

Union Calendar No. 167

109TH CONGRESS
1ST SESSION

H. R. 3889

[Report No. 109–299, Parts I and II]

To further regulate and punish illicit conduct relating to methamphetamine,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2005

Mr. SOUDER (for himself, Mr. SENSENBRENNER, Mr. BLUNT, Mr. COBLE, Mr. CALVERT, Mr. LARSEN of Washington, Mr. BOSWELL, Mr. KENNEDY of Minnesota, Mr. CANNON, Ms. HOOLEY, Mr. BAIRD, Mr. OSBORNE, Mr. CARDOZA, Mr. CASE, Mr. ROGERS of Alabama, Mr. LEWIS of Kentucky, Mr. BURTON of Indiana, Mr. SMITH of Texas, Mr. BACHUS, Mr. PETERSON of Pennsylvania, Mr. BOREN, Ms. HERSETH, Mr. FRANKS of Arizona, Mr. ABERCROMBIE, Mr. WALDEN of Oregon, Mr. REICHERT, Mr. WAMP, Mr. MCHENRY, Mr. GRAVES, Mr. PETERSON of Minnesota, Mr. TERRY, Mr. SCHWARZ of Michigan, Miss MCMORRIS, and Ms. GRANGER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on the Judiciary, International Relations, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 16, 2005

Reported from the Committee on the Judiciary with amendments

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

NOVEMBER 17, 2005

Additional sponsors: Mr. BOOZMAN, Ms. FOXX, Mr. MICA, Mr. COSTA, Mr. SMITH of Washington, Mr. ADERHOLT, Mr. ROGERS of Michigan, Mr. WESTMORELAND, Mr. DEFazio, Mrs. CAPITO, Mr. KLINE, Mrs. EMERSON, Mr. ALEXANDER, Mr. FITZPATRICK of Pennsylvania, Mr. OTTER, Mr. CARNAHAN, Mr. BISHOP of Utah, Mrs. CUBIN, Mr. CHABOT, Mr. SIMMONS, Mr. SHADEGG, Mrs. WILSON of New Mexico, Mr. CAMP, Mr. COOPER, Mrs. MUSGRAVE, Mr. GIBBONS, Mr. TOM DAVIS of Virginia,

Mr. NEY, Mr. ISTOOK, Mr. FILNER, Mr. SALAZAR, Mr. SESSIONS, Mr. BISHOP of Georgia, Mr. MCCOTTER, Mr. GOODLATTE, Mr. CRAMER, Mr. MOORE of Kansas, Mr. PICKERING, Ms. PRYCE of Ohio, Mr. HOEKSTRA, and Mr. BERRY

NOVEMBER 17, 2005

Reported from the Committee on Energy and Commerce with amendments
[Omit the part struck through in brackets and insert the part printed in boldface roman]

NOVEMBER 17, 2005

Committees on International Relations and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To further regulate and punish illicit conduct relating to
methamphetamine, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Methamphetamine Epidemic Elimination Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DOMESTIC REGULATION OF PRECURSOR CHEMICALS

~~Sec. 101. Regulated transactions in methamphetamine precursor chemical products.~~

Sec. 101. Scheduled listed chemical products; restrictions on sales quantity, behind-the-counter access, and other safeguards.

Sec. 102. Regulated transactions.

Sec. ~~102~~ **103.** Authority to establish production quotas.

Sec. ~~103~~ **104.** Penalties; authority for manufacturing; quota.

Sec. ~~104~~ **105.** Restrictions on importation; authority to permit imports for medical, scientific, or other legitimate purposes.

Sec. ~~105~~ **106.** Notice of importation or exportation; approval of sale or transfer by importer or exporter.

Sec. ~~106~~ **107.** Enforcement of restrictions on importation and of requirement of notice of transfer.

Sec. 108. Coordination with United States Trade Representative.

TITLE II—INTERNATIONAL REGULATION OF PRECURSOR
CHEMICALS

Sec. 201. Information on foreign chain of distribution; import restrictions regarding failure of distributors to cooperate.

Sec. 202. Requirements relating to the largest exporting and importing countries of certain precursor chemicals.

