, title VI, §§6055, 6254(h), 6452(a), 6470(g), (h), 6479, Nov. 18, 1988, 102 Stat. 4318, 4367, 4371, 4378, 4381; Pub. L. 101–647, title X, §1002(e), title XII, §1202, title XXXV, §3599K, Nov. 29, 1990, 104 Stat. 4828, 4830, 4932; Pub. L. 103–322, title IX, §90105(a), (c), title XVIII, §180201(b)(2)(A), Sept. 13, 1994, 108 Stat. 1987, 1988, 2047; Pub. L. 104–237, title II, §206(a), title III, §302(a), Oct. 3, 1996, 110 Stat. 3103, 3105; Pub. L. 104–305, §2(a), (b)(1), Oct. 13, 1996, 110 Stat. 3807; Pub. L. 105–277, div. E, §2(a), Oct. 21, 1998, 112 Stat. 2681–759; Pub. L. 106–172, §§3(b)(1), 5(b), 9, Feb. 18, 2000, 114 Stat. 9, 10, 13; Pub. L. 107–273, div. B, title III, §3005(a), title IV, §4002(d)(2)(A), Nov. 2, 2002, 116 Stat. 1805, 1809; Pub. L. 109–177, title VII, §§711(f)(1)(B), 732, Mar. 9, 2006, 120 Stat. 262, 270; Pub. L. 109–248, title II, §201, July 27, 2006, 120 Stat. 611; Pub. L. 110–425, §3(e), (f), Oct. 15, 2008, 122 Stat. 4828, 4829; Pub. L. 111–220, §§2(a), 4(a), Aug. 3, 2010, 124 Stat. 2372; Pub. L. 115–391, title IV, §401(a)(2), Dec. 21, 2018, 132 Stat. 5220; Pub. L. 117–215, title I, §103(b)(1)(G), Dec. 2, 2022, 136 Stat. 2263.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (b)(1), (c)(1), (2), (f)(1), (g)(1), and (h)(1), (3)(A)(i), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Schedules I, II, III, IV, and V, referred to in subsec. (b), are set out in section 812(c) of this title.

Section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Prohibition Act of 2000, referred to in subsec. (b)(1)(C), is section 3(a)(1)(B) of Pub. L. 106–172, which is set out in a note under section 812 of this title.

This chapter, referred to in subsec. (g)(2)(B), (3), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

AMENDMENTS

2022—Subsec. (h)(2). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)'' in two places.

2018—Subsec. (b)(1)(A). Pub. L. 115–391, §401(a)(2)(A), in concluding provisions, substituted ''If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years'' for ''If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment which may not be less than 20 years'' and ''after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years'' for ''after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release''.

Subsec. (b)(1)(B). Pub. L. 115–391, §401(a)(2)(B), in concluding provisions, substituted ''If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final'' for ''If any person commits such a violation after a prior conviction for a felony drug offense has become final''.

2010—Subsec. (b)(1)(A). Pub. L. 111–220, §4(a)(1), in concluding provisions, substituted ''$10,000,000'' for ''$4,000,000'', ''$50,000,000'' for ''$10,000,000'', ''$20,000,000'' for ''$8,000,000'', and ''$75,000,000'' for ''$20,000,000''.

Subsec. (b)(1)(A)(iii). Pub. L. 111–220, §2(a)(1), substituted ''280 grams'' for ''50 grams''.

Subsec. (b)(1)(B). Pub. L. 111–220, §4(a)(2), in concluding provisions, substituted ''$5,000,000'' for ''$2,000,000'', ''$25,000,000'' for ''$5,000,000'', ''$8,000,000'' for ''$4,000,000'', and ''$50,000,000'' for ''$10,000,000''.

Subsec. (b)(1)(B)(iii). Pub. L. 111–220, §2(a)(2), substituted ''28 grams'' for ''5 grams''.

2008—Subsec. (b)(1)(D). Pub. L. 110–425, §3(e)(1)(A), struck out ''or in the case of any controlled substance in schedule III (other than gamma hydroxybutyric acid), or 30 milligrams of flunitrazepam'' after ''hashish oil''.

Subsec. (b)(1)(E). Pub. L. 110–425, §3(e)(1)(B), added subpar. (E).

Subsec. (b)(2). Pub. L. 110–425, §3(e)(2), substituted ''5 years'' for ''3 years'', ''10 years'' for ''6 years'', and ''after a prior conviction for a felony drug offense has become final,'' for ''after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final,''.

Subsec. (b)(3). Pub. L. 110–425, § 3(e)(3), substituted ''4 years'' for ''2 years'' and ''after a prior conviction for a felony drug offense has become final,'' for ''after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final,'' and inserted at end ''Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.''

Subsec. (h). Pub. L. 110–425, § 3(f), added subsec. (h).

2006—Subsec. (b)(5). Pub. L. 109–177, § 732, inserted ''or manufacturing'' after ''cultivating'' in introductory provisions.

Subsec. (f)(1). Pub. L. 109–177, § 711(f)(1)(B), inserted '', except to the extent that paragraph (12), (13), or (14) of section 842(a) of this title applies,'' after ''shall''.

Subsec. (g). Pub. L. 109–248 added subsec. (g).

2002—Subsec. (b)(1)(A), (B). Pub. L. 107–273, § 3005(a), substituted ''Notwithstanding section 3583 of title 18, any sentence'' for ''Any sentence'' in concluding provisions.

Subsec. (b)(1)(C), (D). Pub. L. 107–273, § 3005(a), substituted ''Notwithstanding section 3583 of title 18, any sentence'' for ''Any sentence''.

Subsec. (d)(1). Pub. L. 107–273, § 4002(d)(2)(A)(i), substituted ''or fined under title 18, or both'' for ''and shall be fined not more than $10,000''.

Subsec. (d)(2). Pub. L. 107–273, § 4002(d)(2)(A)(ii), substituted ''or fined under title 18, or both'' for ''and shall be fined not more than $20,000''.

2000—Subsec. (b)(1)(C). Pub. L. 106–172, § 3(b)(1)(A), inserted ''gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000),'' after ''schedule I or II,'' in first sentence.

Subsec. (b)(1)(D). Pub. L. 106–172, § 3(b)(1)(B), substituted ''(other than gamma hydroxybutyric acid), or 30'' for '', or 30''.

Subsec. (b)(7)(A). Pub. L. 106–172, § 5(b), inserted ''or controlled substance analogue'' after ''distributing a controlled substance''.

Subsecs. (c) to (g). Pub. L. 106–172, § 9, redesignated subsecs. (d) to (g) as (c) to (f), respectively.

1998—Subsec. (b)(1). Pub. L. 105–277 in subpar. (A)(viii) substituted ''50 grams'' and ''500 grams'' for ''100 grams'' and ''1 kilogram'', respectively, and in subpar. (B)(viii) substituted ''5 grams'' and ''50 grams'' for ''10 grams'' and ''100 grams'', respectively.

1996—Subsec. (b)(1)(C). Pub. L. 104–305, § 2(b)(1)(A), inserted '', or 1 gram of flunitrazepam,'' after ''schedule I or II''.

Subsec. (b)(1)(D). Pub. L. 104–305, § 2(b)(1)(B), inserted ''or 30 milligrams of flunitrazepam,'' after ''schedule III,''.

Subsec. (b)(7). Pub. L. 104–305, § 2(a), added par. (7).

Subsec. (d). Pub. L. 104–237, § 302(a), in concluding provisions, substituted ''not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (2) involving a list I chemical,'' for ''not more than 10 years,''.

Subsec. (f). Pub. L. 104–237, § 206(a), inserted ''manufacture, exportation,'' after ''distribution,'' and struck out ''regulated'' after ''engaging in any''.

1994—Subsec. (b). Pub. L. 103–322, § 180201(b)(2)(A), inserted ''849,'' before ''859,'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 103–322, §§ 90105(c), 180201(b)(2)(A), in concluding provisions, inserted ''849,'' before ''859,'' and struck out ''For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this subchapter or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.'' before ''Any sentence under this subparagraph''.

Subsec. (b)(1)(B). Pub. L. 103–322, § 90105(a), in sentence in concluding provisions beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

Subsec. (b)(1)(C). Pub. L. 103–322, § 90105(a), in sentence beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

Subsec. (b)(1)(D). Pub. L. 103–322, § 90105(a), in sentence beginning ''If any person commits'', substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final''.

1990—Subsec. (b). Pub. L. 101–647, § 1002(e)(1), substituted ''section 859, 860, or 861'' for ''section 845, 845a, or 845b'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101–647, § 1002(e)(1), substituted ''section 859, 860, or 861'' for ''section 845, 845a, or 845b'' in concluding provisions.

Subsec. (b)(1)(A)(ii)(IV). Pub. L. 101–647, § 3599K, substituted ''any of the substances'' for ''any of the substance''.

Subsec. (b)(1)(A)(viii). Pub. L. 101–647, § 1202, substituted ''or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine'' for ''or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine''.

Subsec. (b)(1)(B)(ii)(IV). Pub. L. 101–647, § 3599K, substituted ''any of the substances'' for ''any of the substance''.

Subsec. (c). Pub. L. 101–647, § 1002(e)(2), directed amendment of subsec. (c) by substituting ''section 859, 860, or 861 of this title'' for ''section 845, 845a, or 845b of this title''. Subsec. (c) was previously repealed by Pub. L. 98–473, § 224(a)(2), as renumbered by Pub. L. 99–570, § 1005(a), effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment. See 1984 Amendment note and Effective Date of 1984 Amendment note below.

1988—Subsec. (b)(1)(A). Pub. L. 100–690, §§ 6452(a), 6470(g), 6479(1), inserted '', or 1,000 or more marihuana plants regardless of weight'' in cl. (vii), added cl. (viii), substituted ''a prior conviction for a felony drug offense has become final'' for ''one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final'' in second sentence, and added provisions relating to sentencing for a person who violates this subpar. or section 485, 485a, or 485b of this title after two or more prior convictions for a felony drug offense have become final and defining ''felony drug offense''.

Subsec. (b)(1)(B). Pub. L. 100–690, §§ 6470(h), 6479(2), inserted '', or 100 or more marihuana plants regardless of weight'' in cl. (vii) and added cl. (viii).

Subsec. (b)(1)(D). Pub. L. 100–690, § 6479(3), substituted ''50 or more marihuana plants'' for ''100 or more marihuana plants''.

Subsec. (b)(6). Pub. L. 100–690, § 6254(h), added par. (6).

Subsec. (d). Pub. L. 100–690, § 6055(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Any person who knowingly or intentionally—

''(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this subchapter, or

''(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this subchapter,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual, or both.''

Subsecs. (f), (g). Pub. L. 100–690, § 6055(b), added subsecs. (f) and (g).

1986—Pub. L. 99–570, § 1005(a), amended Pub. L. 98–473, § 224(a). See 1984 Amendment note below.

Subsec. (b). Pub. L. 99–570, § 1103(a), substituted '', 845a, or 845b'' for ''or 845a'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 99–570, § 1002(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''In the case of a violation of subsection (a) of this section involving—

''(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

''(I) coca leaves;

''(II) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

''(III) a substance chemically identical thereto;

''(ii) a kilogram or more of any other controlled substance in schedule I or II which is a narcotic drug;

''(iii) 500 grams or more of phencyclidine (PCP); or

''(iv) 5 grams or more of lysergic acid diethylamide (LSD);

such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both''.

Subsec. (b)(1)(B). Pub. L. 99–570, § 1002(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A) and (C),, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than $125,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, a fine of not more than $250,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.''

Subsec. (b)(1)(C). Pub. L. 99–570, § 1002(2), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' in two places.

Pub. L. 99–570, §§ 1002(1), 1003(a)(1), redesignated former subpar. (C) as (D), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $50,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual'' for ''a fine of not more than $100,000'', and inserted ''except in the case of 100 or more marihuana plants regardless of weight,''.

Subsec. (b)(2). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' in two places.

Pub. L. 99–570, § 1003(a)(2), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $25,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual'' for ''a fine of not more than $50,000''.

Subsec. (b)(3). Pub. L. 99–570, § 1003(a)(3), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual'' for ''a fine of not more than $10,000'' and ''a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual'' for ''a fine of not more than $20,000''.

Subsec. (b)(4). Pub. L. 99–570, § 1003(a)(4), which directed the substitution of ''1(D)'' for ''1(C)'' was executed by substituting ''(1)(D)'' for ''(1)(C)'' as the probable intent of Congress.

Subsec. (b)(5). Pub. L. 99–570, § 1003(a)(5), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''Notwithstanding paragraph (1), any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be fined not more than—

''(A) $500,000 if such person is an individual; and

''(B) $1,000,000 if such person is not an individual.''

Subsec. (c). Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term'' wherever appearing, effective Nov. 1, 1987, the effective date of the repeal of subsec. (c) by Pub. L. 98–473, § 224(a)(2). See 1984 Amendment note below.

Pub. L. 99–570, § 1103(b), substituted '', 845a, or 845b'' for ''845a'' in two places.

Subsec. (d). Pub. L. 99–570, § 1003(a)(6), substituted ''a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual'' for ''a fine of not more than $15,000''.

Subsec. (e). Pub. L. 99–570, § 15005, added subsec. (e).

1984—Subsec. (b). Pub. L. 98–473, § 503(b)(1), inserted reference to section 845a of this title in provisions preceding par. (1)(A).

Pub. L. 98–473, § 224(a)(1)–(3), (5), which directed amendment of this subsection effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was repealed by Pub. L. 99–570, § 1005(a), and the remaining pars. (4) and (6) of Pub. L. 98–473, § 224(a), were redesignated as pars. (1) and (2), respectively.

Subsec. (b)(1)(A). Pub. L. 98–473, § 502(1)(A), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(1)(B). Pub. L. 98–473, § 502(1)(A), (B), redesignated former subpar. (A) as (B), substituted ''except

as provided in subparagraphs (A) and (C),'' for ''which is a narcotic drug'', ''$125,000'' for ''$25,000'', and ''$250,000'' for ''$50,000'', and inserted references to laws of a State and a foreign country. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 98–473, § 502(1)(A), (C), redesignated former subpar. (B) as (C), substituted ''less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil'' for ''a controlled substance in schedule I or II which is not a narcotic drug'', ''and (5)'' for '', (5), and (6)'', ''$50,000'' for ''$15,000'', and ''$100,000'' for ''$30,000'', and inserted references to laws of a State and a foreign country.

Subsec. (b)(2). Pub. L. 98–473, § 502(2), substituted ''$25,000'' for ''$10,000'' and ''$50,000'' for ''$20,000'', and inserted references to laws of a State or of a foreign country.

Subsec. (b)(3). Pub. L. 98–473, § 502(3), substituted ''$10,000'' for ''$5,000'' and ''$20,000'' for ''$10,000'', and inserted references to laws of a State or of a foreign country.

Subsec. (b)(4). Pub. L. 98–473, § 502(4), substituted ''(1)(C)'' for ''(1)(B)''.

Pub. L. 98–473, § 224(a)(1), as renumbered by Pub. L. 99–570, § 1005(a), substituted ''in section 844 of this title and section 3607 of title 18'' for ''in subsections (a) and (b) of section 844 of this title''.

Subsec. (b)(5). Pub. L. 98–473, § 502(5), (6), added par. (5) and struck out former par. (5) which related to penalties for manufacturing, etc., phencyclidine.

Subsec. (b)(6). Pub. L. 98–473, § 502(5), struck out par. (6) which related to penalties for violations involving a quantity of marihuana exceeding 1,000 pounds.

Subsec. (c). Pub. L. 98–473, § 224(a)(2), as renumbered by Pub. L. 99–570, § 1005(a), struck out subsec. (c) which read as follows: ''A special parole term imposed under this section or section 845, 845a, or 845b of this title may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or section 845, 845a, or 845b of this title shall be in addition to, and not in lieu of, any other parole provided for by law.''

Pub. L. 98–473, § 503(b)(2), inserted reference to section 845a of this title in two places.

1980—Subsec. (b)(1)(B). Pub. L. 96–359, § 8(c)(1), inserted reference to par. (6) of this subsection.

Subsec. (b)(6). Pub. L. 96–359, § 8(c)(2), added par. (6).

1978—Subsec. (b)(1)(B). Pub. L. 95–633, § 201(1), inserted '', except as provided in paragraphs (4) and (5) of this subsection,'' after ''such person shall''.

Subsec. (b)(5). Pub. L. 95–633, § 201(2), added par. (5).

Subsec. (d). Pub. L. 95–633, § 201(3), added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–391 applicable to any offense that was committed before Dec. 21, 2018, if a sentence for the offense has not been imposed as of Dec. 21, 2018, see section 401(c) of Pub. L. 115–391, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6055 of Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–570, title I, § 1004(b), Oct. 27, 1986, 100 Stat. 3207–6, provided that: ''The amendments made by this section [amending this section and sections 845, 845a, 960, and 962 of this title] shall take effect on the date of the taking effect of section 3583 of title 18, United States Code [Nov. 1, 1987].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(a) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95–633 set out as an Effective Date note under section 830 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsec. (d) of this section effective Jan. 1, 1981.

APPLICATION OF FAIR SENTENCING ACT

Pub. L. 115–391, title IV, § 404, Dec. 21, 2018, 132 Stat. 5222, provided that:

''(a) DEFINITION OF COVERED OFFENSE.—In this section, the term 'covered offense' means a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372) [amending this section and sections 844 and 960 of this title], that was committed before August 3, 2010.

''(b) DEFENDANTS PREVIOUSLY SENTENCED.—A court that imposed a sentence for a covered offense may, on motion of the defendant, the Director of the Bureau of Prisons, the attorney for the Government, or the court, impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372) were in effect at the time the covered offense was committed.

''(c) LIMITATIONS.—No court shall entertain a motion made under this section to reduce a sentence if the sentence was previously imposed or previously reduced in accordance with the amendments made by sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111–220; 124 Stat. 2372) or if a previous motion made under this section to reduce the sentence was, after the date of enactment of this Act [Dec. 21, 2018], denied after a complete review of the motion on the merits. Nothing in this section shall be construed to require a court to reduce any sentence pursuant to this section.''

§ 842. Prohibited acts B

(a) Unlawful acts

It shall be unlawful for any person—

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 829 of this title;

(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 825 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 825 of this title;

(5) to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this subchapter or subchapter II;

(6) to refuse any entry into any premises or inspection authorized by this subchapter or subchapter II;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 824(f) or 881 of this title or to remove or dispose of substances so placed under seal;

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this subchapter or subchapter II, any information acquired in the course of an inspection authorized by this subchapter concerning any method or process which as a trade secret is entitled to protection, or to use to his own advantage or reveal (other than as authorized by section 830 of this title) any information that is confidential under such section;

(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 830(a)(3) of this title.[1]

(10) negligently to fail to keep a record or make a report under section 830 of this title or negligently to fail to self-certify as required under section 830 of this title;

(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of this subchapter or subchapter II, with reckless disregard for the illegal uses to which such a laboratory supply will be put;

(12) who is a regulated seller, or a distributor required to submit reports under subsection (b)(3) of section 830 of this title—

(A) to sell at retail a scheduled listed chemical product in violation of paragraph (1) of subsection (d) of such section, knowing at the time of the transaction involved (independent of consulting the logbook under subsection (e)(1)(A)(iii) of such section) that the transaction is a violation; or

(B) to knowingly or recklessly sell at retail such a product in violation of paragraph (2) of such subsection (d);

(13) who is a regulated seller to knowingly or recklessly sell at retail a scheduled listed chemical product in violation of subsection (e) of such section;

(14) who is a regulated seller or an employee or agent of such seller to disclose, in violation of regulations under subparagraph (C) of section 830(e)(1) of this title, information in logbooks under subparagraph (A)(iii) of such section, or to refuse to provide such a logbook to Federal, State, or local law enforcement authorities;

(15) to distribute a scheduled listed chemical product to a regulated person referred to in section 830(b)(3)(B) of this title, unless such regulated seller or regulated person is, at the time of such distribution, currently registered with the Drug Enforcement Administration, or on the list of persons referred to under section 830(e)(1)(B)(v) of this title;

(16) to violate subsection (e) of section 825 of this title;[2] or

(17) in the case of a registered manufacturer or distributor of opioids, to fail to review the most recent information, directly related to the customers of the manufacturer or distributor, made available by the Attorney General in accordance with section 827(f) of this title.