Sec. 203. Prevention of smuggling of methamphetamine into the United States from Mexico.

TITLE III—ENHANCED CRIMINAL PENALTIES FOR
METHAMPHETAMINE PRODUCTION AND TRAFFICKING

~~Sec. 301. Enhanced penalties for methamphetamine production, possession, or trafficking.~~

Sec. 301. Possession of scheduled listed chemical with intent to manufacture controlled substance.

Sec. 302. Smuggling methamphetamine or methamphetamine precursor chemicals into the united states while using facilitated entry programs.

Sec. 303. Manufacturing controlled substances on Federal property.

Sec. 304. Increased punishment for methamphetamine kingpins.

Sec. 305. New child-protection criminal enhancement.

Sec. 306. Amendment to certain sentencing court reporting requirements.

Sec. 307. Semiannual reports to congress.

TITLE IV—ENHANCED ENVIRONMENTAL REGULATION OF
METHAMPHETAMINE BY-PRODUCTS

~~【Sec. 401. Designation of by-products of methamphetamine laboratories as hazardous materials and waste under Hazardous Materials Transportation Act and Solid Waste Disposal Act.】~~

Sec. 401. Biennial report to congress on agency designations of by-products of methamphetamine laboratories as hazardous materials.

Sec. 402. Methamphetamine production report.

Sec. ~~402~~ **403.** Cleanup costs.

TITLE V—ADDITIONAL PROGRAMS AND ACTIVITIES

Sec. 501. Improvements to Department of Justice drug court grant program.

Sec. 502. Grants to hot spot areas to reduce availability of methamphetamine.

Sec. 503. Grants for programs for drug-endangered children.

1 **[TITLE I—DOMESTIC REGULA-**
2 **TION OF PRECURSOR CHEMI-**
3 **CALS**

4 **[SEC. 101. REGULATED TRANSACTIONS IN METHAMPHET-**
5 **AMINE PRECURSOR CHEMICAL PRODUCTS.**

6 **[(a) REDUCTION OF RETAIL SALES THRESHOLD.—**

7 Section 102(39)(A)(iv)(H) of the Controlled Substances
8 Act (21 U.S.C. 802(39)(A)(iv)(H)) is amended by striking
9 “shall be 9 grams” and all that follows and inserting the
10 following: “shall be any quantity of pseudoephedrine over
11 3.6 grams in a single transaction, or any quantity of phen-
12 ylpropanolamine over 3.6 grams in a single transaction,
13 and in addition shall be, in the case of such products in
14 nonliquid form, that the products be packaged in blister
15 packs, each blister containing not more than 2 dosage
16 units, or where the use of blister packs is technically infea-
17 sible, packaged in unit dose packets or pouches.”

18 **[(b) ELIMINATION OF BLISTER PACK EXEMPTION.—**

19 **[(1) REGULATED TRANSACTION.—**Section
20 102(39)(A)(iv)(I)(aa) of the Controlled Substances
21 Act (21 U.S.C. 802(39)(A)(iv)(I)(aa)) is amended by
22 striking “, except that” and all that follows through
23 “1996”).

1 **[(2) DEFINITION; CONFORMING AMEND-**
2 **MENTS.—**The Controlled Substances Act (21 U.S.C.
3 801 et seq.) is amended—

4 **[(A) in section 102—**

5 **[(i) by striking paragraph (45); and**

6 **[(ii) by redesignating paragraph (46)**
7 **as paragraph (45);**

8 **[(B) in section 204(e), by striking “shall”**
9 **the first time it appears and inserting “may”;**
10 **and**

11 **[(C) in section 310(b)(3)(D)(ii), by strik-**
12 **ing “102(46)” and inserting “102(45)”.**

13 **[(e) PUBLIC LAW 104-237.—**Section 401 of the
14 **Comprehensive Methamphetamine Control Act of 1996**
15 **(21 U.S.C. 802 note) (Public Law 104-237) is amended**
16 **by striking subsections (d), (e), and (f).**

17 **[(d) COMBINATIONS INVOLVING DERIVATIVES.—**
18 **Section 102(39) of the Controlled Substances Act (21**
19 **U.S.C. 802(39)) is amended—**