As used in paragraph (11), the term ''laboratory supply'' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of paragraph (11), there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer. For purposes of paragraph (15), if the distributor is temporarily unable to access the list of persons referred to under section 830(e)(1)(B)(v) of this title, the distributor may rely on a written, faxed, or electronic copy of a certificate of self-certification submitted by the regulated seller or regulated person, provided the distributor confirms within 7 business days of the distribution that such regulated seller or regulated person is on the list referred to under section 830(e)(1)(B)(v) of this title.

(b) Manufacture

It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II, or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical, which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 826 of this title; or

(2) in excess of a quota assigned to him pursuant to section 826 of this title.

(c) Penalties

(1)(A) Except as provided in subparagraph (B), (C), or (D) of this paragraph and paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than $25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the

[1] So in original. Probably should be ''section 830(a)(3) of this title;''.

[2] See References in Text note below.

jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 to enforce this paragraph.

(B)(i) Except as provided in clause (ii), in the case of a violation of paragraph (5), (10), or (17) of subsection (a), the civil penalty shall not exceed $10,000.

(ii) In the case of a violation described in clause (i) committed by a registered manufacturer or distributor of opioids and related to the reporting of suspicious orders for opioids, failing to maintain effective controls against diversion of opioids, or failing to review the most recent information made available by the Attorney General in accordance with section 827(f) of this title, the penalty shall not exceed $100,000.

(C) In the case of a violation of paragraph (16) of subsection (a) of this section by an importer, exporter, manufacturer, or distributor (other than as provided in subparagraph (D)), up to $500,000 per violation. For purposes of this subparagraph, a violation is defined as each instance of importation, exportation, manufacturing, distribution, or possession with intent to manufacture or distribute, in violation of paragraph (16) of subsection (a).

(D) In the case of a distribution, dispensing, or possession with intent to distribute or dispense in violation of paragraph (16) of subsection (a) of this section at the retail level, up to $1000 per violation. For purposes of this paragraph, the term ''at the retail level'' refers to products sold, or held for sale, directly to the consumer for personal use. Each package, container or other separate unit containing an anabolic steroid that is distributed, dispensed, or possessed with intent to distribute or dispense at the retail level in violation of such paragraph (16) of subsection (a) shall be considered a separate violation.

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) or (D) of this paragraph, be sentenced to imprisonment of not more than one year or a fine under title 18, or both.

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this subchapter or subchapter II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine under title 18, or both.

(C) In addition to the penalties set forth elsewhere in this subchapter or subchapter II, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.

(D) In the case of a violation described in subparagraph (A) that was a violation of paragraph (5), (10), or (17) of subsection (a) committed by a registered manufacturer or distributor of opioids that relates to the reporting of suspicious orders for opioids, failing to maintain effective controls against diversion of opioids, or failing to review the most recent information made available by the Attorney General in accordance with section 827(f) of this title, the criminal fine under title 18 shall not exceed $500,000.

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

(4)(A) If a regulated seller, or a distributor required to submit reports under section 830(b)(3) of this title, violates paragraph (12) of subsection (a) of this section, or if a regulated seller violates paragraph (13) of such subsection, the Attorney General may by order prohibit such seller or distributor (as the case may be) from selling any scheduled listed chemical product. Any sale of such a product in violation of such an order is subject to the same penalties as apply under paragraph (2).

(B) An order under subparagraph (A) may be imposed only through the same procedures as apply under section 824(c) of this title for an order to show cause.

(Pub. L. 91–513, title II, § 402, Oct. 27, 1970, 84 Stat. 1262; Pub. L. 95–633, title II, § 202(b)(1), (2), Nov. 10, 1978, 92 Stat. 3776; Pub. L. 100–690, title VI, § 6056, Nov. 18, 1988, 102 Stat. 4318; Pub. L. 104–237, title II, § 205, Oct. 3, 1996, 110 Stat. 3103; Pub. L. 105–277, div. A, § 101(b) [title I, § 117], Oct. 21, 1998, 112 Stat. 2681–50, 2681–68; Pub. L. 107–273, div. B, title IV, § 4002(b)(16), (d)(2)(B), Nov. 2, 2002, 116 Stat. 1808, 1809; Pub. L. 109–177, title VII, §§ 711(f)(1)(A), (2), 714, Mar. 9, 2006, 120 Stat. 262–264; Pub. L. 111–268, §§ 4, 5, Oct. 12, 2010, 124 Stat. 2847, 2848; Pub. L. 113–260, § 3(c), Dec. 18, 2014, 128 Stat. 2931; Pub. L. 115–271, title III, § 3273(c), Oct. 24, 2018, 132 Stat. 3953.)

Editorial Notes

REFERENCES IN TEXT

Section 825 of this title, referred to in subsec. (a)(16), was so in the original, but probably should have been a reference to section 305 of Pub. L. 91–513, which is classified to section 825 of this title.

Schedules I and II, referred to in subsec. (b), are set out in section 812(c) of this title.

AMENDMENTS

2018—Subsec. (a)(17). Pub. L. 115–271, § 3273(c)(1), added par. (17).

Subsec. (c)(1)(B). Pub. L. 115–271, § 3273(c)(2)(A), added subpar. (B) and struck out former subpar. (B) which read as follows: ''In the case of a violation of paragraph (5) or (10) of subsection (a), the civil penalty shall not exceed $10,000.''

Subsec. (c)(2)(A). Pub. L. 115–271, § 3273(c)(2)(B)(i), inserted ''or (D)'' after ''subparagraph (B)''.

Subsec. (c)(2)(D). Pub. L. 115–271, § 3273(c)(2)(B)(ii), added subpar. (D).

2014—Subsec. (a)(16). Pub. L. 113–260, §3(c)(1), added par. (16).

Subsec. (c)(1)(A). Pub. L. 113–260, §3(c)(2)(A), inserted '', (C), or (D)'' after ''subparagraph (B)''.

Subsec. (c)(1)(C), (D). Pub. L. 113–260, §3(c)(2)(B), added subpars. (C) and (D).

2010—Subsec. (a). Pub. L. 111–268, §4(4), inserted ''For purposes of paragraph (15), if the distributor is temporarily unable to access the list of persons referred to under section 830(e)(1)(B)(v) of this title, the distributor may rely on a written, faxed, or electronic copy of a certificate of self-certification submitted by the regulated seller or regulated person, provided the distributor confirms within 7 business days of the distribution that such regulated seller or regulated person is on the list referred to under section 830(e)(1)(B)(v) of this title.'' at end of concluding provisions.

Subsec. (a)(10). Pub. L. 111–268, §5, inserted ''or negligently to fail to self-certify as required under section 830 of this title'' before semicolon.

Subsec. (a)(15). Pub. L. 111–268, §4(1)–(3), added par. (15).

2006—Subsec. (a)(12) to (14). Pub. L. 109–177, §711(f)(1)(A), added pars. (12) to (14).

Subsec. (b). Pub. L. 109–177, §714, inserted '', or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical,'' after ''manufacture a controlled substance in schedule I or II'' in introductory provisions.

Subsec. (c)(4). Pub. L. 109–177, §711(f)(2), added par. (4).

2002—Subsec. (c)(2)(A). Pub. L. 107–273, §4002(d)(2)(B)(i), substituted ''under title 18'' for ''of not more than $25,000''.

Subsec. (c)(2)(B). Pub. L. 107–273, §4002(d)(2)(B)(ii), substituted ''under title 18'' for ''of $50,000''.

Subsec. (c)(2)(C). Pub. L. 107–273, §4002(b)(16), realigned margins.

1998—Subsec. (a)(5). Pub. L. 105–277, §101(b) [title I, §117(1)], inserted ''negligently'' before ''fail''.

Subsec. (a)(10). Pub. L. 105–277, §101(b) [title I, §117(2)], inserted ''negligently'' before ''to fail''.

Subsec. (c)(1). Pub. L. 105–277, §101(b) [title I, §117(3)], designated existing provisions as subpar. (A), inserted ''subparagraph (B) of this paragraph and'' before ''paragraph (2)'', and added subpar. (B).

1996—Subsec. (a). Pub. L. 104–237, §205(a), added par. (11) and closing provisions.

Subsec. (c)(2)(C). Pub. L. 104–237, §205(b), added subpar. (C).

1988—Subsec. (a)(8). Pub. L. 100–690, §6056(a), inserted '', or to use to his own advantage or reveal (other than as authorized by section 830 of this title) any information that is confidential under such section'' after ''protection''.

Subsec. (a)(9). Pub. L. 100–690, §6056(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''to distribute or sell piperidine in violation of regulations established under section 830(a)(2) of this title, respecting presentation of identification.''

Subsec. (a)(10). Pub. L. 100–690, §6056(d), added par. (10).

Subsec. (c)(2)(C). Pub. L. 100–690, §6056(c), struck out subpar. (C) which read as follows: ''Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) of this section with respect to a refusal or failure to make a report required under section 830(a) of this title (relating to piperidine reporting).''

1978—Subsec. (a)(9). Pub. L. 95–633, §202(b)(1), added par. (9).

Subsec. (c)(2)(C). Pub. L. 95–633, §202(b)(2), added subpar. (C).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–268 effective 180 days after Oct. 12, 2010, see section 6(a) of Pub. L. 111–268, set out as a note under section 830 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95–633 set out as an Effective Date note under section 830 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

REPEALS

Pub. L. 96–359, §8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsecs. (a)(9) and (c)(2)(C) of this section effective Jan. 1, 1981.

§ 843. Prohibited acts C

(a) Unlawful acts

It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 828 of this title;

(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II, or (B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present identification under section 830(a) of this title;

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance;

(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II;

(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or

gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this subchapter or subchapter II or, in the case of an exportation, in violation of this subchapter or subchapter II or of the laws of the country to which it is exported;

(8) to create a chemical mixture for the purpose of evading a requirement of section 830 of this title or to receive a chemical mixture created for that purpose; or

(9) to distribute, import, or export a list I chemical without the registration required by this subchapter or subchapter II.

(b) Communication facility

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term ''communication facility'' means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

(c) Advertisement

(1) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule[1] I controlled substance. As used in this section the term ''advertisement'' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule[1] I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule[1] I controlled substance. The term ''advertisement'' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a Schedule[1] I controlled substance.

(2)(A) It shall be unlawful for any person to knowingly or intentionally use the Internet, or cause the Internet to be used, to advertise the sale of, or to offer to sell, distribute, or dispense, a controlled substance where such sale, distribution, or dispensing is not authorized by this subchapter or by the Controlled Substances Import and Export Act [21 U.S.C. 951 et seq.].

(B) Examples of activities that violate subparagraph (A) include, but are not limited to, knowingly or intentionally causing the placement on the Internet of an advertisement that refers to or directs prospective buyers to Internet sellers of controlled substances who are not registered with a modification under section 823(g) of this title.

(C) Subparagraph (A) does not apply to material that either—

(i) merely advertises the distribution of controlled substances by nonpractitioners to the extent authorized by their registration under this subchapter; or

(ii) merely advocates the use of a controlled substance or includes pricing information without attempting to facilitate an actual transaction involving a controlled substance.

(d) Penalties

(1) Except as provided in paragraph (2), any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine under title 18, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this subchapter or subchapter II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine under title 18, or both.

(2) Any person who, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be sentenced to a term of imprisonment of not more than 10 years, a fine under title 18, or both; except that if any person commits such a violation after one or more prior convictions of that person—

(A) for a violation of paragraph (6) or (7) of subsection (a);

(B) for a felony under any other provision of this subchapter or subchapter II of this chapter;[2] or

(C) under any other law of the United States or any State relating to controlled substances or listed chemicals,

has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine under title 18, or both.

(e) Additional penalties

In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) Injunctions

(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to violations of this section, section 842 of this title, or 856[3] of this title.

(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain violations of this section or section 842 of this title.

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[1] So in original. Probably should not be capitalized.

[2] See References in Text note below.

[3] So in original. Probably should be preceded by ''section''.

(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

(Pub. L. 91–513, title II, § 403, Oct. 27, 1970, 84 Stat. 1263; Pub. L. 95–633, title II, § 202(b)(3), Nov. 10, 1978, 92 Stat. 3776; Pub. L. 98–473, title II, § 516, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 99–570, title I, § 1866(a), Oct. 27, 1986, 100 Stat. 3207–54; Pub. L. 100–690, title VI, § 6057, Nov. 18, 1988, 102 Stat. 4319; Pub. L. 103–200, § 3(g), Dec. 17, 1993, 107 Stat. 2337; Pub. L. 103–322, title IX, § 90106, Sept. 13, 1994, 108 Stat. 1988; Pub. L. 104–237, title II, §§ 203(a), 206(b), Oct. 3, 1996, 110 Stat. 3102, 3103; Pub. L. 107–273, div. B, title IV, § 4002(d)(2)(C), Nov. 2, 2002, 116 Stat. 1810; Pub. L. 108–21, title VI, § 608(d), Apr. 30, 2003, 117 Stat. 691; Pub. L. 110–425, § 3(g), Oct. 15, 2008, 122 Stat. 4830; Pub. L. 117–215, title I, § 103(b)(1)(H), Dec. 2, 2022, 136 Stat. 2263.)

Editorial Notes

REFERENCES IN TEXT

Schedules I and II, referred to in subsecs. (a)(1) and (c)(1), are set out in section 812(c) of this title.

This subchapter, referred to in subsec. (c)(2)(A), (C)(i), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (c)(2)(A), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§ 951 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

This subchapter or subchapter II of this chapter, referred to in subsec. (d)(2)(B), was in the original a reference to ''this subchapter or subchapter II of this chapter'' but probably should be a reference to ''this title or title III of this Act'', meaning titles II and III, respectively, of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, 1285.

The Federal Rules of Civil Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (f)(4), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2022—Subsec. (c)(2)(B). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)''.

2008—Subsec. (c). Pub. L. 110–425 designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (f)(1). Pub. L. 108–21 substituted ''this section, section 842 of this title, or 856 of this title'' for ''this section or section 842 of this title''.

2002—Subsec. (d). Pub. L. 107–273 substituted ''under title 18, or both;'' for ''of not more than $30,000, or both;'' in two places and ''under title 18, or both.'' for ''of not more than $60,000, or both.'' in two places.

1996—Subsec. (d). Pub. L. 104–237, § 203(a), inserted par. (1) designation, substituted ''Except as provided in paragraph (2), any person'' for ''Any person'', and added par. (2).

Subsec. (e). Pub. L. 104–237, § 206(b)(1), inserted ''manufacture, exportation,'' after ''distribution,'' and struck out ''regulated'' after ''engaging in any''.

Subsec. (f). Pub. L. 104–237, § 206(b)(2), added subsec. (f).

1994—Subsecs. (c) to (e). Pub. L. 103–322 added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1993—Subsec. (a)(6), (7). Pub. L. 103–200, § 3(g)(1), amended pars. (6) and (7) generally. Prior to amendment, pars. (6) and (7) read as follows:

''(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this subchapter;

''(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this subchapter; or''.

Subsec. (a)(9). Pub. L. 103–200, § 3(g)(2), (3), added par. (9).

1988—Subsec. (a)(4)(B). Pub. L. 100–690, § 6057(a)(1), substituted ''a listed chemical'' for ''piperidine''.

Subsec. (a)(6) to (8). Pub. L. 100–690, § 6057(a)(2)–(4), added pars. (6) to (8).

Subsec. (d). Pub. L. 100–690, § 6057(b), added subsec. (d).

1986—Subsec. (a)(2). Pub. L. 99–570 substituted a semicolon for the period at end.

1984—Subsec. (a)(2). Pub. L. 98–473 added applicability to dispensing, acquiring, or obtaining a controlled substance, and applicability to an expired number.

1978—Subsec. (a)(4). Pub. L. 95–633, § 202(b)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective Nov. 10, 1978, except as otherwise provided, see section 203(a) of Pub. L. 95–633, set out as an Effective Date note under section 830 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

REPEALS

Pub. L. 96–359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95–633, which had provided for the repeal of subsec. (a)(4)(B) of this section effective Jan. 1, 1981.

§ 844. Penalties for simple possession

(a) Unlawful acts; penalties

It shall be unlawful for any person knowingly or intentionally to possess a controlled sub-

stance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II. It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 823 of this title or section 958 of this title if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration. It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service. Any person who violates this subsection may be sentenced to a term of imprisonment of not more than 1 year, and shall be fined a minimum of $1,000, or both, except that if he commits such offense after a prior conviction under this subchapter or subchapter II, or a prior conviction for any drug, narcotic, or chemical offense chargeable under the law of any State, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than 2 years, and shall be fined a minimum of $2,500, except, further, that if he commits such offense after two or more prior convictions under this subchapter or subchapter II, or two or more prior convictions for any drug, narcotic, or chemical offense chargeable under the law of any State, or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000. Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provision of title 18 that the defendant lacks the ability to pay.

(b) Repealed. Pub. L. 98–473, title II, § 219(a), Oct. 12, 1984, 98 Stat. 2027

(c) "Drug, narcotic, or chemical offense" defined

As used in this section, the term ''drug, narcotic, or chemical offense'' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this subchapter.

(Pub. L. 91–513, title II, § 404, Oct. 27, 1970, 84 Stat. 1264; Pub. L. 98–473, title II, § 219, Oct. 12, 1984, 98 Stat. 2027; Pub. L. 99–570, title I, § 1052, Oct. 27, 1986, 100 Stat. 3207–8; Pub. L. 100–690, title VI, §§ 6371, 6480, Nov. 18, 1988, 102 Stat. 4370, 4382; Pub. L. 101–647, title XII, § 1201, title XIX, § 1907, Nov. 29, 1990, 104 Stat. 4829, 4854; Pub. L. 104–237, title II, § 201(a), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 104–305, § 2(c), Oct. 13, 1996, 110 Stat. 3808; Pub. L. 109–177, title VII, § 711(e)(1), Mar. 9, 2006, 120 Stat. 262; Pub. L. 111–220, § 3, Aug. 3, 2010, 124 Stat. 2372.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–220 struck out ''Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram.'' after ''$5,000.''

2006—Subsec. (a). Pub. L. 109–177 inserted after second sentence ''It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service.''

1996—Subsec. (a). Pub. L. 104–305 inserted ''Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both.'' after ''mixture or substance exceeds 1 gram.''

Pub. L. 104–237, § 201(a)(1), inserted after first sentence ''It shall be unlawful for any person knowingly or intentionally to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 823 of this title or section 958 of this title if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration.'' and substituted ''drug, narcotic, or chemical'' for ''drug or narcotic'' in two places.

Subsec. (c). Pub. L. 104–237, § 201(a)(2), substituted ''drug, narcotic, or chemical'' for ''drug or narcotic''.

1990—Subsec. (a). Pub. L. 101–647, § 1907, inserted subsec. (a) designation.

Pub. L. 101–647, § 1201, substituted ''shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000'' for ''shall be fined under title 18 or imprisoned not less than 5 years and not more than 20 years, or both''.

1988—Subsec. (a). Pub. L. 100–690, § 6480(1)(A)–(C), struck out ''but not more than $5,000'' after ''$1,000'', ''but not more than $10,000'' after ''$2,500'', and ''but not more than $25,000'' after ''$5,000'' in second sentence.

Pub. L. 100–690, § 6371, inserted provisions relating to increased penalties in cases of certain serious crack possession offenses, making offenders subject to fines under title 18 or imprisonment to terms not less than 5 years nor more than 20 years, or both.

1986—Subsec. (a). Pub. L. 99–570 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as fol-

lows: ''It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than $5,000, or both, except that if he commits such offense after a prior conviction or convictions under this subsection have become final, he shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than $10,000 or both.''

Subsec. (b). Pub. L. 99–570, in amending subsec. (b) generally, substituted ''Upon the discharge of such person and dismissal of the proceedings'' for ''Upon the dismissal of such person and discharge of the proceedings'' in par. (2).

Subsec. (c). Pub. L. 99–570, in amending section generally, added subsec. (c).

1984—Pub. L. 98–473 struck out subsec. (a) designation and struck out subsec. (b) which related to probation before judgment and expunging of records for first offense.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–177, title VII, §711(e)(2), Mar. 9, 2006, 120 Stat. 262, provided that: ''The amendment made by paragraph (1) [amending this section] applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act [Mar. 9, 2006].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

Executive Documents

PROC. NO. 10467. GRANTING PARDON FOR THE OFFENSE OF SIMPLE POSSESSION OF MARIJUANA

Proc. No. 10467, Oct. 6, 2022, 87 F.R. 61441, provided:

Acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Joseph R. Biden Jr., do hereby grant a full, complete, and unconditional pardon to (1) all current United States citizens and lawful permanent residents who committed the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 U.S.C. 844 and as previously codified elsewhere in the United States Code, or in violation of D.C. Code 48–904.01(d)(1), on or before the date of this proclamation [Oct. 6, 2022], regardless of whether they have been charged with or prosecuted for this offense on or before the date of this proclamation; and (2) all current United States citizens and lawful permanent residents who have been convicted of the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 U.S.C. 844 and as previously codified elsewhere in the United States Code, or in violation of D.C. Code 48–904.01(d)(1); which pardon shall restore to them full political, civil, and other rights.

My intent by this proclamation is to pardon only the offense of simple possession of marijuana in violation of Federal law or in violation of D.C. Code 48–904.01(d)(1), and not any other offenses related to marijuana or other controlled substances. No language herein shall be construed to pardon any person for any other offense, including possession of other controlled substances, whether committed prior, subsequent, or contemporaneous to the pardoned offense of simple possession of marijuana. This pardon does not apply to individuals who were non-citizens not lawfully present in the United States at the time of their offense.

Pursuant to this proclamation, the Attorney General, acting through the Pardon Attorney, shall administer and effectuate the issuance of certificates of pardon to eligible applicants who have been charged or convicted for the offense of simple possession of marijuana in violation of the Controlled Substances Act, as currently codified at 21 U.S.C. 844 and as previously codified elsewhere in the United States Code, or in violation of D.C. Code 48–904.01(d)(1). The Attorney General, acting through the Pardon Attorney, is directed to develop and announce application procedures for certificates of pardon and to begin accepting applications in accordance with such procedures as soon as reasonably practicable. The Attorney General, acting through the Pardon Attorney, shall review all properly submitted applications and shall issue certificates of pardon to eligible applicants in due course.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of October, in the year of our Lord two thousand twenty-two, and of the Independence of the United States of America the two hundred and forty-seventh.

J.R. BIDEN, JR.

PROC. NO. 10688. GRANTING PARDON FOR THE OFFENSE OF SIMPLE POSSESSION OF MARIJUANA, ATTEMPTED SIMPLE POSSESSION OF MARIJUANA, OR USE OF MARIJUANA

Proc. No. 10688, Dec. 22, 2023, 88 F.R. 90083, provided:

In Proclamation 10467 of October 6, 2022 (Granting Pardon for the Offense of Simple Possession of Marijuana) [set out above], I exercised my authority under the Constitution to pardon individuals who committed or were convicted of the offense of simple possession of marijuana in violation of the Controlled Substances Act [21 U.S.C. 801 et seq.] and section 48–904.01(d)(1) of the Code of the District of Columbia (D.C. Code). As I have said before, convictions for simple possession of marijuana have imposed needless barriers to employment, housing, and educational opportunities. Through this proclamation, consistent with the grant of Proclamation 10467, I am pardoning additional individuals who may continue to experience the unnecessary collateral consequences of a conviction for simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana. Therefore, acting pursuant to the grant of authority in Article II, Section 2, of the Constitution of the United States, I, Joseph R. Biden Jr., do hereby grant a full, complete, and unconditional pardon to all current United States citizens and lawful permanent residents who, on or before the date of this proclamation [Dec. 22, 2023], committed or were convicted of the offense of simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana, regardless of whether they have been charged with or prosecuted for these offenses on or before the date of this proclamation, in violation of:

(1) section 844 of title 21, United States Code, section 846 of title 21, United States Code, and previous provisions in the United States Code that prohibited simple possession of marijuana or attempted simple possession of marijuana;

(2) section 48–904.01(d)(1) of the D.C. Code and previous provisions in the D.C. Code that prohibited simple possession of marijuana;

(3) section 48–904.09 of the D.C. Code and previous provisions in the D.C. Code that prohibited attempted simple possession of marijuana; and

(4) provisions in the Code of Federal Regulations, including as enforced under the United States Code, that prohibit only the simple possession or use of marijuana

on Federal properties or installations, or in other locales, as currently or previously codified, including but not limited to 25 C.F.R. 11.452(a); 32 C.F.R. 1903.12(b)(2); 36 C.F.R. 2.35(b)(2); 36 C.F.R. 1002.35(b)(2); 36 C.F.R. 1280.16(a)(1); 36 C.F.R. 702.6(b); 41 C.F.R. 102–74.400(a); 43 C.F.R. 8365.1–4(b)(2); and 50 C.F.R. 27.82(b)(2).

My intent by this proclamation is to pardon only the offenses of simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana in violation of the Federal and D.C. laws set forth in paragraphs (1) through (3) of this proclamation, as well as the provisions in the Code of Federal Regulations consistent with paragraph (4) of this proclamation, and not any other offenses involving other controlled substances or activity beyond simple possession of marijuana, attempted simple possession of marijuana, or use of marijuana, such as possession of marijuana with intent to distribute or driving offenses committed while under the influence of marijuana. This pardon does not apply to individuals who were non-citizens not lawfully present in the United States at the time of their offense.

Pursuant to the procedures in Proclamation 10467, the Attorney General, acting through the Pardon Attorney, shall review all properly submitted applications for certificates of pardon and shall issue such certificates of pardon to eligible applicants in due course.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of December, in the year of our Lord two thousand twenty-three, and of the Independence of the United States of America the two hundred and forty-eighth.

J.R. BIDEN, JR.

§ 844a. Civil penalty for possession of small amounts of certain controlled substances

(a) In general

Any individual who knowingly possesses a controlled substance that is listed in section 841(b)(1)(A) of this title in violation of section 844 of this title in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

(b) Income and net assets

The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this section or to prosecute the individual criminally. However, in determining the amount of a penalty under this section, the income and net assets of an individual shall be considered.

(c) Prior conviction

A civil penalty may not be assessed under this section if the individual previously was convicted of a Federal or State offense relating to a controlled substance.

(d) Limitation on number of assessments

A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

(e) Assessment

A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(f) Compromise

The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(g) Judicial review

If the Attorney General issues an order pursuant to subsection (e) after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined de novo, and shall include the right of a trial by jury, the right to counsel, and the right to confront witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

(h) Civil action

If an individual does not request a hearing pursuant to subsection (e) and the Attorney General issues an order pursuant to such subsection, or if an individual does not under subsection (g) seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28. Such interest shall accrue from the expiration of the 30-day period described in subsection (g). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(i) Limitation

The Attorney General may not under this subsection[1] commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

(j) Expungement procedures

The Attorney General shall dismiss the proceedings under this section against an individual upon application of such individual at any time after the expiration of 3 years if—

(1) the individual has not previously been assessed a civil penalty under this section;

(2) the individual has paid the assessment;

(3) the individual has complied with any conditions imposed by the Attorney General;

(4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and

(5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department

[1] So in original. Probably should be ''section''.

of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.

(Pub. L. 91–513, title II, §405, formerly Pub. L. 100–690, title VI, §6486, Nov. 18, 1988, 102 Stat. 4384, renumbered §405 of Pub. L. 91–513, and amended Pub. L. 101–647, title X, §1002(g)(1), (2), Nov. 29, 1990, 104 Stat. 4828.)

Editorial Notes

PRIOR PROVISIONS

A prior section 405 of Pub. L. 91–513 was renumbered section 418 and is classified to section 859 of this title.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647, §1002(g)(2)(A), made technical amendments to references to sections 841(b)(1)(A) and 844 of this title to correct references to corresponding provisions of original act.

Subsecs. (c), (j)(4). Pub. L. 101–647, §1002(g)(2)(B), (C), struck out ''as defined in section 802 of this title'' after ''controlled substance''.

§§ 845 to 845b. Transferred

Editorial Notes

CODIFICATION

Section 845, Pub. L. 91–513, title II, §405, Oct. 27, 1970, 84 Stat. 1265, as amended, which related to distribution of controlled substances to persons under age twenty-one, was renumbered §418 of Pub. L. 91–513 by Pub. L. 101–647, title X, §1002(a)(1), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 859 of this title.

Section 845a, Pub. L. 91–513, title II, §405A, as added Pub. L. 98–473, title II, §503(a), Oct. 12, 1984, 98 Stat. 2069, and amended, which related to distribution or manufacturing of controlled substances in or near schools and colleges, was renumbered §419 of Pub. L. 91–513 by Pub. L. 101–647, title X, §1002(b), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 860 of this title.

Section 845b, Pub. L. 91–513, title II, §405B, as added Pub. L. 99–570, title I, §1102, Oct. 27, 1986, 100 Stat. 3207–10, and amended, which related to employment or use of persons under 18 years of age in drug operations, was renumbered §420 of Pub. L. 91–513 by Pub. L. 101–647, title X, §1002(c), Nov. 29, 1990, 104 Stat. 4827, and transferred to section 861 of this title.

§846. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 91–513, title II, §406, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 100–690, title VI, §6470(a), Nov. 18, 1988, 102 Stat. 4377.)

Editorial Notes

AMENDMENTS

1988—Pub. L. 100–690 substituted ''shall be subject to the same penalties as those prescribed for the offense'' for ''is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§847. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub. L. 91–513, title II, §407, Oct. 27, 1970, 84 Stat. 1265.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§848. Continuing criminal enterprise

(a) Penalties; forfeitures

Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 30 years and which may be up to life imprisonment, to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title.

(b) Life imprisonment for engaging in continuing criminal enterprise

Any person who engages in a continuing criminal enterprise shall be imprisoned for life and fined in accordance with subsection (a), if—

(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

(2)(A) the violation referred to in subsection (c)(1) involved at least 300 times the quantity of a substance described in subsection 841(b)(1)(B) of this title, or

(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, im-

portation, or distribution of a substance described in section 841(b)(1)(B) of this title.

(c) "Continuing criminal enterprise" defined

For purposes of subsection (a), a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this subchapter or subchapter II the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this subchapter or subchapter II—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

(d) Suspension of sentence and probation prohibited

In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and the Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), shall not apply.

(e) Death penalty

(1) In addition to the other penalties set forth in this section—

(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A)[1] of this title or section 960(b)(1)[1] of this title who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

(B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this subchapter or subchapter II who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

(2) As used in paragraph (1)(B), the term ''law enforcement officer'' means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

[1] See References in Text note below.

(g)[2] to (p) Repealed. Pub. L. 109–177, title II, § 221(2), Mar. 9, 2006, 120 Stat. 231

(q) Repealed. Pub. L. 109–177, title II, §§ 221(4), 222(c), Mar. 9, 2006, 120 Stat. 231, 232

(r) Repealed. Pub. L. 109–177, title II, § 221(3), Mar. 9, 2006, 120 Stat. 231

(s) Special provision for methamphetamine

For the purposes of subsection (b), in the case of continuing criminal enterprise involving methamphetamine or its salts, isomers, or salts of isomers, paragraph (2)(A) shall be applied by substituting ''200'' for ''300'', and paragraph (2)(B) shall be applied by substituting ''$5,000,000'' for ''$10 million dollars''.

(Pub. L. 91–513, title II, § 408, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98–473, title II, §§ 224(b), formerly § 224(c), 305, Oct. 12, 1984, 98 Stat. 2030, 2050; Pub. L. 99–570, title I, §§ 1005(b)(2), 1252, 1253, Oct. 27, 1986, 100 Stat. 3207–6, 3207–14; Pub. L. 100–690, title VI, § 6481, title VII, § 7001, Nov. 18, 1988, 102 Stat. 4382, 4387; Pub. L. 103–322, title XXXIII, §§ 330003(e), 330009(d), 330014, Sept. 13, 1994, 108 Stat. 2141, 2143, 2146; Pub. L. 104–132, title I, § 108, title IX, § 903(b), Apr. 24, 1996, 110 Stat. 1226, 1318; Pub. L. 109–177, title II, §§ 221, 222(c), title VII, § 733, Mar. 9, 2006, 120 Stat. 231, 232, 270.)

Editorial Notes

REFERENCES IN TEXT

Section 841(b)(1)(A), referred to in subsec. (e)(1)(A), was in the original a reference to ''section 841(b)(1)(A)'' but probably should be a reference to ''section 401(b)(1)(A)'', meaning section 401(b)(1)(A) of Pub. L. 91–513, title II, Oct. 27, 1970, 84 Stat. 1260.

Section 960(b)(1), referred to in subsec. (e)(1)(A), was in the original a reference to ''section 960(b)(1)'' but probably should be a reference to ''section 1010(b)(1)'', meaning section 1010(b)(1) of Pub. L. 91–513, title III, Oct. 27, 1970, 84 Stat. 1290.

Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), referred to in subsec. (d), is act July 15, 1932, ch. 492, 47 Stat. 696, which is not classified to the Code.

AMENDMENTS

2006—Subsec. (e)(2). Pub. L. 109–177, § 221(1), substituted ''(1)(B)'' for ''(1)(b)''.

Subsecs. (g) to (p). Pub. L. 109–177, § 221(2), struck out subsecs. (g) to (p) which related to hearing and sentencing procedures in death penalty cases and sentencing in capital cases in which the death penalty is not sought or imposed.

Subsec. (q). Pub. L. 109–177, §§ 221(4), 222(c), struck out subsec. (q) which related to appeal in capital cases and counsel for financially unable defendants.

Subsec. (r). Pub. L. 109–177, § 221(3), struck out subsec. (r) which provided for refusal by State and Federal correctional employees to participate in executions.

Subsec. (s). Pub. L. 109–177, § 733, added subsec. (s).

1996—Subsec. (q)(9). Pub. L. 104–132, § 108, amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses

[2] So in original. Section does not contain a subsec. (f), see 1988 Amendment note below.

therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.''

Subsec. (q)(10). Pub. L. 104–132, § 903(b), amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9).''

1994—Subsec. (b)(2)(A). Pub. L. 103–322, § 330003(e), substituted ''subsection (c)(1)'' for ''subsection (d)(1)''.

Subsec. (n)(11). Pub. L. 103–322, § 330014, made technical amendment to reference to section 859 of this title to correct reference to corresponding section of original act.

Subsec. (q)(8). Pub. L. 103–322, § 330009(d), substituted ''applications for writ'' for ''applications, for writ''.

1988—Subsec. (a). Pub. L. 100–690, § 6481(a), increased minimum term of imprisonment for first violations to 20 from 10 years and for subsequent violations to 30 from 20 years.

Subsecs. (c), (d). Pub. L. 100–690, § 6481(b), redesignated subsecs. (d) and (e) as (c) and (d), respectively.

Subsec. (e). Pub. L. 100–690, § 7001(a)(2), added subsec. (e). Former subsec. (e) redesignated (d).

Pub. L. 100–690, § 7001(a)(1), which directed redesignation of former subsec. (e) as (f), could not be executed because of prior redesignation of former subsec. (e) as (d) by Pub. L. 100–690, § 6481(b), which resulted in there not being a subsec. (f).

Subsecs. (g) to (r). Pub. L. 100–690, § 7001(b), added subsecs. (g) to (r).

1986—Subsec. (a). Pub. L. 99–570, § 1252, substituted ''to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,'' for ''to a fine of not more than $100,000,'' and ''to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual,'' for ''to a fine of not more than $200,000,''.

Subsecs. (b) to (e). Pub. L. 99–570, § 1253, added subsec. (b) and redesignated former subsecs. (b) and (c) as (d) and (e), respectively, which resulted in there not being a subsec. (c).

1984—Subsec. (a). Pub. L. 98–473, § 305, struck out par. (1) designation, substituted references to section 853 of this title for references to paragraph (2) in two places, and struck out par. (2) which related to forfeitures to the United States by any person convicted under par. (1).

Subsec. (d). Pub. L. 98–473, § 305(b), struck out subsec. (d) relating to jurisdiction of courts of the United States.

Subsec. (e). Pub. L. 98–473, § 224(b), as renumbered by Pub. L. 99–570, § 1005(b)(2), which directed the amendment of subsec. (c) of this section by striking out ''and section 4202 of title 18 of the United States Code'', was executed by striking out that language in subsec. (e) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 99–570, § 1253, which redesignated subsec. (c) as (e). See 1986 Amendment note above.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 903(b) of Pub. L. 104–132 effective as to cases commenced or appeals perfected on or after Apr. 24, 1996, see section 903(c) of Pub. L. 104–132, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 224(b) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

GAO STUDY OF COST OF EXECUTIONS

Pub. L. 100–690, title VII, § 7002, Nov. 18, 1988, 102 Stat. 4395, directed Comptroller General to conduct a study of cost of executions and report to Congress, prior to repeal by Pub. L. 104–66, title I, § 1091(d), Dec. 21, 1995, 109 Stat. 722.

§ 849. Transportation safety offenses

(a) Definitions

In this section—

''safety rest area'' means a roadside facility with parking facilities for the rest or other needs of motorists.

''truck stop'' means a facility (including any parking lot appurtenant thereto) that—

(A) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49), operating in commerce (as defined in that section); and

(B) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

(b) First offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is (except as provided in subsection (b))[1] subject to—

(1) twice the maximum punishment authorized by section 841(b) of this title; and

(2) twice any term of supervised release authorized by section 841(b) of this title for a first offense.