20 **[(1) in subparagraph (A)(iv)(I)(aa), by striking**
21 **“the drug contains” and all that follows through**
22 **“unless otherwise provided” and inserting the fol-**
23 **lowing: “the drug contains ephedrine,**
24 **pseudoephedrine, or phenylpropanolamine unless**
25 **otherwise provided”;** and

1 [(2) by inserting after and below subparagraph
2 (B) the following:

3 [“Each reference in subparagraph (A)(iv) to ephedrine,
4 pseudoephedrine, or phenylpropanolamine includes each of
5 the salts, optical isomers, and salts of optical isomers of
6 such chemical.”.

7 [**SEC. 102. AUTHORITY TO ESTABLISH PRODUCTION**
8 **QUOTAS.**

9 [Section 306 of the Controlled Substances Act (21
10 U.S.C. 826) is amended—

11 [(1) in subsection (a), by inserting “and for
12 ephedrine, pseudoephedrine, and phenylpropanola-
13 mine” after “for each basic class of controlled sub-
14 stance in schedules I and II”;

15 [(2) in subsection (b), by inserting “or for
16 ephedrine, pseudoephedrine, or phenylpropanola-
17 mine” after “for each basic class of controlled sub-
18 stance in schedule I or II” each place such term ap-
19 pears;

20 [(3) in subsection (c), in the first sentence, by
21 inserting “and for ephedrine, pseudoephedrine, and
22 phenylpropanolamine” after “for the basic classes of
23 controlled substances in schedules I and II”;

1 [(4) in subsection (d), by inserting “or ephed-
2 rine, pseudoephedrine, or phenylpropanolamine”
3 after “that basic class of controlled substance”;

4 [(5) in subsection (e), by inserting “or for
5 ephedrine, pseudoephedrine, or phenylpropanola-
6 mine” after “for a basic class of controlled sub-
7 stance in schedule I or II” each place such term ap-
8 pears;

9 [(6) in subsection (f)—

10 [(A) by inserting “or ephedrine,
11 pseudoephedrine, or phenylpropanolamine”
12 after “controlled substances in schedules I and
13 II”;

14 [(B) by inserting “or of ephedrine,
15 pseudoephedrine, or phenylpropanolamine”
16 after “the manufacture of a controlled sub-
17 stance”; and

18 [(C) by inserting “or chemicals” after
19 “such incidentally produced substances”; and

20 [(7) by adding at the end the following sub-
21 section:

22 [“(g) Each reference in this section to ephedrine,
23 pseudoephedrine, or phenylpropanolamine includes each of
24 the salts, optical isomers, and salts of optical isomers of
25 such chemical.”]

1 **[SEC. 103. PENALTIES; AUTHORITY FOR MANUFACTURING;**
2 **QUOTA.**

3 **[**Section 402(b) of the Controlled Substances Act (21
4 U.S.C. 842(b)) is amended by inserting after “manufac-
5 ture a controlled substance in schedule I or II” the fol-
6 lowing: “, or ephedrine, pseudoephedrine, or phenyl-
7 propanolamine or any of the salts, optical isomers, or salts
8 of optical isomers of such chemical.”.

9 **[SEC. 104. RESTRICTIONS ON IMPORTATION; AUTHORITY**
10 **TO PERMIT IMPORTS FOR MEDICAL, SCI-**
11 **ENTIFIC, OR OTHER LEGITIMATE PURPOSES.**

12 **[**Section 1002(a) of the Controlled Substances Im-
13 port and Export Act (21 U.S.C. 952(a)) is amended—

14 **[**(1) in the matter preceding paragraph (1), by
15 inserting “or ephedrine, pseudoephedrine, or phenyl-
16 propanolamine,” after “schedule III, IV, or V of title
17 II,”;

18 **[**(2) in paragraph (1), by inserting “, and of
19 ephedrine, pseudoephedrine, and phenylpropanola-
20 mine; ” after “coca leaves”; and

21 **[**(3) by adding at the end the following sub-
22 sections:

23 **[**“(d)(1) With respect to a registrant under section
24 1008 who is authorized under subsection (a)(1) to import
25 ephedrine, pseudoephedrine, or phenylpropanolamine, at
26 any time during the year the registrant may apply for an

1 increase in the amount of such chemical that the reg-
2 istrant is authorized to import, and the Attorney General
3 may approve the application if the Attorney General deter-
4 mines that the approval is necessary to provide for med-
5 ical, scientific, or other legitimate purposes regarding the
6 chemical.