(c) Subsequent offense

A person who violates section 841(a)(1) of this title or section 856 of this title by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a)[2] have become final is subject to—

(1) 3 times the maximum punishment authorized by section 841(b) of this title; and

(2) 3 times any term of supervised release authorized by section 841(b) of this title for a first offense.

(Pub. L. 91–513, title II, § 409, as added Pub. L. 103–322, title XVIII, § 180201(b)(1), Sept. 13, 1994, 108 Stat. 2046.)

[1] So in original. Probably should refer to subsection (c).

[2] So in original. Probably should refer to subsection (b).

Editorial Notes

PRIOR PROVISIONS

A prior section 849, Pub. L. 91–513, title II, § 409, Oct. 27, 1970, 84 Stat. 1266; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, related to dangerous special drug offender sentencing, prior to repeal by Pub. L. 98–473, title II, §§ 219(a), 235(a)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, eff. Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such repeal.

§ 850. Information for sentencing

Except as otherwise provided in this subchapter or section 242a(a)[1] of title 42, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this subchapter or subchapter II.

(Pub. L. 91–513, title II, § 410, Oct. 27, 1970, 84 Stat. 1269.)

Editorial Notes

REFERENCES IN TEXT

Section 242a of title 42, referred to in text, was repealed by Pub. L. 106–310, div. B, title XXXII, § 3201(b)(1), Oct. 17, 2000, 114 Stat. 1190.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 851. Proceedings to establish prior convictions

(a) Information filed by United States Attorney

(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) Affirmation or denial of previous conviction

If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c) Denial; written response; hearing

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

(d) Imposition of sentence

(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(e) Statute of limitations

No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section

[1] See References in Text note below.

which occurred more than five years before the date of the information alleging such prior conviction.

(Pub. L. 91–513, title II, § 411, Oct. 27, 1970, 84 Stat. 1269.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 852. Application of treaties and other international agreements

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.

(Pub. L. 91–513, title II, § 412, as added Pub. L. 95–633, title I, § 107(a), Nov. 10, 1978, 92 Stat. 3773.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as a note under section 801a of this title.

§ 853. Criminal forfeitures

(a) Property subject to criminal forfeiture

Any person convicted of a violation of this subchapter or subchapter II punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation;

(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 848 of this title, the person shall forfeit, in addition to any property described in paragraph (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this subchapter or subchapter II, that the person forfeit to the United States all property described in this subsection. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(b) Meaning of term "property"

Property subject to criminal forfeiture under this section includes—

(1) real property, including things growing on, affixed to, and found in land; and

(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities.

(c) Third party transfers

All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(d) Rebuttable presumption

There is a rebuttable presumption at trial that any property of a person convicted of a felony under this subchapter or subchapter II is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

(1) such property was acquired by such person during the period of the violation of this subchapter or subchapter II or within a reasonable time after such period; and

(2) there was no likely source for such property other than the violation of this subchapter or subchapter II.

(e) Protective orders

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation of this subchapter or subchapter II for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the

court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than fourteen days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(4) ORDER TO REPATRIATE AND DEPOSIT.—

(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (p), shall be punishable as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.

(f) Warrant of seizure

The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (e) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(g) Execution

Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(h) Disposition of property

Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

(i) Authority of the Attorney General

With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this subchapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, in accordance with the provisions of section 881(e) of this title, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(j) Applicability of civil forfeiture provisions

Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 881(d) of this title shall apply to a criminal forfeiture under this section.

(k) Bar on intervention

Except as provided in subsection (n), no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

(*l*) Jurisdiction to enter orders

The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(m) Depositions

In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(n) Third party interests

(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(*o*) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(p) Forfeiture of substitute property

(1) In general

Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant—

(A) cannot be located upon the exercise of due diligence;

(B) has been transferred or sold to, or deposited with, a third party;

(C) has been placed beyond the jurisdiction of the court;

(D) has been substantially diminished in value; or

(E) has been commingled with other property which cannot be divided without difficulty.

(2) Substitute property

In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

(3) Return of property to jurisdiction

In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection,

order the defendant to return the property to the jurisdiction of the court so that the property may be seized and forfeited.

(q) Restitution for cleanup of clandestine laboratory sites

The court, when sentencing a defendant convicted of an offense under this subchapter or subchapter II involving the manufacture, the possession, or the possession with intent to distribute, of amphetamine or methamphetamine, shall—

(1) order restitution as provided in sections 3612 and 3664 of title 18;

(2) order the defendant to reimburse the United States, the State or local government concerned, or both the United States and the State or local government concerned for the costs incurred by the United States or the State or local government concerned, as the case may be, for the cleanup associated with the manufacture of amphetamine or methamphetamine by the defendant, or on premises or in property that the defendant owns, resides, or does business in; and

(3) order restitution to any person injured as a result of the offense as provided in section 3663A of title 18.

(Pub. L. 91–513, title II, § 413, as added and amended Pub. L. 98–473, title II, §§ 303, 2301(d)–(f), Oct. 12, 1984, 98 Stat. 2044, 2192, 2193; Pub. L. 99–570, title I, §§ 1153(b), 1864, Oct. 27, 1986, 100 Stat. 3207–13, 3207–54; Pub. L. 104–237, title II, § 207, Oct. 3, 1996, 110 Stat. 3104; Pub. L. 106–310, div. B, title XXXVI, § 3613(a), Oct. 17, 2000, 114 Stat. 1229; Pub. L. 107–56, title III, § 319(d), Oct. 26, 2001, 115 Stat. 314; Pub. L. 109–177, title VII, § 743(a), Mar. 9, 2006, 120 Stat. 272; Pub. L. 111–16, § 5, May 7, 2009, 123 Stat. 1608.)

Editorial Notes

References in Text

The Federal Rules of Evidence, referred to in subsec. (e)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subsec. (m), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Amendments

2009—Subsec. (e)(2). Pub. L. 111–16 substituted ''fourteen days'' for ''ten days''.

2006—Subsec. (q). Pub. L. 109–177, § 743(a)(1), inserted '', the possession, or the possession with intent to distribute,'' after ''manufacture'' in introductory provisions.

Subsec. (q)(2). Pub. L. 109–177, § 743(a)(2), inserted '', or on premises or in property that the defendant owns, resides, or does business in'' after ''by the defendant''.

2001—Subsec. (e)(4). Pub. L. 107–56, § 319(d)(2), added par. (4).

Subsec. (p). Pub. L. 107–56, § 319(d)(1), inserted heading and amended text of subsec. (p) generally. Prior to amendment, text read as follows: ''If any of the property described in subsection (a) of this section, as a result of any act or omission of the defendant—

''(1) cannot be located upon the exercise of due diligence;

''(2) has been transferred or sold to, or deposited with, a third party;

''(3) has been placed beyond the jurisdiction of the court;

''(4) has been substantially diminished in value; or

''(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).''

2000—Subsec. (q). Pub. L. 106–310, § 3613(a)(1), (2), in introductory provisions, inserted ''amphetamine or'' before ''methamphetamine'' and substituted ''shall'' for ''may''.

Subsec. (q)(2). Pub. L. 106–310, § 3613(a)(2), (3), inserted '', the State or local government concerned, or both the United States and the State or local government concerned'' after ''to reimburse the United States'', ''or the State or local government concerned, as the case may be,'' after ''costs incurred by the United States'', and ''amphetamine or'' before ''methamphetamine''.

Subsec. (q)(3). Pub. L. 106–310, § 3613(a)(4), substituted ''section 3663A of title 18'' for ''section 3663 of title 18''.

1996—Subsec. (q). Pub. L. 104–237 added subsec. (q).

1986—Subsec. (c). Pub. L. 99–570, § 1864(1), substituted ''subsection (n)'' for ''subsection (*o*)''.

Subsec. (f). Pub. L. 99–570, § 1864(2), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (i)(1). Pub. L. 99–570, § 1864(3), substituted ''this subchapter'' for ''this chapter''.

Subsec. (k). Pub. L. 99–570, § 1864(1), (4), which directed the substitution of ''subsection (n)'' for ''subsection (*o*)'' in ''the second subsection (h)'', and directed the redesignation of ''the second subsection (h)'' as subsection (k), were executed to this subsection because the ''second subsection (h)'' had been editorially redesignated subsec. (k) to reflect the probable intent of Congress. See 1984 Amendment note below.

Subsec. (p). Pub. L. 99–570, § 1153(b), which directed that ''section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1975'' be amended ''by redesignating subsection '(p)' as subsection '(q)''' and adding subsec. (p) was executed to this section, which is section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as the probable intent of Congress, by adding a subsec. (p) in view of the prior redesignation of subsec. (p) as (*o*) by Pub. L. 98–473, § 2301(e)(2). See 1984 Amendment note below.

1984—Subsec. (a). Pub. L. 98–473, § 2301(d), inserted ''In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.''

Subsec. (d). Pub. L. 98–473, § 2301(e), struck out subsec. (d) which related to forfeiture of property other than that described in subsec. (a) and the conditions therefor, and redesignated former subsec. (e) as (d).

Subsecs. (e) to (p). Pub. L. 98–473, § 2301(e)(2), which directed that this section be amended by redesignating subsecs. (e), (f), (g), (h), (i), (*l*), (m), (n), (*o*), and (p) as subsecs. (d), (e), (f), (g), (h), (i), (j), (h), (*l*), (m), (n), and (*o*), respectively, was executed by redesignating subsecs. (e) to (p) as (d) to (*o*), respectively, to give effect to the probable intent of Congress.

Subsec. (n)(1). Pub. L. 98–473, § 2301(f), struck out ''for at least seven successive court days'' after ''to dispose of the property''.

Statutory Notes and Related Subsidiaries

Effective Date of 2009 Amendment

Amendment by Pub. L. 111–16 effective Dec. 1, 2009, see section 7 of Pub. L. 111–16, set out as a note under section 109 of Title 11, Bankruptcy.

Savings Clause

Pub. L. 109–177, title VII, § 743(b), Mar. 9, 2006, 120 Stat. 273, provided that: ''Nothing in this section [amending this section] shall be interpreted or construed to amend, alter, or otherwise affect the obligations, liabilities and other responsibilities of any person under any Federal or State environmental laws.''

§ 853a. Transferred

Editorial Notes

CODIFICATION

Section, Pub. L. 100–690, title V, § 5301, Nov. 18, 1988, 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors, was renumbered section 421 of the Controlled Substances Act by Pub. L. 101–647, title X, § 1002(d)(1), Nov. 29, 1990, 104 Stat. 4827, and is classified to section 862 of this title.

§ 854. Investment of illicit drug profits

(a) Prohibition

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this subchapter or subchapter II punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this subchapter or subchapter II after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) Penalty

Whoever violates this section shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

(c) "Enterprise" defined

As used in this section, the term ''enterprise'' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

(d) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(Pub. L. 91–513, title II, § 414, as added Pub. L. 98–473, title II, § 303, Oct. 12, 1984, 98 Stat. 2049.)

§ 855. Alternative fine

In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(Pub. L. 91–513, title II, § 415, as added Pub. L. 98–473, title II, § 2302, Oct. 12, 1984, 98 Stat. 2193.)

§ 856. Maintaining drug-involved premises

(a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Criminal penalties

Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.

(c) Violation as offense against property

A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18.

(d) Civil penalties

(1) Any person who violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

(A) $250,000; or

(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

(e) Declaratory and injunctive remedies

Any person who violates subsection (a) shall be subject to declaratory and injunctive remedies as set forth in section 843(f) of this title.

(Pub. L. 91–513, title II, § 416, as added Pub. L. 99–570, title I, § 1841(a), Oct. 27, 1986, 100 Stat. 3207–52; amended Pub. L. 106–310, div. B, title XXXVI, § 3613(e), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 108–21, title VI, § 608(b)(1), (2), (c), Apr. 30, 2003, 117 Stat. 691.)

Editorial Notes

AMENDMENTS

2003—Pub. L. 108–21, § 608(b)(2), substituted ''Maintaining drug-involved premises'' for ''Establishment of manufacturing operations'' in section catchline.

Subsec. (a)(1). Pub. L. 108–21, § 608(b)(1)(A), substituted ''open, lease, rent, use, or maintain any place, whether permanently or temporarily,'' for ''open or maintain any place''.

Subsec. (a)(2). Pub. L. 108–21, § 608(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.''

Subsecs. (d), (e). Pub. L. 108–21, § 608(c), added subsecs. (d) and (e).

2000—Subsec. (c). Pub. L. 106–310 added subsec. (c).

§ 857. Repealed. Pub. L. 101–647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859

Section, Pub. L. 99–570, title I, § 1822, Oct. 27, 1986, 100 Stat. 3207–51; Pub. L. 100–690, title VI, § 6485, Nov. 18, 1988, 102 Stat. 4384; Pub. L. 101–647, title XXIV, § 2401(b), Nov. 29, 1990, 104 Stat. 4859, related to interstate and foreign sale and transportation of drug paraphernalia.

Subsec. (a), which related to unlawful acts, was repealed.

Subsecs. (b) to (f) were redesignated as subsecs. (b) to (f) of section 422 of the Controlled Substances Act by section 2401(b) of Pub. L. 101–647 and transferred to section 863(b) to (f) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99–570, title I, § 1823, Oct. 27, 1986, 100 Stat. 3207–52, which provided that subtitle O (§§ 1821–1823) of title I of Pub. L. 99–570, enacting this section and provisions set out as a note under section 801 of this title, was to become effective 90 days after Oct. 27, 1986, was repealed by Pub. L. 101–647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859.

§ 858. Endangering human life while illegally manufacturing controlled substance

Whoever, while manufacturing a controlled substance in violation of this subchapter, or attempting to do so, or transporting or causing to be transported materials, including chemicals, to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18 or imprisoned not more than 10 years, or both.

(Pub. L. 91–513, title II, § 417, as added Pub. L. 100–690, title VI, § 6301(a), Nov. 18, 1988, 102 Stat. 4370.)

§ 859. Distribution to persons under age twenty-one

(a) First offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b)) subject to (1) twice the maximum punishment authorized by section 841(b) of this title, and (2) at least twice any term of supervised release authorized by section 841(b) of this title, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction under subsection (a) of this section (or under section 333(b) of this title as in effect prior to May 1, 1971) has become final, is subject to (1) three times the maximum punishment authorized by section 841(b) of this title, and (2) at least three times any term of supervised release authorized by section 841(b) of this title, for a second or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(Pub. L. 91–513, title II, § 418, formerly § 405, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98–473, title II, §§ 224(b), 503(b)(3), Oct. 12, 1984, 98 Stat. 2030, 2070; Pub. L. 99–570, title I, §§ 1004(a), 1005(b)(1), 1105(a), (b), Oct. 27, 1986, 100 Stat. 3207–6, 3207–11; Pub. L. 100–690, title VI, §§ 6452(b), 6455, 6456, Nov. 18, 1988, 102 Stat. 4371, 4372; renumbered § 418 and amended Pub. L. 101–647, title X, §§ 1002(a), 1003(a), title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4828, 4932.)

Editorial Notes

CODIFICATION

Section was classified to section 845 of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–647, § 1003(a)(1), substituted ''subject to (1) twice the maximum punishment authorized by section 841(b) of this title'' for ''punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title''.

Pub. L. 101–647, § 1002(a)(2)(A), substituted ''section 860'' for ''section 845a''.

Subsec. (b). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1003(a)(2), substituted ''subject to (1) three times the maximum punishment authorized by section 841(b) of this title'' for ''punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 841(b) of this title''.

Pub. L. 101–647, § 1002(a)(2)(B), substituted ''section 860'' for ''section 845a''.

1988—Subsec. (a). Pub. L. 100–690, § 6455, inserted at end ''The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.''

Subsec. (b). Pub. L. 100–690, § 6452(b), struck out ''or subsequent'' after ''Second'' in heading, and in text struck out ''or convictions'' after ''a prior conviction'', and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Pub. L. 100–690, § 6456, struck out ''The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

1986—Subsec. (a). Pub. L. 99–570, § 1105(a), inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

Subsec. (b). Pub. L. 99–570, § 1105(b), inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

1984—Subsecs. (a), (b). Pub. L. 98–473, §503(b)(3), substituted ''Except as provided in section 845a of this title, any'' for ''Any''.

Pub. L. 98–473, §224(b), which directed amendment of this section effective Nov. 1, 1987 (see section 235(a)(1) of Pub. L. 98–473 set out as an Effective Date note under section 3551 of Title 18, Crimes and Criminal Procedure) was repealed by Pub. L. 99–570, §1005(b)(1).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18, Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

EFFECTIVE DATE

Section effective on first day of seventh calendar month that begins after Oct. 26, 1970, see section 704 of Pub. L. 91–513, set out as a note under section 801 of this title.

§ 860. Distribution or manufacturing in or near schools and colleges

(a) Penalty

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b)) subject to (1) twice the maximum punishment authorized by section 841(b) of this title; and (2) at least twice any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offenders

Any person who violates section 841(a)(1) of this title or section 856 of this title by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, after a prior conviction under subsection (a) has become final is punishable (1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 841(b) of this title for a first offense, and (2) at least three times any term of supervised release authorized by section 841(b) of this title for a first offense. A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(c) Employing children to distribute drugs near schools or playgrounds

Notwithstanding any other law, any person at least 21 years of age who knowingly and intentionally—

(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 841 of this title.

(d) Suspension of sentence; probation; parole

In the case of any mandatory minimum sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

(e) Definitions

For the purposes of this section—

(1) The term ''playground'' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

(2) The term ''youth center'' means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) The term ''video arcade facility'' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

(4) The term ''swimming pool'' includes any parking lot appurtenant thereto.

(Pub. L. 91–513, title II, §419, formerly §405A, as added Pub. L. 98–473, title II, §503(a), Oct. 12, 1984, 98 Stat. 2069; amended Pub. L. 99–570, title I, §§1004(a), 1104, 1105(c), 1841(b), 1866(b), (c), Oct.

27, 1986, 100 Stat. 3207–6, 3207–11, 3207–52, 3207–55; Pub. L. 99–646, § 28, Nov. 10, 1986, 100 Stat. 3598; Pub. L. 100–690, title VI, §§ 6452(b)(1), 6457, 6458, Nov. 18, 1988, 102 Stat. 4371, 4373; renumbered § 419 and amended Pub. L. 101–647, title X, §§ 1002(b), 1003(b), title XII, § 1214, title XV, § 1502, title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4833, 4836, 4932; Pub. L. 103–322, title XIV, § 140006, title XXXII, § 320107, title XXXIII, § 330009(a), Sept. 13, 1994, 108 Stat. 2032, 2111, 2143.)

Editorial Notes

CODIFICATION

Section was classified to section 845a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–322, § 320107, substituted ''playground, or housing facility owned by a public housing authority, or within'' for ''playground, or within''.

Subsec. (b). Pub. L. 103–322, §§ 320107, 330009(a), substituted ''playground, or housing facility owned by a public housing authority, or within'' for ''playground, or within'' and inserted a period at end of penultimate sentence.

Subsecs. (c) to (e). Pub. L. 103–322, § 140006, added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1990—Subsec. (a). Pub. L. 101–647, § 1502(1), inserted ''or a playground,'' after ''university,'' and struck out ''playground,'' after ''within 100 feet of a''.

Pub. L. 101–647, § 1214(1)(C), substituted ''a person shall be sentenced under this subsection to a term of imprisonment of not less than one year'' for ''a term of imprisonment under this subsection shall be not less than one year''.

Pub. L. 101–647, § 1214(1)(B), inserted ''A fine up to twice that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection.''

Pub. L. 101–647, § 1214(1)(A), which directed the amendment of par. (1) by striking out '', or a fine, or both,'' could not be executed because those words did not appear. See note below.

Pub. L. 101–647, § 1003(b)(1), which directed the substitution of ''subject to (1) twice the maximum punishment authorized by section 841(b) of this title'' for ''punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title'', was executed by making the substitution for ''punishable (1) by a term of imprisonment, or fine, or both, up to twice that authorized by section 841(b) of this title'' to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1502(2), inserted ''or a playground,'' after ''university,'' and struck out ''playground,'' after ''within 100 feet of a''.

Pub. L. 101–647, § 1214(2)(B), inserted after first sentence ''A fine up to three times that authorized by section 841(b) of this title may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years''.

Subsec. (b)(1)(B). Pub. L. 101–647, § 1214(2)(A), which directed the amendment of subpar. (B) by striking '', or a fine up to three times that'' through ''or both'', could not be executed because the language did not appear after execution of the intervening amendment by Pub. L. 101–647, § 1003(b)(2). See below.

Pub. L. 101–647, § 1003(b)(2), substituted ''three times the maximum punishment authorized by section 841(b) of this title for a first offense'' for ''a term of imprisonment of up to three times that authorized by section 841(b) of this title for a first offense, or a fine up to three times that authorized by section 841(b) of this title for a first offense, or both''.

Subsec. (c). Pub. L. 101–647, § 1214(3), inserted ''mandatory minimum'' after ''In the case of any'', struck out ''subsection (b)'' after ''imposed under'', struck out ''of'' before ''this section'' in a reference to ''of this section'' which was editorially added before '', imposition or'', and substituted ''An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section'' for ''An individual convicted under subsection (b) of this section shall not be eligible for parole under chapter 311 of title 18 until the individual has served the minimum sentence required by such subsection''.

1988—Subsec. (a). Pub. L. 100–690, §§ 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'' and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university''.

Subsec. (b). Pub. L. 100–690, §§ 6452(b)(1), 6457, 6458(a), inserted '', possessing with intent to distribute,'' after ''distributing'', and '', or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility,'' after ''university'', substituted ''a prior conviction'' for ''a prior conviction or convictions'', and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (d). Pub. L. 100–690, § 6458(b), added subsec. (d).

1986—Subsec. (a). Pub. L. 99–570, §§ 1104(a), (b), 1105(c), 1841(b)(1), inserted ''or section 856 of this title'' and ''or manufacturing'', substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school'', struck out ''involving the same controlled substance and schedule'' after ''for a first offense'', and inserted ''Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.''

Pub. L. 99–570, § 1004(a), substituted ''term of supervised release'' for ''special parole term''.

Subsec. (b). Pub. L. 99–646 which directed that ''parole'' be inserted after ''(2) at least three times any special'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, § 1866(b), which directed that ''term of supervised release'' be substituted for ''special term'' could not be executed in view of prior amendment by Pub. L. 99–570, § 1104(c) below.

Pub. L. 99–570, §§ 1104(a), 1841(b)(2), inserted reference to section 856 of this title, inserted ''or manufacturing'' after ''distributing'' and substituted ''a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university'' for ''a public or private elementary or secondary school''.

Pub. L. 99–570, § 1104(c), amended cls. (1) and (2) generally. Prior to amendment, cls. (1) and (2) read as follows: ''(1) by a term of imprisonment of not less than three years and not more than life imprisonment and (2) at least three times any special term authorized by section 841(b) of this title for a second or subsequent offense involving the same controlled substance and schedule.''

Subsec. (c). Pub. L. 99–570, § 1866(c), substituted reference to chapter 311 of title 18 for reference to section 4202 of that title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1004(a) of Pub. L. 99–570 effective on date of taking effect of section 3583 of Title 18,

Crimes and Criminal Procedure (Nov. 1, 1987), see section 1004(b) of Pub. L. 99–570 set out as a note under section 841 of this title.

§ 860a. Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside

Whoever violates section 841(a)(1) of this title by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both.

(Pub. L. 91–513, title II, § 419a, as added Pub. L. 109–177, title VII, § 734(a), Mar. 9, 2006, 120 Stat. 270.)

§ 861. Employment or use of persons under 18 years of age in drug operations

(a) Unlawful acts

It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally—

(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this subchapter or subchapter II;

(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this subchapter or subchapter II by any Federal, State, or local law enforcement official; or

(3) receive a controlled substance from a person under 18 years of age, other than an immediate family member, in violation of this subchapter or subchapter II.

(b) Penalty for first offense

Any person who violates subsection (a) is subject to twice the maximum punishment otherwise authorized and at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

(c) Penalty for subsequent offenses

Any person who violates subsection (a) after a prior conviction under subsection (a) of this section has become final, is subject to three times the maximum punishment otherwise authorized and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(d) Penalty for providing or distributing controlled substance to underage person

Any person who violates subsection (a)(1) or (2)[1]

(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to any person under eighteen years of age; or

(2) if the person employed, hired, or used is fourteen years of age or younger,

shall be subject to a term of imprisonment for not more than five years or a fine of not more than $50,000, or both, in addition to any other punishment authorized by this section.

(e) Suspension of sentence; probation; parole

In any case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18[2] until the individual has served the mandatory term of imprisonment as enhanced by this section.

(f) Distribution of controlled substance to pregnant individual

Except as authorized by this subchapter, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this subchapter. Any person who violates this subsection shall be subject to the provisions of subsections (b), (c), and (e).

(Pub. L. 91–513, title II, § 420, formerly § 405B, as added Pub. L. 99–570, title I, § 1102, Oct. 27, 1986, 100 Stat. 3207–10; amended Pub. L. 100–690, title VI, §§ 6452(b)(1), 6459, 6470(d), Nov. 18, 1988, 102 Stat. 4371, 4373, 4378; renumbered § 420 and amended Pub. L. 101–647, title X, §§ 1002(c), 1003(c), title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4829, 4932.)

Editorial Notes

REFERENCES IN TEXT

Section 4202 of title 18, referred to in subsec. (e), which, as originally enacted in Title 18, Crimes and Criminal Procedure, related to eligibility of prisoners for parole, was repealed and a new section 4202 enacted as part of the repeal and enactment of a new chapter 311 (§ 4201 et seq.) of Title 18, by Pub. L. 94–233, § 2, Mar. 15, 1976, 90 Stat. 219. For provisions relating to the eligibility of prisoners for parole, see section 4205 of Title 18. Pub. L. 98–473, title II, §§ 218(a)(5), 235(a)(1), (b)(1), Oct. 12, 1984, 98 Stat. 2027, 2031, 2032, as amended, provided that, effective on the first day of the first calendar month beginning 36 months after Oct. 12, 1984 (Nov. 1, 1987), chapter 311 of Title 18 is repealed, subject to remaining effective for five years after Nov. 1, 1987, in certain circumstances. See Effective Date note set out under section 3551 of Title 18.

CODIFICATION

Section was classified to section 845b of this title prior to renumbering by Pub. L. 101–647.

[1] So in original. Probably should be followed by a dash.

[2] See References in Text note below.

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–647, § 1003(c)(1), which directed the substitution of ''is subject to twice the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 101–647, § 3599L, substituted ''has become final'' for ''have become final''.

Pub. L. 101–647, § 1003(c)(2), which directed the substitution of ''is subject to three times the maximum punishment otherwise authorized'' for ''is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both,'' was executed by making the substitution for ''is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both,'' to reflect the probable intent of Congress.

1988—Subsec. (a)(3). Pub. L. 100–690, § 6459, added par. (3).

Subsec. (c). Pub. L. 100–690, § 6452(b)(1), struck out ''or convictions'' after ''a prior conviction'' and inserted at end ''Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.''

Subsec. (e). Pub. L. 100–690, § 6470(d), struck out ''required by section 841(b) of this title'' after ''mandatory term of imprisonment''.

§ 862. Denial of Federal benefits to drug traffickers and possessors

(a) Drug traffickers

(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances shall—

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) Drug possessors

(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of this subchapter) shall—

(A) upon the first conviction for such an offense and at the discretion of the court—

(i) be ineligible for any or all Federal benefits for up to one year;

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service; or

(iv) any combination of clause (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) Suspension of period of ineligibility

The period of ineligibility referred to in subsections (a) and (b) shall be suspended if the individual—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B) has otherwise been rehabilitated; or

(C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

(d) Definitions

As used in this section—

(1) the term ''Federal benefit''—

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term ''veterans benefit'' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(e) Inapplicability of this section to Government witnesses

The penalties provided by this section shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.

(f) Indian provision

Nothing in this section shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty,

statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subsection shall exempt any individual Indian from the sanctions provided for in this section, provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subsection (d)(1)(B) or (d)(2).

(g) Presidential report

(1) On or before May 1, 1989, the President shall transmit to the Congress a report—

(A) delineating the role of State courts in implementing this section;

(B) describing the manner in which Federal agencies will implement and enforce the requirements of this section;

(C) detailing the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of Federal benefits; and

(D) recommending any modifications to improve the administration of this section or otherwise achieve the goal of discouraging the trafficking and possession of controlled substances.

(2) No later than September 1, 1989, the Congress shall consider the report of the President and enact such changes as it deems appropriate to further the goals of this section.

(h) Effective date

The denial of Federal benefits set forth in this section shall take effect for convictions occurring after September 1, 1989.

(Pub. L. 91–513, title II, § 421, formerly Pub. L. 100–690, title V, § 5301, Nov. 18, 1988, 102 Stat. 4310; renumbered § 421 of Pub. L. 91–513 and amended Pub. L. 101–647, title X, § 1002(d), Nov. 29, 1990, 104 Stat. 4827.)

Editorial Notes

CODIFICATION

Section was classified to section 853a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Pub. L. 101–647, § 1002(d)(1), renumbered section 853a of this title as this section.

Subsec. (a)(1). Pub. L. 101–647, § 1002(d)(2), struck out ''(as such terms are defined for purposes of the Controlled Substances Act)'' after ''controlled substances'' in introductory provisions.

§ 862a. Denial of assistance and benefits for certain drug-related convictions

(a) In general

An individual convicted (under Federal or State law) of any offense which is classified as a felony by the law of the jurisdiction involved and which has as an element the possession, use, or distribution of a controlled substance (as defined in section 802(6) of this title) shall not be eligible for—

(1) assistance under any State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or

(2) benefits under the supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)) or any State program carried out under that Act [7 U.S.C. 2011 et seq.].

(b) Effects on assistance and benefits for others

(1) Program of temporary assistance for needy families

The amount of assistance otherwise required to be provided under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] to the family members of an individual to whom subsection (a) applies shall be reduced by the amount which would have otherwise been made available to the individual under such part.

(2) Benefits under the Food and Nutrition Act of 2008

The amount of benefits otherwise required to be provided to a household under the supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)), or any State program carried out under that Act [7 U.S.C. 2011 et seq.], shall be determined by considering the individual to whom subsection (a) applies not to be a member of such household, except that the income and resources of the individual shall be considered to be income and resources of the household.

(c) Enforcement

A State that has not exercised its authority under subsection (d)(1)(A) shall require each individual applying for assistance or benefits referred to in subsection (a), during the application process, to state, in writing, whether the individual, or any member of the household of the individual, has been convicted of a crime described in subsection (a).

(d) Limitations

(1) State elections

(A) Opt out

A State may, by specific reference in a law enacted after August 22, 1996, exempt any or all individuals domiciled in the State from the application of subsection (a).

(B) Limit period of prohibition

A State may, by law enacted after August 22, 1996, limit the period for which subsection (a) shall apply to any or all individuals domiciled in the State.

(2) Inapplicability to convictions occurring on or before August 22, 1996

Subsection (a) shall not apply to a conviction if the conviction is for conduct occurring on or before August 22, 1996.

(e) "State" defined

For purposes of this section, the term ''State'' has the meaning given it—

(1) in section 419(5) of the Social Security Act [42 U.S.C. 619(5)], when referring to assistance provided under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], and

(2) in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), when referring to the supplemental nutrition assistance program (as

defined in that section) or any State program carried out under that Act [7 U.S.C. 2011 et seq.].

(f) Rule of interpretation

Nothing in this section shall be construed to deny the following Federal benefits:

(1) Emergency medical services under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(2) Short-term, noncash, in-kind emergency disaster relief.

(3)(A) Public health assistance for immunizations.

(B) Public health assistance for testing and treatment of communicable diseases if the Secretary of Health and Human Services determines that it is necessary to prevent the spread of such disease.

(4) Prenatal care.

(5) Job training programs.

(6) Drug treatment programs.

(Pub. L. 104–193, title I, §115, Aug. 22, 1996, 110 Stat. 2180; Pub. L. 105–33, title V, §5516(a), Aug. 5, 1997, 111 Stat. 620; Pub. L. 110–234, title IV, §4115(c)(2)(C), May 22, 2008, 122 Stat. 1109; Pub. L. 110–246, §4(a), title IV, §4115(c)(2)(C), June 18, 2008, 122 Stat. 1664, 1871; Pub. L. 113–79, title IV, §4030(n), Feb. 7, 2014, 128 Stat. 814.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (b)(1), (e)(1), and (f)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Food and Nutrition Act of 2008, referred to in subsecs. (a)(2), (b)(2), and (e)(2), is Pub. L. 88–525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2014—Subsec. (a)(2). Pub. L. 113–79, §4030(n)(1), substituted ''supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)) or any State program carried out under that Act'' for ''food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977''.

Subsec. (b)(2). Pub. L. 113–79, §4030(n)(2), substituted ''supplemental nutrition assistance program (as defined in section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012)), or any State program carried out under that Act'' for ''food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977), or any State program carried out under the Food Stamp Act of 1977''.

Subsec. (e)(2). Pub. L. 113–79, §4030(n)(3), substituted ''section 3 of the Food and Nutrition Act of 2008 (7 U.S.C. 2012), when referring to the supplemental nutrition assistance program (as defined in that section) or any State program carried out under that Act'' for ''section 3(s) of the Food Stamp Act of 1977, when referring to the food stamp program (as defined in section 3(*l*) of the Food Stamp Act of 1977) or any State program carried out under the Food Stamp Act of 1977''.

2008—Subsecs. (a)(2), (b)(2). Pub. L. 110–246, §4115(c)(2)(C)(i), substituted ''section 3(*l*)'' for ''section 3(h)''.

Subsec. (e)(2). Pub. L. 110–246, §4115(c)(2)(C), substituted ''section 3(s)'' for ''section 3(m)'' and ''section 3(*l*)'' for ''section 3(h)''.

1997—Subsec. (d)(2). Pub. L. 105–33 substituted ''a conviction if the conviction is for conduct'' for ''convictions''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

References to the food stamp program established under the Food Stamp Act of 1977, now known as the Food and Nutrition Act of 2008, considered to refer to the supplemental nutrition assistance program established under that Act, see section 4002(c) of Pub. L. 110–246, set out as a note under section 2012 of Title 7, Agriculture.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4115(c)(2)(C) of Pub. L. 110–246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–33, title V, §5518(d), Aug. 5, 1997, 111 Stat. 621, provided that: ''The amendments made by this chapter to a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [Pub. L. 104–193] that have not become part of another statute [chapter 1 (§§5501–5518) of subtitle F of title V of Pub. L. 105–33, amending this section, sections 601 to 603, 604 to 608, 609 to 611, and 612 to 617 of Title 42, The Public Health and Welfare, and provisions set out as notes under section 612c of Title 7, Agriculture, and sections 601 and 613 of Title 42] shall take effect as if the amendments had been included in the provision at the time the provision became law.''

EFFECTIVE DATE

Section effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

§ 862b. Sanctioning for testing positive for controlled substances

Notwithstanding any other provision of law, States shall not be prohibited by the Federal Government from testing welfare recipients for

use of controlled substances nor from sanctioning welfare recipients who test positive for use of controlled substances.

(Pub. L. 104–193, title IX, §902, Aug. 22, 1996, 110 Stat. 2347.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

§ 863. Drug paraphernalia

(a) In general

It is unlawful for any person—

(1) to sell or offer for sale drug paraphernalia;

(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

(3) to import or export drug paraphernalia.

(b) Penalties

Anyone convicted of an offense under subsection (a) of this section shall be imprisoned for not more than three years and fined under title 18.

(c) Seizure and forfeiture

Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(d) "Drug paraphernalia" defined

The term ''drug paraphernalia'' means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this subchapter. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana,[1] cocaine, hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) Matters considered in determination of what constitutes drug paraphernalia

In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) instructions, oral or written, provided with the item concerning its use;

(2) descriptive materials accompanying the item which explain or depict its use;

(3) national and local advertising concerning its use;

(4) the manner in which the item is displayed for sale;

(5) whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(6) direct or circumstantial evidence of the ratio of sales of the item(s) to the total sales of the business enterprise;

(7) the existence and scope of legitimate uses of the item in the community; and

(8) expert testimony concerning its use.

(f) Exemptions

This section shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

(Pub. L. 91–513, title II, §422, as added and amended Pub. L. 101–647, title XXIV, §2401(a)–(c), Nov. 29, 1990, 104 Stat. 4858, 4859; Pub. L. 106–310, div. B, title XXXVI, §3614, Oct. 17, 2000, 114 Stat. 1230.)

Editorial Notes

CODIFICATION

The text of section 857(b) to (f) of this title, which was transferred to subsecs. (b) to (f) of this section by Pub. L. 101–647, §2401(b), was based on Pub. L. 99–570, title I, §1822(b)–(f), Oct. 27, 1986, 100 Stat. 3207–51; Pub. L. 100–690, title VI, §6485, Nov. 18, 1988, 102 Stat. 4384.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–310 inserted ''methamphetamine,'' after ''PCP,'' in introductory provisions.

1990—Subsec. (b). Pub. L. 101–647, §2401(c)(1), substituted ''fined under title 18'' for ''fined not more than $100,000''.

Pub. L. 101–647, §2401(b), redesignated subsec. (b) of section 857 of this title as subsec. (b) of this section. See Codification note above.

Subsecs. (c) to (e). Pub. L. 101–647, §2401(b), redesignated subsecs. (c) to (e) of section 857 of this title as

[1] So in original. Probably should be ''marihuana,''.

subsecs. (c) to (e) of this section. See Codification note above.

Subsec. (f). Pub. L. 101–647, § 2401(c)(2), made technical amendment to reference to ''This section'' to correct reference to corresponding provision of original act.

Pub. L. 101–647, § 2401(b), redesignated subsec. (f) of section 857 of this title as subsec. (f) of this section. See Codification note above.

§ 864. Anhydrous ammonia

(a) It is unlawful for any person—

(1) to steal anhydrous ammonia, or

(2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.

(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 843(d) of this title as if such violation were a violation of a provision of section 843 of this title.

(Pub. L. 91–513, title II, § 423, as added Pub. L. 106–310, div. B, title XXXVI, § 3653(a), Oct. 17, 2000, 114 Stat. 1240.)