7 ~~“(2) With respect to the application under para-~~
8 ~~graph (1):~~

9 ~~“(A) Not later than 60 days after receiving~~
10 ~~the application, the Attorney General shall approve~~
11 ~~or deny the application.~~

12 ~~“(B) In approving the application, the Attor-~~
13 ~~ney General shall specify the period of time for~~
14 ~~which the approval is in effect, or shall provide that~~
15 ~~the approval is effective until the registrant involved~~
16 ~~is notified in writing by the Attorney General that~~
17 ~~the approval is terminated.~~

18 ~~“(C) If the Attorney General does not approve~~
19 ~~or deny the application before the expiration of the~~
20 ~~60-day period under subparagraph (A), the applica-~~
21 ~~tion is deemed to be approved, and such approval re-~~
22 ~~remains in effect until the Attorney General notifies~~
23 ~~the registrant in writing that the approval is termi-~~
24 ~~nated.~~

1 may not transfer the listed chemical until after the expira-
2 tion of the 15-day period beginning on the date on which
3 the notice is submitted to the Attorney General.

4 ~~“(C) After a notice under subsection (a) or (b) is~~
5 ~~submitted to the Attorney General, if circumstances~~
6 ~~change and the importer or exporter will not be transfer-~~
7 ~~ring the listed chemical to the transferee identified in the~~
8 ~~notice, the importer or exporter shall update the notice~~
9 ~~to identify the most recent prospective transferee and may~~
10 ~~not transfer the listed chemical until after the expiration~~
11 ~~of the 15-day period beginning on the date on which the~~
12 ~~update is submitted to the Attorney General, except that~~
13 ~~such 15-day restriction does not apply if the prospective~~
14 ~~transferee identified in the update is a regular customer.~~
15 ~~The preceding sentence applies with respect to changing~~
16 ~~circumstances regarding a transferee identified in an up-~~
17 ~~date to the same extent and in the same manner as such~~
18 ~~sentence applies with respect to changing circumstances~~
19 ~~regarding a transferee identified in the original notice~~
20 ~~under subsection (a) or (b).~~

21 ~~“(D) In the case of a transfer of a listed chemical~~
22 ~~that is subject to a 15-day restriction under subparagraph~~
23 ~~(B) or (C), the transferee involved shall, upon the expira-~~
24 ~~tion of the 15-day period, be considered to qualify as a~~

1 regular customer, unless the Attorney General otherwise
2 notifies the importer or exporter involved in writing:

3 ~~“(2) With respect to a transfer of a listed chemical~~
4 ~~with which a notice or update referred to in paragraph~~
5 ~~(1) is concerned:~~

6 ~~“(A) The Attorney General, in accordance~~
7 ~~with the same procedures as apply under subsection~~
8 ~~(e)(2)—~~

9 ~~“(i) may order the suspension of the~~
10 ~~transfer of the listed chemical by the importer~~
11 ~~or exporter involved, except for a transfer to a~~
12 ~~regular customer, on the ground that the chem-~~
13 ~~ical may be diverted to the illegal or clandestine~~
14 ~~manufacture of a controlled substance, subject~~
15 ~~to the Attorney General ordering such suspen-~~
16 ~~sion before the expiration of the 15-day period~~
17 ~~referred to in paragraph (1) with respect to the~~
18 ~~importation or exportation (in any case in~~
19 ~~which such a period applies); and~~

20 ~~“(ii) may, for purposes of clause (i) and~~
21 ~~paragraph (1), disqualify a regular customer on~~
22 ~~such ground:~~

23 ~~“(B) From and after the time when the Attor-~~
24 ~~ney General provides written notice of the order~~
25 ~~under subparagraph (A) (including a statement of~~

1 the legal and factual basis for the order) to the im-
2 porter or exporter, the importer or exporter may not
3 carry out the transfer.