§ 864a. Grants to reduce production of methamphetamines from anhydrous ammonia

(a) Definitions

In this section:

(1) Eligible entity

The term ''eligible entity'' means—

(A) a producer of agricultural commodities;

(B) a cooperative association, a majority of the members of which produce or process agricultural commodities; or

(C) a person in the trade or business of—

(i) selling an agricultural product (including an agricultural chemical) at retail, predominantly to farmers and ranchers; or

(ii) aerial and ground application of an agricultural chemical.

(2) Nurse tank

The term ''nurse tank'' shall be considered to be a cargo tank (within the meaning of section 173.315(m) of title 49, Code of Federal Regulations, as in effect as of the date of the enactment of this Act).

(b) Grant authority

The Secretary may make a grant to an eligible entity to enable the eligible entity to obtain and add to an anhydrous ammonia fertilizer nurse tank a physical lock or a substance to reduce the amount of methamphetamine that can be produced from any anhydrous ammonia removed from the nurse tank.

(c) Grant amount

The amount of a grant made under this section to an eligible entity shall be the product obtained by multiplying—

(1) an amount not less than $40 and not more than $60, as determined by the Secretary; and

(2) the number of fertilizer nurse tanks of the eligible entity.

(d) Authorization of appropriations

There is authorized to be appropriated to the Secretary to make grants under this section $15,000,000 for the period of fiscal years 2008 through 2012.

(Pub. L. 110–234, title XIV, § 14203, May 22, 2008, 122 Stat. 1458; Pub. L. 110–246, § 4(a), title XIV, § 14203, June 18, 2008, 122 Stat. 1664, 2220.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this Act, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the Controlled Substances Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.

DEFINITION OF ''SECRETARY''

''Secretary'' as meaning the Secretary of Agriculture, see section 8701 of Title 7, Agriculture.

§ 865. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs

(a) Enhanced prison sentence

The sentence of imprisonment imposed on a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), involving methamphetamine or any listed chemical that is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33),[1] shall, if the offense is committed under the circumstance described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

(b) Circumstances

For purposes of subsection (a), the circumstance described in this subsection is that the offense described in subsection (a) was committed by a person who—

(1) was enrolled in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

(2) committed the offense while entering the United States, using such lane, system, or program.

[1] So in original. A second closing parenthesis probably should precede the comma.

(c) Permanent ineligibility

Any person whose term of imprisonment is increased under subsection (a) shall be permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

(Pub. L. 109–177, title VII, §731, Mar. 9, 2006, 120 Stat. 270.)

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (a), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§951 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

CODIFICATION

Section was enacted as part of the USA PATRIOT Improvement and Reauthorization Act of 2005 and also as part of the Combat Methamphetamine Epidemic Act of 2005, and not as part of the Controlled Substances Act which comprises this subchapter.

PART E—ADMINISTRATIVE AND ENFORCEMENT PROVISIONS

§ 871. Attorney General

(a) Delegation of functions

The Attorney General may delegate any of his functions under this subchapter to any officer or employee of the Department of Justice.

(b) Rules and regulations

The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.

(c) Acceptance of devises, bequests, gifts, and donations

The Attorney General may accept in the name of the Department of Justice any form of devise, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

(Pub. L. 91–513, title II, §501, Oct. 27, 1970, 84 Stat. 1270.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

§ 871a. Semiannual reports to Congress

(a) In general

The Attorney General shall, on a semiannual basis, submit to the congressional committees and organizations specified in subsection (b) reports that—

(1) describe the allocation of the resources of the Drug Enforcement Administration and the Federal Bureau of Investigation for the investigation and prosecution of alleged violations of the Controlled Substances Act [21 U.S.C. 801 et seq.] involving methamphetamine; and

(2) the measures being taken to give priority in the allocation of such resources to such violations involving—

(A) persons alleged to have imported into the United States substantial quantities of methamphetamine or scheduled listed chemicals (as defined pursuant to the amendment made by section 711(a)(1));[1]

(B) persons alleged to have manufactured methamphetamine; and

(C) circumstances in which the violations have endangered children.

(b) Congressional committees

The congressional committees and organizations referred to in subsection (a) are—

(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.

(Pub. L. 109–177, title VII, §736, Mar. 9, 2006, 120 Stat. 271.)

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a)(1), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to this subchapter. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

Section 711(a)(1), referred to in subsec. (a)(2)(A), is section 711(a)(1) of Pub. L. 109–177, which amended section 802 of this title.

CODIFICATION

Section was enacted as part of the USA PATRIOT Improvement and Reauthorization Act of 2005 and also as part of the Combat Methamphetamine Epidemic Act of 2005, and not as part of the Controlled Substances Act which comprises this subchapter.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Six-

[1] See References in Text note below.

teenth Congress, Jan. 9, 2019. Committee on Oversight and Reform of House of Representatives changed to Committee on Oversight and Accountability of House of Representatives by House Resolution No. 5, One Hundred Eighteenth Congress, Jan. 9, 2023.

§ 872. Education and research programs of Attorney General

(a) Authorization

The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this subchapter. Such programs may include—

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, tribal, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this subchapter, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 811 of this title.

(b) Contracts

The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 6101 of title 41.

(c) Identification of research populations; authorization to withhold

The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, tribal, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(d) Affect of treaties and other international agreements on confidentiality

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.

(e) Use of controlled substances in research

The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

(f) Program to curtail diversion of precursor and essential chemicals

The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances.

(Pub. L. 91–513, title II, § 502, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 95–633, title I, § 108(a), Nov. 10, 1978, 92 Stat. 3773; Pub. L. 100–690, title VI, § 6060, Nov. 18, 1988, 102 Stat. 4320; Pub. L. 111–211, title II, § 232(a), July 29, 2010, 124 Stat. 2278.)

Editorial Notes

CODIFICATION

In subsec. (b), ''section 6101 of title 41'' substituted for ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2010—Subsecs. (a)(1), (c). Pub. L. 111–211 inserted ''tribal,'' after ''State,''.

1988—Subsec. (f). Pub. L. 100–690 added subsec. (f).

1978—Subsecs. (d), (e). Pub. L. 95–633 added subsec. (d) and redesignated former subsec. (d) as (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–633 effective on date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95–633, set out as an Effective Date note under section 801a of this title.

EFFECT OF GRANTS

Pub. L. 111–211, title II, § 232(e), July 29, 2010, 124 Stat. 2279, provided that: ''Nothing in this section [amending this section and sections 872a, 873, and 878 of this title] or any amendment made by this section—

''(1) allows the grant to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or

''(2) has any effect other than to authorize, award, or deny a grant of funds to a federally recognized Indian tribe for the purposes described in the relevant grant program.''

[For definition of ''Indian tribe'' as used in section 232(e) of Pub. L. 111–211, set out above, see section 203(a) of Pub. L. 111–211, set out as a note under section 2801 of Title 25, Indians.]

TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES

Pub. L. 106–310, div. B, title XXXVI, § 3623, Oct. 17, 2000, 114 Stat. 1231, provided that:

''(a) IN GENERAL.—

''(1) REQUIREMENT.—The Administrator of the Drug Enforcement Administration shall carry out the pro-

grams described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.

''(2) DURATION.—The duration of any program under that subsection may not exceed 3 years.

''(b) COVERED PROGRAMS.—The programs described in this subsection are as follows:

''(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.—A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.

''(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.—A program of basic clandestine laboratory certification training, which shall provide information and training—

''(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and

''(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.

''(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.—A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling such personnel to provide recertification and awareness training relating to clandestine laboratories to additional State and local law enforcement personnel.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:

''(1) $1,500,000 to carry out the program described in subsection (b)(1).

''(2) $3,000,000 to carry out the program described in subsection (b)(2).

''(3) $1,000,000 to carry out the program described in subsection (b)(3).''

EDUCATIONAL PROGRAM FOR POLICE DEPARTMENTS

Pub. L. 104–305, § 4, Oct. 13, 1996, 110 Stat. 3809, provided that: ''The Attorney General may—

''(1) create educational materials regarding the use of controlled substances (as that term is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]) in the furtherance of rapes and sexual assaults; and

''(2) disseminate those materials to police departments throughout the United States.''

STUDY AND REPORT ON MEASURES TO PREVENT SALES OF AGENTS USED IN METHAMPHETAMINE PRODUCTION

Pub. L. 104–237, title II, § 202, Oct. 3, 1996, 110 Stat. 3101, required the Attorney General of the United States to conduct a study on measures to effectively prevent the diversion of red phosphorous, iodine, hydrochloric gas, and other agents for use in the production of methamphetamine, and to submit to Congress no later than Jan. 1, 1998, a report of the findings pursuant to the study on the need for and advisability of preventive measures.

§ 872a. Public-private education program

(a) Advisory panel

The Attorney General shall establish an advisory panel consisting of an appropriate number of representatives from Federal, State, tribal, and local law enforcement and regulatory agencies with experience in investigating and prosecuting illegal transactions of precursor chemicals. The Attorney General shall convene the panel as often as necessary to develop and coordinate educational programs for wholesale and retail distributors of precursor chemicals and supplies.

(b) Continuation of current efforts

The Attorney General shall continue to—

(1) maintain an active program of seminars and training to educate wholesale and retail distributors of precursor chemicals and supplies regarding the identification of suspicious transactions and their responsibility to report such transactions; and

(2) provide assistance to State, tribal, and local law enforcement and regulatory agencies to facilitate the establishment and maintenance of educational programs for distributors of precursor chemicals and supplies.

(Pub. L. 104–237, title V, § 503, Oct. 3, 1996, 110 Stat. 3112; Pub. L. 111–211, title II, § 232(b), July 29, 2010, 124 Stat. 2278.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Comprehensive Methamphetamine Control Act of 1996, and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–211, § 232(b)(1), inserted ''tribal,'' after ''State,''.

Subsec. (b)(2). Pub. L. 111–211, § 232(b)(2), inserted '', tribal,'' after ''State''.

§ 873. Cooperative arrangements

(a) Cooperation of Attorney General with local, State, tribal, and Federal agencies

The Attorney General shall cooperate with local, State, tribal, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, tribal, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, tribal, and local agencies, and make

such information available for Federal, State, tribal, and local law enforcement purposes;

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted;

(6) assist State, tribal, and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

(A) making periodic assessments of the capabilities of State, tribal, and local governments to adequately control the diversion of controlled substances;

(B) providing advice and counsel to State, tribal, and local governments on the methods by which such governments may strengthen their controls against diversion; and

(C) establishing cooperative investigative efforts to control diversion; and

(7) notwithstanding any other provision of law, enter into contractual agreements with State, tribal, and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this chapter.[1]

(b) Requests by Attorney General for assistance from Federal agencies or instrumentalities

When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this subchapter; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential.

(c) Descriptive and analytic reports; limitation on court challenges

(1) The Attorney General shall, once every 6 months, prepare and make available to regulatory, licensing, attorneys general, and law enforcement agencies of States a standardized report containing descriptive and analytic information on the actual distribution patterns, as gathered through the Automated Reports and Consolidated Orders System, or any subsequent automated system, pursuant to section 827 of this title and which includes detailed amounts, outliers, and trends of distributor and pharmacy registrants, in such States for the controlled substances contained in schedule II, which, in the discretion of the Attorney General, are determined to have the highest abuse.

(2) If the Attorney General publishes the report described in paragraph (1) once every 6 months as required under paragraph (1), nothing in this subsection shall be construed to bring an action in any court to challenge the sufficiency of the information or to compel the Attorney General to produce any documents or reports referred to in this subsection.

(d) Grants by Attorney General

(1) The Attorney General may make grants, in accordance with paragraph (2), to State, tribal, and local governments to assist in meeting the costs of—

(A) collecting and analyzing data on the diversion of controlled substances,

(B) conducting investigations and prosecutions of such diversions,

(C) improving regulatory controls and other authorities to control such diversions,

(D) programs to prevent such diversions,

(E) preventing and detecting forged prescriptions, and

(F) training law enforcement and regulatory personnel to improve the control of such diversions.

(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grant may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

(3) To carry out this subsection there is authorized to be appropriated $6,000,000 for fiscal year 1985 and $6,000,000 for fiscal year 1986.

(Pub. L. 91–513, title II, § 503, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 96–359, § 8(a) Sept. 26, 1980, 94 Stat. 1194; Pub. L. 98–473, title II, § 517, Oct. 12, 1984, 98 Stat. 2074; Pub. L. 99–570, title I, § 1868, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, § 85, Nov. 10, 1986, 100 Stat. 3620; Pub. L. 111–211, title II, § 232(c), July 29, 2010, 124 Stat. 2278; Pub. L. 115–271, title III, § 3273(b), Oct. 24, 2018, 132 Stat. 3953.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(7), was in the original as added by Pub. L. 99–646 ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. In the subsec. (a)(7) added by Pub. L. 99–570, the reference was ''this title'', meaning title II of Pub. L. 91–513 which is popularly known as the ''Controlled Substances Act'' and is classified principally to this subchapter. For complete classification of this Act and title II to the Code, see Short Title note set out under section 801 of this title and Tables.

Schedule II, referred to in subsec. (c), is set out in section 812(c) of this title.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115–271 added subsec. (c) and struck out former subsec. (c). Prior to amendment, text read as follows: ''The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.''

2010—Subsec. (a). Pub. L. 111–211, § 232(c)(1)(A), inserted ''tribal,'' after ''State,'' wherever appearing in introductory provisions and pars. (3) and (4).

Subsec. (a)(6), (7). Pub. L. 111–211, § 232(c)(1)(B), inserted '', tribal,'' after ''State'' wherever appearing.

[1] See References in Text note below.

Subsec. (d)(1). Pub. L. 111–211, §232(c)(2), inserted '', tribal,'' after ''State'' in introductory provisions.

1986—Subsec. (a)(7). Pub. L. 99–570 and Pub. L. 99–646 made substantially identical amendment, adding par. (7).

1984—Subsec. (a)(6). Pub. L. 98–473, §517(a), added par. (6).

Subsec. (d). Pub. L. 98–473, §517(b), added subsec. (d).

1980—Subsec. (c). Pub. L. 96–359 added subsec. (c).

Statutory Notes and Related Subsidiaries

ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS

Pub. L. 107–306, title VIII, §826, Nov. 27, 2002, 116 Stat. 2429, which required the Counterdrug Intelligence Coordinating Group to submit to certain committees of Congress an annual report on counterdrug intelligence matters, was repealed by Pub. L. 111–259, title III, §347(g), Oct. 7, 2010, 124 Stat. 2699.

COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING

Pub. L. 106–310, div. B, title XXXVI, §3625, Oct. 17, 2000, 114 Stat. 1233, provided that:

''(a) ACTIVITIES.—In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may—

''(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;

''(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;

''(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;

''(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;

''(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104–237) [see Short Title of 1996 Amendments note set out under section 801 of this title];

''(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;

''(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTRANS) of the Administration;

''(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and

''(9) carry out such other activities as the Administrator considers appropriate.

''(b) ADDITIONAL POSITIONS AND PERSONNEL.—

''(1) IN GENERAL.—In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.

''(2) PARTICULAR POSITIONS.—In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Drug Enforcement Administration for each fiscal year after fiscal year 1999, $9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which $3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and for employing personnel in positions established under subsection (b)(2).''

NATIONAL DRUG INTELLIGENCE CENTER

Pub. L. 108–487, title I, §104(e), Dec. 23, 2004, 118 Stat. 3942, provided that:

''(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a) [118 Stat. 3941], $42,322,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2006, and funds provided for procurement purposes shall remain available until September 30, 2007.

''(2) TRANSFER OF FUNDS.—The Director of National Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

''(3) LIMITATION.—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)) [now 50 U.S.C. 3025(d)(1)].

''(4) AUTHORITY.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.''

Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–177, title I, §104(e), Dec. 13, 2003, 117 Stat. 2602.

Pub. L. 107–306, title I, §104(e), Nov. 27, 2002, 116 Stat. 2387.

Pub. L. 107–108, title I, §104(e), Dec. 28, 2001, 115 Stat. 1396.

Pub. L. 106–567, title I, §104(e), Dec. 27, 2000, 114 Stat. 2834.

Pub. L. 106–120, title I, §104(e), Dec. 3, 1999, 113 Stat. 1609.

Pub. L. 105–272, title I, §104(e), Oct. 20, 1998, 112 Stat. 2398.

Pub. L. 105–107, title I, §104(e), Nov. 20, 1997, 111 Stat. 2250.

Pub. L. 104–293, title I, §104(d), Oct. 11, 1996, 110 Stat. 3464.

Pub. L. 103–139, title VIII, §8056, Nov. 11, 1993, 107 Stat. 1452, provided that: ''During the current fiscal year and thereafter, there is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided*, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 102–396, title IX, § 9078, Oct. 6, 1992, 106 Stat. 1919.

§ 874. Advisory committees

The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of $100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(Pub. L. 91–513, title II, § 504, Oct. 27, 1970, 84 Stat. 1272.)

Statutory Notes and Related Subsidiaries

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

§ 875. Administrative hearings

(a) Power of Attorney General

In carrying out his functions under this subchapter, the Attorney General may hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States.

(b) Procedures applicable

Except as otherwise provided in this subchapter, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5 of title 5.

(Pub. L. 91–513, title II, § 505, Oct. 27, 1970, 84 Stat. 1272.)

§ 876. Subpenas

(a) Authorization of use by Attorney General

In any investigation relating to his functions under this subchapter with respect to controlled substances, listed chemicals, tableting machines, or encapsulating machines, the Attorney General may subpena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) Service

A subpena issued under this section may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

(c) Enforcement

In the case of contumacy by or refusal to obey a subpena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpena. The court may issue an order requiring the subpenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

(Pub. L. 91–513, title II, § 506, Oct. 27, 1970, 84 Stat. 1272; Pub. L. 100–690, title VI, § 6058, Nov. 18, 1988, 102 Stat. 4319.)

Editorial Notes

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–690 inserted ''listed chemicals, tableting machines, or encapsulating machines,'' after ''with respect to controlled substances,''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

§ 877. Judicial review

All final determinations, findings, and conclusions of the Attorney General under this subchapter shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of

the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

(Pub. L. 91–513, title II, § 507, Oct. 27, 1970, 84 Stat. 1273.)

§ 878. Powers of enforcement personnel

(a) Any officer or employee of the Drug Enforcement Administration or any State, tribal, or local law enforcement officer designated by the Attorney General may—

(1) carry firearms;

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States;

(3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;

(4) make seizures of property pursuant to the provisions of this subchapter; and

(5) perform such other law enforcement duties as the Attorney General may designate.

(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5.

(Pub. L. 91–513, title II, § 508, Oct. 27, 1970, 84 Stat. 1273; Pub. L. 96–132, § 16(b), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 99–570, title I, § 1869, Oct. 27, 1986, 100 Stat. 3207–55; Pub. L. 99–646, § 86, Nov. 10, 1986, 100 Stat. 3620; Pub. L. 111–211, title II, § 232(d), July 29, 2010, 124 Stat. 2278.)

Editorial Notes

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–211 inserted ‘‘, tribal,’’ after ‘‘State’’ in introductory provisions.

1986—Pub. L. 99–570 and Pub. L. 99–646 amended section substantially identically designating existing provisions as subsec. (a) and adding subsec. (b), with the exception of the amendment of subsec. (a) for which Pub. L. 99–570 directed the insertion of ‘‘or (with respect to offenses under this subchapter or subchapter II of this chapter) any State or local law enforcement officer’’ and Pub. L. 99–646 directed the insertion of ‘‘or any State or local law enforcement officer’’, the latter of which was executed to reflect the probable intent of Congress.

1979—Pub. L. 96–132 substituted ‘‘Drug Enforcement Administration’’ for ‘‘Bureau of Narcotics and Dangerous Drugs’’.

§ 879. Search warrants

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate judge issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(Pub. L. 91–513, title II, § 509, Oct. 27, 1970, 84 Stat. 1274; Pub. L. 93–481, § 3, Oct. 26, 1974, 88 Stat. 1455; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

AMENDMENTS

1974—Pub. L. 93–481 struck out designation ‘‘(a)’’ before ‘‘A search warrant’’, and struck out subsec. (b) which permitted officers authorized to execute search warrants to break open and enter premises under certain circumstances and which required that such officers identify themselves and give reasons and authority for their entry after such entry.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

‘‘United States magistrate judge’’ substituted in text for ‘‘United States magistrate’’ pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 880. Administrative inspections and warrants

(a) “Controlled premises” defined

As used in this section, the term ‘‘controlled premises’’ means—

(1) places where original or other records or documents required under this subchapter are kept or required to be kept, and

(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 823 of this title (or exempt from registration under section 822(d) of this title or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained.

(b) Grant of authority; scope of inspections

(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this subchapter and otherwise facilitating the carrying out of his functions under this subchapter, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as ‘‘inspectors’’) designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this subchapter;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises

and all pertinent equipment, finished and unfinished drugs, listed chemicals, and other substances or materials, containers, and labeling found therein, and, except as provided in paragraph (4) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this subchapter; and

(C) to inventory any stock of any controlled substance or listed chemical therein and obtain samples of any such substance or chemical.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

(c) Situations not requiring warrants

A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpena issued in accordance with section 876 of this title, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

(d) Administrative inspection warrants; issuance; execution; probable cause

Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate judge, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this subchapter or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term ''probable cause'' means a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate judge and establishing the grounds for issuing the warrant. If the judge or magistrate judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b)(2) to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate judge to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the judge or magistrate judge allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate judge, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate judge who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(Pub. L. 91–513, title II, § 510, Oct. 27, 1970, 84 Stat. 1274; Pub. L. 101–647, title XXXV, § 3599M, Nov. 29, 1990, 104 Stat. 4932; Pub. L. 101–650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117; Pub. L. 103–200, § 6, Dec. 17, 1993, 107 Stat. 2339.)

Editorial Notes

AMENDMENTS

1993—Subsec. (a)(2). Pub. L. 103–200, § 6(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempted from registration under section 822(d) of this title) may lawfully hold, manufacture, or distribute, dispense, ad-

minister, or otherwise dispose of controlled substances.''

Subsec. (b)(3)(B). Pub. L. 103–200, §6(2)(A), inserted '', listed chemicals,'' after ''unfinished drugs''.

Subsec. (b)(3)(C). Pub. L. 103–200, §6(2)(B), inserted ''or listed chemical'' after ''controlled substance'' and ''or chemical'' after ''such substance''.

1990—Subsec. (b)(3)(B). Pub. L. 101–647 substituted ''paragraph (4)'' for ''paragraph (5)''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, wherever appearing in subsec. (d) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

§ 881. Forfeitures

(a) Subject property

The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance or listed chemical in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1), (2), or (9).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9).

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment.

(8) All controlled substances which have been possessed in violation of this subchapter.

(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired, imported, or exported, in violation of this subchapter or subchapter II.

(10) Any drug paraphernalia (as defined in section 863 of this title).

(11) Any firearm (as defined in section 921 of title 18) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.

(b) Seizure procedures

Any property subject to forfeiture to the United States under this section may be seized by the Attorney General in the manner set forth in section 981(b) of title 18.

(c) Custody of Attorney General

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) Other laws and proceedings applicable

The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Disposition of forfeited property

(1) Whenever property is civilly or criminally forfeited under this subchapter the Attorney General may—

(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, transfer the property to any Federal agency or to any

State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

(B) except as provided in paragraph (4), sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

(D) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General); or

(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(i) has been agreed to by the Secretary of State;

(ii) is authorized in an international agreement between the United States and the foreign country; and

(iii) is made to a country which, if applicable, has been certified under section 2291j(b) of title 22.

(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this subchapter shall be used to pay—

(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A), except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, such moneys and proceeds.

(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this subchapter, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

(i) such use will be the principal use of the property; and

(ii) title to the property reverts to the United States in the event that the property is used otherwise.

(f) Forfeiture and destruction of schedule I and II substances

(1) All controlled substances in schedule I or II that are possessed, transferred, sold, or offered for sale in violation of the provisions of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I or II, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products under such circumstances as the Attorney General may deem necessary.

(g) Plants

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon

any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) Vesting of title in United States

All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) Stay of civil forfeiture proceedings

The provisions of section 981(g) of title 18 regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section.

(j) Venue

In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(*l*)[1] Agreement between Attorney General and Postal Service for performance of functions

The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

(Pub. L. 91–513, title II, §511, Oct. 27, 1970, 84 Stat. 1276; Pub. L. 95–633, title III, §301(a), Nov. 10, 1978, 92 Stat. 3777; Pub. L. 96–132, §14, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 98–473, title II, §§306, 309, 518, Oct. 12, 1984, 98 Stat. 2050, 2051, 2075; Pub. L. 99–570, title I, §§1006(c), 1865, 1992, Oct. 27, 1986, 100 Stat. 3207–7, 3207–54, 3207–59; Pub. L. 99–646, §74, Nov. 10, 1986, 100 Stat. 3618; Pub. L. 100–690, title V, §5105, title VI, §§6059, 6074, 6075, 6077(a), (b), 6253, Nov. 18, 1988, 102 Stat. 4301, 4319, 4323–4325, 4363; Pub. L. 101–189, div. A, title XII, §1215(a), Nov. 29, 1989, 103 Stat. 1569; Pub. L. 101–647, title XX, §§2003, 2004, 2007, 2008, Nov. 29, 1990, 104 Stat. 4855, 4856; Pub. L. 102–239, §2, Dec. 17, 1991, 105 Stat. 1912; Pub. L. 103–447, title I, §102(d), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 104–237, title II, §201(b), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 106–185, §§2(c)(2), 5(b), 8(b), Apr. 25, 2000, 114 Stat. 210, 214, 216; Pub. L. 107–273, div. B, title IV, §4002(e)(3), Nov. 2, 2002, 116 Stat. 1810.)

Editorial Notes

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (a)(9), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

Schedules I and II, referred to in subsecs. (f) and (g), are set out in section 812(c) of this title.

AMENDMENTS

2002—Subsec. (a)(10). Pub. L. 107–273 substituted ''section 863 of this title'' for ''section 1822 of the Mail Order Drug Paraphernalia Control Act''.

2000—Subsec. (a)(4). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that—

''(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter;

''(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

''(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner''.

Subsec. (a)(6). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner''.

Subsec. (a)(7). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner''.

Subsec. (b). Pub. L. 106–185, §5(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, subsec. (b) authorized the Attorney General to seize property under this subchapter upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime claims and to seize it without process in certain described circumstances.

Subsec. (i). Pub. L. 106–185, §8(b), inserted heading and amended text of subsec. (i) generally. Prior to amendment, text read as follows: ''The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter, or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter, which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.''

1996—Subsec. (a)(2), (6). Pub. L. 104–237, §201(b)(1), inserted ''or listed chemical'' after ''controlled substance''.

Subsec. (a)(9). Pub. L. 104–237, §201(b)(2), substituted ''possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired,'' for ''possessed, distributed, or intended to be distributed,'' and struck out ''a felony provision of'' after ''in violation of''.

1994—Subsec. (e)(1)(E)(iii). Pub. L. 103–447 substituted ''section 2291j(b) of title 22'' for ''section 2291(h) of title 22''.

1991—Subsec. (e)(1)(B). Pub. L. 102–239, §2(1), substituted ''except as provided in paragraph (4), sell'' for ''sell''.

Subsec. (e)(4). Pub. L. 102–239, §2(2), added par. (4).

1990—Subsec. (a)(10). Pub. L. 101–647, §2007, added par. (10).

Subsec. (a)(11). Pub. L. 101–647, §2008, added par. (11).

Subsec. (e)(1)(B). Pub. L. 101–647, §2003, inserted '', by public sale or any other commercially feasible means,'' after ''sell''.

Subsec. (f). Pub. L. 101–647, §2004, inserted ''; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this sec-

[1] So in original. No subsec. (k) has been enacted.

tion; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products'' after ''this subchapter'' in pars. (1) and (2).

1989—Subsec. (e)(3)(B). Pub. L. 101–189 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.''

1988—Subsec. (a)(3). Pub. L. 100–690, § 6059(b), inserted reference to par. (9).

Subsec. (a)(4). Pub. L. 100–690, §§ 6059(b), 6075, inserted in introductory provisions reference to par. (9) and added subpar. (C).

Subsec. (a)(7). Pub. L. 100–690, § 5105, inserted ''(including any leasehold interest)'' after ''interest''.

Subsec. (a)(9). Pub. L. 100–690, § 6059(a), added par. (9).

Subsec. (e)(1)(A). Pub. L. 100–690, § 6077(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''retain the property for official use or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 1616a of title 19;''.

Subsec. (e)(1)(E). Pub. L. 100–690, § 6074, added subpar. (E).

Subsec. (e)(2)(B). Pub. L. 100–690, § 6253(b), provided for deposit of moneys and proceeds in Postal Service Fund in cases of forfeitures conducted by Postal Service.

Subsec. (e)(3). Pub. L. 100–690, § 6077(a), added par. (3).

Subsec. (*l*). Pub. L. 100–690, § 6253(a), added subsec. (*l*).

1986—Subsec. (b). Pub. L. 99–570, § 1865(1)–(3), and Pub. L. 99–646, § 74(1)–(3), in making identical amendments in introductory provision and par. (4), struck out ''or criminal'' after ''subject to civil'' and inserted paragraph permitting the Government to request issuance of a warrant authorizing seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

Subsec. (e). Pub. L. 99–570, § 1992, designated existing provisions as par. (1) and former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2) in lieu of former concluding provisions which read as follows: ''The Attorney General shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General pursuant to paragraph (1) shall not be subject to review. The proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 any amounts of such moneys and proceeds remaining after payment of such expenses.''

Subsec. (f). Pub. L. 99–570, § 1006(c), which directed the amendment of section 511 of the ''Comprehensive Drug Abuse Prevention Act of 1978'' was executed to this section which is section 511 of the Comprehensive Drug Abuse Prevention Act of 1970, as the probable intent of Congress, by designating existing provisions as par. (1), inserting ''or II'' in two places, and adding par. (2).

Subsec. (i). Pub. L. 99–570, § 1865(b) and Pub. L. 99–646, § 74(b), made identical amendments, inserting '', or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter,''.

1984—Subsec. (a)(7). Pub. L. 98–473, § 306(a), added par. (7).

Subsec. (a)(8). Pub. L. 98–473, § 518, added par. (8).

Subsec. (b). Pub. L. 98–473, § 306(b)(1), inserted ''civil or criminal'' after ''property subject to''.

Subsec. (b)(4). Pub. L. 98–473, § 306(b)(2), substituted ''is subject to civil or criminal forfeiture under'' for ''has been used or is intended to be used in violation of''.

Subsec. (c). Pub. L. 98–473, § 306(c)(1), in provisions preceding par. (1), inserted ''any of'' after ''seized under''.

Subsec. (c)(3). Pub. L. 98–473, § 306(c)(2), inserted '', if practicable,'' after ''remove it''.

Subsec. (d). Pub. L. 98–473, § 306(d), inserted ''any of'' after ''incurred, under''.

Subsec. (e). Pub. L. 98–473, §§ 306(e), 309, inserted ''civilly or criminally'' after ''Whenever property is'' and in provisions preceding par. (1), inserted provisions relating to transfer of custody or ownership of forfeited property in par. (1), substituted ''and dispose of it'' for ''and remove it for disposition'' in par. (3), and, in provisions following par. (4), inserted sentence requiring the Attorney General to ensure equitable transfer of any forfeited property, and substituted ''accordance with section 524(c) of title 28'' for ''the general fund of the United States Treasury''.

Subsecs. (h) to (j). Pub. L. 98–473, § 306(f), added subsecs. (h) to (j).

1979—Subsec. (d). Pub. L. 96–132 substituted ''The provisions'' for ''All provisions'' and struck out ''and the award of compensation to informers in respect of such forfeitures'' after ''compromise of claims''.

1978—Subsec. (a)(6). Pub. L. 95–633, § 301(1), added par. (6).

Subsec. (e). Pub. L. 95–633, § 301(a)(2), (3), struck out of cl. (2) provisions relating to use of proceeds of sale and inserted last sentence relating to the forwarding by the Attorney General of money and proceeds remaining after payment of expenses.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–189, div. A, title XII, § 1215(b), Nov. 29, 1989, 103 Stat. 1569, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6059 of Pub. L. 100–690 effective 120 days after Nov. 18, 1988, see section 6061 of Pub. L. 100–690, set out as a note under section 802 of this title.

Pub. L. 100–690, title VI, § 6077(c), Nov. 18, 1988, 102 Stat. 4325, as amended by Pub. L. 101–162, title II, § 208, Nov. 21, 1989, 103 Stat. 1005, provided that: ''Section 551(e)(3)(B) of the Controlled Substances Act [probably means section 511(e)(3)(B) of the Controlled Substances Act, 21 U.S.C. 881(e)(3)(B)], as enacted by subsection (a), shall apply with respect to fiscal years beginning after September 30, 1991.''

CONSTRUCTIVE SEIZURE PROCEDURES

Pub. L. 101–225, title II, § 210, Dec. 12, 1989, 103 Stat. 1913, provided that: ''Not later than 6 months after the date of enactment of this Act [Dec. 12, 1989], the Secretary of Transportation and the Secretary of the Treasury, in order to avoid the devastating economic effects on innocent owners of seizures of their vessels, shall develop a procedure for constructive seizure of vessels of the United States engaged in commercial service as defined in section 2101 of title 46, United States Code, that are suspected of being used for committing violations of law involving personal use quantities of controlled substances.''

REGULATIONS FOR EXPEDITED ADMINISTRATIVE FORFEITURE PROCEDURES

Pub. L. 100–690, title VI, § 6079, Nov. 18, 1988, 102 Stat. 4325, provided that:

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act [Nov. 18, 1988], the Attorney General and the Secretary of the Treasury shall consult, and after providing a 30-day public comment period, shall prescribe regulations for expedited administrative procedures for seizures under section 511(a)(4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a)(4), (6), and (7)); section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)); and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. App. 782 [now 49 U.S.C. 80303]) for violations involving the possession of personal use quantities of a controlled substance.

''(b) SPECIFICATIONS.—The regulations prescribed pursuant to subsection (a) shall—

''(1) minimize the adverse impact caused by prolonged detention, and

''(2) provide for a final administrative determination of the case within 21 days of seizure, or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering a final determination shall immediately return the property if the following conditions are established:

''(A) the owner or interested party did not know of or consent to the violation;

''(B) the owner establishes a valid, good faith interest in the seized property as owner or otherwise; and

''(C)(1) the owner establishes that the owner at no time had any knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law; and

''(2) if the owner at any time had, or should have had, knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law, that the owner did what reasonably could be expected to prevent the violation.

An owner shall not have the seized property returned under this subsection if the owner had not acted in a normal and customary manner to ascertain how the property would be used.

''(c) NOTICE.—At the time of seizure or upon issuance of a summons to appear under subsection (d), the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

''(d) SUMMONS IN LIEU OF SEIZURE OF COMMERCIAL FISHING INDUSTRY VESSELS.—Not later than 90 days after the enactment of this Act [Nov. 18, 1988], the Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall prescribe joint regulations, after a public comment period of at least 30 days, providing for issuance of a summons to appear in lieu of seizure of a commercial fishing industry vessel as defined in section 2101(11a), (11b), and (11c) [now 2101(12), (13), and (14)] of title 46, United States Code, for violations involving the possession of personal use quantities of a controlled substance. These regulations shall apply when the violation is committed on a commercial fishing industry vessel that is proceeding to or from a fishing area or intermediate port of call, or is actively engaged in fishing operations. The authority provided under this section shall not affect existing authority to arrest an individual for drug-related offenses or to release that individual into the custody of the vessel's master. Upon answering a summons to appear, the procedures set forth in subsections (a), (b), and (c) of this section shall apply. The jurisdiction of the district court for any forfeiture incurred shall not be affected by the use of a summons under this section.

''(e) PERSONAL USE QUANTITIES OF A CONTROLLED SUBSTANCE.—For the purposes of this section, personal use quantities of a controlled substance shall not include sweepings or other evidence of non-personal use amounts.''

Executive Documents

TRANSFER OF FUNCTIONS

Bureau of Narcotics and Dangerous Drugs, including office of Director thereof, in Department of Justice abolished by Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 2 of 1973 also created in Department of Justice a single, comprehensive agency for enforcement of drug laws to be known as Drug Enforcement Administration, empowered Attorney General to authorize performance by officers, employees, and agencies of Department of functions transferred to him, and directed Attorney General to coordinate all drug law enforcement functions to assure maximum cooperation between Drug Enforcement Administration, Federal Bureau of Investigation, and other units of Department of Justice involved in drug law enforcement.

§§ 881–1, 881a. Transferred

Editorial Notes

CODIFICATION

Section 881–1, Pub. L. 91–513, title II, § 511A, as added Pub. L. 100–690, title VI, § 6080(a), Nov. 18, 1988, 102 Stat. 4326, which related to expedited procedures for seized conveyances, was renumbered § 518 of Pub. L. 91–513 by Pub. L. 101–647, title X, § 1002(h)(1), Nov. 29, 1990, 104 Stat. 4828, transferred to section 888 of this title and subsequently repealed.

Section 881a, Pub. L. 99–198, title XVII, § 1764, Dec. 23, 1985, 99 Stat. 1652, which related to production control of controlled substances, was renumbered section 519 of the Controlled Substances Act by Pub. L. 101–647, title X, § 1002(h)(2), Nov. 29, 1990, 104 Stat. 4828, and is classified to section 889 of this title.

§ 882. Injunctions

(a) Jurisdiction

The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this subchapter.

(b) Jury trial

In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

(c) State cause of action pertaining to online pharmacies

(1) In general

In any case in which the State has reason to believe that an interest of the residents of that State has been or is being threatened or adversely affected by the action of a person, entity, or Internet site that violates the provisions of section 823(g), 829(e), or 831 of this title, the State may bring a civil action on behalf of such residents in a district court of the United States with appropriate jurisdiction—

(A) to enjoin the conduct which violates this section;

(B) to enforce compliance with this section;

(C) to obtain damages, restitution, or other compensation, including civil penalties under section 842(b) of this title; and

(D) to obtain such other legal or equitable relief as the court may find appropriate.

(2) Service; intervention

(A) Prior to filing a complaint under paragraph (1), the State shall serve a copy of the complaint upon the Attorney General and upon the United States Attorney for the judicial district in which the complaint is to be filed. In any case where such prior service is not feasible, the State shall serve the complaint on the Attorney General and the appropriate United States Attorney on the same day that the State's complaint is filed in Federal district court of the United States. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or any other proceedings under this subchapter or any other laws of the United States.

(B) Upon receiving notice respecting a civil action pursuant to this section, the United States shall have the right to intervene in such action and, upon so intervening, to be heard on all matters arising therein, and to file petitions for appeal.

(C) Service of a State's complaint on the United States as required in this paragraph shall be made in accord with the requirements of rule 4(i)(1) of the Federal Rule[1] of Civil Procedure.

(3) Powers conferred by State law

For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general of a State by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses of or the production of documentary or other evidence.

(4) Venue

Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28. Process in such action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

(5) No private right of action

No private right of action is created under this subsection.

(6) Limitation

No civil action may be brought under paragraph (1) against—

(A) the United States;

(B) an Indian Tribe or tribal organization, to the extent such tribe or tribal organization is lawfully carrying out a contract or compact under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.]; or

(C) any employee of the United States or such Indian tribe or tribal organization, provided such agent or employee is acting in the usual course of business or employment, and within the scope of the official duties of such agent or employee therewith.

(Pub. L. 91–513, title II, § 512, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 110–425, § 3(h), Oct. 15, 2008, 122 Stat. 4830; Pub. L. 117–215, title I, § 103(b)(1)(I), Dec. 2, 2022, 136 Stat. 2263.)

Editorial Notes

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsecs. (a), (b), and (c)(2)(C), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

This subchapter, referred to in subsecs. (a) and (c)(2)(A), was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

This chapter, referred to in subsec. (c)(3), was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(6)(B), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§ 5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

AMENDMENTS

2022—Subsec. (c)(1). Pub. L. 117–215 substituted ''823(g)'' for ''823(f)'' in introductory provisions.

2008—Subsec. (c). Pub. L. 110–425 added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–425 effective 180 days after Oct. 15, 2008, except as otherwise provided, see section 3(j) of Pub. L. 110–425, set out as a note under section 802 of this title.

§ 883. Enforcement proceedings

Before any violation of this subchapter is reported by the Administrator of the Drug Enforcement Administration to any United States attorney for institution of a criminal proceeding, the Administrator may require that the person against whom such proceeding is contemplated is given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

(Pub. L. 91–513, title II, § 513, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 96–132, § 16(c), Nov. 30, 1979, 93 Stat. 1049.)

Editorial Notes

AMENDMENTS

1979—Pub. L. 96–132 substituted ''Administrator of the Drug Enforcement Administration'' for ''Director of the Bureau of Narcotics and Dangerous Drugs'' and ''Administrator may'' for ''Director may''.

§ 884. Immunity and privilege

(a) Refusal to testify

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify

[1] So in original. Probably should be ''Rules''.

or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this subchapter, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

(b) Order of United States district court

In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

(c) Request by United States attorney

A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Pub. L. 91–513, title II, §514, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 100–690, title VII, §7020(f), Nov. 18, 1988, 102 Stat. 4396.)

Editorial Notes

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–690 inserted reference to Associate Attorney General.

§ 885. Burden of proof; liabilities

(a) Exemptions and exceptions; presumption in simple possession offenses

(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subchapter, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

(2) In the case of a person charged under section 844(a) of this title with the possession of a controlled substance, any label identifying such substance for purposes of section 353(b)(2) of this title shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

(b) Registration and order forms

In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this subchapter, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

(c) Use of vehicles, vessels, and aircraft

The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this subchapter shall be on the persons engaged in such use.

(d) Immunity of Federal, State, local and other officials

Except as provided in sections 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

(Pub. L. 91–513, title II, §515, Oct. 27, 1970, 84 Stat. 1279.)

Editorial Notes

REFERENCES IN TEXT

Schedule I, referred to in subsec. (c), is set out in section 812(c) of this title.

§ 886. Payments and advances

(a) Payment to informers

The Attorney General is authorized to pay any person, from funds appropriated for the Drug Enforcement Administration, for information concerning a violation of this subchapter, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

(b) Reimbursement for purchase of controlled substances

Moneys expended from appropriations of the Drug Enforcement Administration for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Administration.[1]

(c) Advance of funds for enforcement purposes

The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this subchapter.

[1] See Codification note below.

(d) Drug Pollution Fund

(1) There is established in the Treasury a trust fund to be known as the ''Drug Pollution Fund'' (hereinafter referred to in this subsection as the ''Fund''), consisting of amounts appropriated or credited to such Fund under section 841(b)(6) of this title.

(2) There are hereby appropriated to the Fund amounts equivalent to the fines imposed under section 841(b)(6) of this title.

(3) Amounts in the Fund shall be available, as provided in appropriations Acts, for the purpose of making payments in accordance with paragraph (4) for the clean up of certain pollution resulting from the actions referred to in section 841(b)(6) of this title.

(4)(A) The Secretary of the Treasury, after consultation with the Attorney General, shall make payments under paragraph (3), in such amounts as the Secretary determines appropriate, to the heads of executive agencies or departments that meet the requirements of subparagraph (B).

(B) In order to receive a payment under paragraph (3), the head of an executive agency or department shall submit an application in such form and containing such information as the Secretary of the Treasury shall by regulation require. Such application shall contain a description of the fine imposed under section 841(b)(6) of this title, the circumstances surrounding the imposition of such fine, and the type and severity of pollution that resulted from the actions to which such fine applies.

(5) For purposes of subchapter B of chapter 98 of title 26, the Fund established under this paragraph shall be treated in the same manner as a trust fund established under subchapter A of such chapter.

(Pub. L. 91–513, title II, § 516, Oct. 27, 1970, 84 Stat. 1279; Pub. L. 96–132, § 16(b), Nov. 30, 1979, 93 Stat. 1049; Pub. L. 100–690, title VI, § 6254(i), Nov. 18, 1988, 102 Stat. 4367.)

Editorial Notes

CODIFICATION

In subsec. (b), ''Administration'' substituted for ''Bureau'' as the probable intent of Congress in view of amendment by Pub. L. 96–132, which substituted references to the Drug Enforcement Administration for references to the Bureau of Narcotics and Dangerous Drugs wherever appearing in text.

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–690 added subsec. (d).

1979—Subsecs. (a), (b). Pub. L. 96–132 substituted ''Drug Enforcement Administration'' for ''Bureau of Narcotics and Dangerous Drugs''.

Statutory Notes and Related Subsidiaries

REIMBURSEMENT BY DRUG ENFORCEMENT ADMINISTRATION OF EXPENSES INCURRED TO REMEDIATE METHAMPHETAMINE LABORATORIES

Pub. L. 106–310, div. B, title XXXVI, § 3672, Oct. 17, 2000, 114 Stat. 1246, provided that:

''(a) REIMBURSEMENT AUTHORIZED.—The Attorney General, acting through the Administrator of the Drug Enforcement Administration, may reimburse States, units of local government, Indian tribal governments, other public entities, and multi-jurisdictional or regional consortia thereof for expenses incurred to clean up and safely dispose of substances associated with clandestine methamphetamine laboratories which may present a danger to public health or the environment.

''(b) ADDITIONAL DEA PERSONNEL.—From amounts appropriated or otherwise made available to carry out this section, the Attorney General may hire not more than five additional Drug Enforcement Administration personnel to administer this section.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Attorney General to carry out this section $20,000,000 for fiscal year 2001.''

§ 886a. Diversion Control Fee Account

(1) In general

There is established in the general fund of the Treasury a separate account which shall be known as the Diversion Control Fee Account. For fiscal year 1993 and thereafter:

(A) There shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program.

(B) Such amounts as are deposited into the Diversion Control Fee Account shall remain available until expended and shall be refunded out of that account by the Secretary of the Treasury, at least on a quarterly basis, to reimburse the Drug Enforcement Administration for expenses incurred in the operation of the diversion control program. Such reimbursements shall be made without distinguishing between expenses related to controlled substance activities and expenses related to chemical activities.

(C) Fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.

(D) The amount required to be refunded from the Diversion Control Fee Account for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate fifteen days in advance.

(2) Definitions

In this section:

(A) Diversion control program

The term ''diversion control program'' means the controlled substance and chemical diversion control activities of the Drug Enforcement Administration.

(B) Controlled substance and chemical diversion control activities

The term ''controlled substance and chemical diversion control activities'' means those activities related to the registration and control of the manufacture, distribution, dispensing, importation, and exportation of controlled substances and listed chemicals.

(Pub. L. 102–395, title I, § 111(b), Oct. 6, 1992, 106 Stat. 1843; Pub. L. 105–362, title X, § 1001(b), Nov.

10, 1998, 112 Stat. 3291; Pub. L. 108–447, div. B, title VI, §633(a), Dec. 8, 2004, 118 Stat. 2921.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, and not as part of the Controlled Substances Act which comprises this subchapter.

AMENDMENTS

2004—Pub. L. 108–447, §633(a)(2) to (4), designated existing provisions as par. (1) and inserted heading, substituted ''program. Such reimbursements shall be made without distinguishing between expenses related to controlled substance activities and expenses related to chemical activities'' for ''program'' in par. (1)(B), and added par. (2).

Pub. L. 108–447, §633(a)(1), which directed redesignation of pars. (1) to (5) as subpars. (A) to (E) and adjustment of margins, was executed by redesignating pars. (1) to (4) as (A) to (D), respectively, to reflect the probable intent of Congress, because Pub. L. 105–362 struck out par. (5). See 1998 Amendment note below.

1998—Par. (5). Pub. L. 105–362 struck out par. (5) which read as follows: ''The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.''

§ 887. Coordination and consolidation of post-seizure administration

The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this subchapter, subchapter II, or provisions of the customs laws relating to controlled substances.

(Pub. L. 91–513, title II, §517, as added Pub. L. 100–690, title VI, §6078(a), Nov. 18, 1988, 102 Stat. 4325.)

§ 888. Repealed. Pub. L. 106–185, § 2(c)(3), Apr. 25, 2000, 114 Stat. 210

Section, Pub. L. 91–513, title II, §518, formerly §511A, as added Pub. L. 100–690, title VI, §6080(a), Nov. 18, 1988, 102 Stat. 4326; renumbered §518, Pub. L. 101–647, title X, §1002(h)(1), Nov. 29, 1990, 104 Stat. 4828, related to expedited procedures for seized conveyances.

Section was classified to section 881–1 of this title prior to renumbering by Pub. L. 101–647.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106–185, set out as an Effective Date of 2000 Amendment note under section 1324 of Title 8, Aliens and Nationality.

§ 889. Production control of controlled substances

(a) Definitions

As used in this section:

(1) The term ''controlled substance'' has the same meaning given such term in section 802(6) of this title.

(2) The term ''Secretary'' means the Secretary of Agriculture.

(3) The term ''State'' means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b) Persons ineligible for Federal agricultural program benefits

Notwithstanding any other provision of law, following December 23, 1985, any person who is convicted under Federal or State law of planting, cultivation, growing, producing, harvesting, or storing a controlled substance in any crop year shall be ineligible for—

(1) as to any commodity produced during that crop year, and the four succeeding crop years, by such person—

(A) any price support or payment made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(B) a farm storage facility loan made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(C) crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(D) a disaster payment made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(E) a loan made, insured or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration; or

(2) a payment made under section 4 or 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b or 714c) for the storage of an agricultural commodity that is—

(A) produced during that crop year, or any of the four succeeding crop years, by such person; and

(B) acquired by the Commodity Credit Corporation.

(c) Regulations

Not later than 180 days after December 23, 1985, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out this section, including regulations that—

(1) define the term ''person'';

(2) govern the determination of persons who shall be ineligible for program benefits under this section; and

(3) protect the interests of tenants and sharecroppers.

(Pub. L. 91–513, title II, §519, formerly Pub. L. 99–198, title XVII, §1764, Dec. 23, 1985, 99 Stat. 1652; renumbered §519 of Pub. L. 91–513, Pub. L. 101–647, title X, §1002(h)(2), Nov. 29, 1990, 104 Stat. 4828.)

Editorial Notes

REFERENCES IN TEXT

The Agricultural Act of 1949, referred to in subsec. (b)(1)(A), (D), is act Oct. 31, 1949, ch. 792, 63 Stat. 1051, which is classified principally to chapter 35A (§1421 et

seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1421 of Title 7 and Tables.

The Commodity Credit Corporation Charter Act, referred to in subsec. (b)(1)(A), is act June 29, 1948, ch. 704, 62 Stat. 1070, and is classified generally to subchapter II (§ 714 et seq.) of chapter 15 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 714 of Title 15 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (b)(1)(C), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§ 1501 et seq.) of chapter 36 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

The Consolidated Farm and Rural Development Act, referred to in subsec. (b)(1)(E), is title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

CODIFICATION

Section was classified to section 881a of this title prior to renumbering by Pub. L. 101–647.

AMENDMENTS

1990—Pub. L. 101–647 renumbered section 881a of this title as this section.

Executive Documents

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 890. Review of Federal sales of chemicals usable to manufacture controlled substances

A Federal department or agency may not sell from the stocks of the department or agency any chemical which, as determined by the Administrator of the Drug Enforcement Administration, could be used in the manufacture of a controlled substance unless the Administrator certifies in writing to the head of the department or agency that there is no reasonable cause to believe that the sale of the chemical would result in the illegal manufacture of a controlled substance.

(Pub. L. 91–513, title II, § 520, as added Pub. L. 104–201, div. A, title X, § 1034(a), Sept. 23, 1996, 110 Stat. 2640.)

PART F—GENERAL PROVISIONS

Editorial Notes

CODIFICATION

The letter designation for this Part F was, in the original, Part G. The original Part F of title II of Pub. L. 91–513, consisting of section 601 thereof, is set out as a note under section 801 of this title. The original Part G of title II of Pub. L. 91–513 consisted of sections 701 to 709. Sections 701 to 705 amended and repealed sections in this title and in Title 18, Crimes and Criminal Procedure, and Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 321, 801, and 822 of this title. See Tables for classifications of said sections 701 to 705. Sections 706 to 709 of Pub. L. 91–513 are set out as sections 901 to 904 of this title and, for purposes of codification, comprise this Part F.

§ 901. Severability

If a provision of this chapter is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this chapter is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

(Pub. L. 91–513, title II, § 706, Oct. 27, 1970, 84 Stat. 1284.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1236. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

§ 902. Savings provisions

Nothing in this chapter, except this part and, to the extent of any inconsistency, sections 827(e) and 829 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. § 301 et seq.].

(Pub. L. 91–513, title II, § 707, Oct. 27, 1970, 84 Stat. 1284.)

Editorial Notes

REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

§ 903. Application of State law

No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.

(Pub. L. 91–513, title II, § 708, Oct. 27, 1970, 84 Stat. 1284.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the ''Controlled Substances Act''. For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

§ 904. Payment of tort claims

Notwithstanding section 2680(k) of title 28, the Attorney General, in carrying out the functions of the Department of Justice under this subchapter, is authorized to pay tort claims in the manner authorized by section 2672 of title 28, when such claims arise in a foreign country in

connection with the operations of the Drug Enforcement Administration abroad.

(Pub. L. 91–513, title II, §709, Oct. 27, 1970, 84 Stat. 1284; Pub. L. 93–481, §1, Oct. 26, 1974, 88 Stat. 1455; Pub. L. 95–137, §1(a), Oct. 18, 1977, 91 Stat. 1169; Pub. L. 96–132, §§13, 15, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 97–414, §9(g)(1), Jan. 4, 1983, 96 Stat. 2064.)

Editorial Notes

AMENDMENTS

1983—Pub. L. 97–414 struck out subsecs. (a) and (b) which had provided, respectively, that (a) there were authorized to be appropriated $105,000,000 for the fiscal year ending June 30, 1975, $175,000,000 for the fiscal year ending June 30, 1976, $200,000,000 for the fiscal year ending September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, $215,000,000 for the fiscal year ending September 30, 1979, and $198,336,000 for the fiscal year ending September 30, 1980, for the expenses of the Department of Justice in carrying out its functions under this subchapter, and that (b) no funds appropriated under any other provision of this chapter could be used for the expenses of the Department of Justice for which funds were authorized to be appropriated by former subsection (a) of this section, and removed the subsection designator (c) before ''Notwithstanding''.

1979—Subsec. (a). Pub. L. 96–132, §15, inserted provisions authorizing appropriations of $198,336,000 for the fiscal year ending Sept. 30, 1980.

Subsec. (c). Pub. L. 96–132, §13, added subsec. (c).

1977—Subsec. (a). Pub. L. 95–137 substituted ''September 30, 1977, $188,000,000 for the fiscal year ending September 30, 1978, and $215,000,000 for the fiscal year ending September 30, 1979,'' for ''June 30, 1977,'' and struck out ''(other than its expenses incurred in connection with carrying out section 803(a) of this title)''.

1974—Pub. L. 93–481 designated existing provisions as subsec. (a), substituted authorization of appropriations for fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, for authorization of appropriations for fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974, and added subsec. (b).

SUBCHAPTER II—IMPORT AND EXPORT

Editorial Notes

CODIFICATION

This subchapter is comprised of Part A of title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part B of title III contains amendatory, repealing, and transitional provisions generally classified elsewhere.

§ 951. Definitions

(a) For purposes of this subchapter—

(1) The term ''import'' means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term ''customs territory of the United States'' has the meaning assigned to such term by general note 2 of the Harmonized Tariff Schedule of the United States.

(b) Each term defined in section 802 of this title shall have the same meaning for purposes of this subchapter as such term has for purposes of subchapter I.

(Pub. L. 91–513, title III, §1001, Oct. 27, 1970, 84 Stat. 1285; Pub. L. 100–418, title I, §1214(m), Aug. 23, 1988, 102 Stat. 1158.)

Editorial Notes

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (a)(2), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

This subchapter, referred to in subsecs. (a) and (b), was in the original ''this title'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–418 substituted ''general note 2 of the Harmonized Tariff Schedule of the United States'' for ''general headnote 2 to the Tariff Schedules of the United States''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

EFFECTIVE DATE

Pub. L. 91–513, title III, §1105(a)–(c), Oct. 27, 1970, 84 Stat. 1295, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

''(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104 [see Short Title note below and sections 171 note, 951, 956, 957 note, 965, and 966 of this title], and this section shall become effective upon enactment [Oct. 27, 1970].

''(c)(1) If the Attorney General, pursuant to the authority of section 704(c) of title II [set out as a note under section 801 of this title], postpones the effective date of section 306 (relating to manufacturing quotas) [section 826 of this title] for any period beyond the date specified in section 704(a) [set out as a note under section 801 of this title], and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title] by paragraph (10) of section 1101(a) of this title is hereby postponed for the same period, except that the postponement made by this paragraph shall not apply to the repeal of sections 4, 5, 13, 15, and 16 of that Act [which were classified to sections 182, 503, 511, and 513 of this title and sections 4702, 4731, and 4731 note of Title 26, Internal Revenue Code].

''(2) Effective for any period of postponement, by paragraph (1) of this subsection, of the repeal of provisions of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], that Act shall be applied subject to the following modifications:

''(A) The term 'narcotic drug' shall mean a narcotic drug as defined in section 102(16) of title II [section 802(16) of this title], and all references, in the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4731 of Title 26] are amended to refer to a narcotic drug as defined by such section 102(16) [section 802(16) of this title].

''(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title II, [set out as a note under section 822 of this title], the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], and of a registration under section 4722 of the In-