4 **[(3) For purposes of this subsection:**

5 **[(A) The terms ‘importer’ and ‘exporter’**
6 **mean a regulated person who imports or exports a**
7 **listed chemical, respectively.**

8 **[(B) The term ‘transfer’, with respect to a**
9 **listed chemical, includes the sale of the chemical.**

10 **[(C) The term ‘transferee’ means a person to**
11 **whom an importer or exporter transfers a listed**
12 **chemical.”.**

13 **[(b) CONFORMING AMENDMENTS.—**

14 **[(1) IN GENERAL.—**Section 1010(d)(5) of the
15 **Controlled Substances Import and Export Act (21**
16 **U.S.C. 960(d)(5)) is amended by striking “section**
17 **1018(e)(2) or (3)” and inserting “paragraph (2) or**
18 **(3) of section 1018(f)”.**

19 **[(2) CONTROLLED SUBSTANCES ACT.—**Section
20 **310(b)(3)(D)(v) of the Controlled Substances Act**
21 **(21 U.S.C. 830(b)(3)(D)(v)) is amended by striking**
22 **“section 1018(e)(2)” and inserting “section**
23 **1018(f)(2)”.**

1 **[SEC. 106. ENFORCEMENT OF RESTRICTIONS ON IMPORTA-**
2 **TION AND OF REQUIREMENT OF NOTICE OF**
3 **TRANSFER.**

4 **[Section 1010(d)(6) of the Controlled Substances**
5 **Import and Export Act (21 U.S.C. 960(d)(6)) is amended**
6 **to read as follows:**

7 **["(6) imports a listed chemical in violation of**
8 **section 1002; imports or exports such a chemical in**
9 **violation of section 1007 or 1018; or transfers such**
10 **a chemical in violation of section 1018(d); or".]**

11 **TITLE I—DOMESTIC REGULA-**
12 **TION OF PRECURSOR CHEMI-**
13 **CALS**

14 **SEC. 101. SCHEDULED LISTED CHEMICAL PRODUCTS; RE-**
15 **STRICTIONS ON SALES QUANTITY, BEHIND-**
16 **THE-COUNTER ACCESS, AND OTHER SAFE-**
17 **GUARDS.**

18 **(a) SCHEDULED LISTED CHEMICAL PROD-**
19 **UCTS.—**

20 **(1) IN GENERAL.—Section 102 of the**
21 **Controlled Substances Act (21 U.S.C. 802)**
22 **is amended—**

23 **(A) by redesignating paragraph**
24 **(46) as paragraph (49); and**

25 **(B) by inserting after paragraph**
26 **(44) the following paragraphs:**

1 **“(45)(A) The term ‘scheduled listed chem-**
2 **ical product’ means, subject to subparagraph**
3 **(B), a product that—**

4 **“(i) contains ephedrine,**
5 **pseudoephedrine, or phenylpropanola-**
6 **mine; and**

7 **“(ii) may be marketed or distributed**
8 **lawfully in the United States under the**
9 **Federal, Food, Drug, and Cosmetic Act as**
10 **a nonprescription drug.**

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

15 **“(B) Such term does not include a product**
16 **described in subparagraph (A) if the product**
17 **contains a chemical specified in such sub-**
18 **paragraph that the Attorney General has**
19 **under section 201(a) added to any of the**
20 **schedules under section 202(c). In the absence**
21 **of such scheduling by the Attorney General,**
22 **a chemical specified in such subparagraph**
23 **may not be considered to be a controlled sub-**
24 **stance.**

1 **“(46) The term ‘regulated seller’ means a**
2 **retail distributor (including a pharmacy or a**
3 **mobile retail vendor), except that such term**
4 **does not include an employee or agent of such**
5 **distributor.**

6 **“(47) The term ‘mobile retail vendor’**
7 **means a person or entity that makes sales at**
8 **retail from a stand that is intended to be tem-**
9 **porary, or is capable of being moved from one**
10 **location to another, whether the stand is lo-**
11 **cated within or on the premises of a fixed fa-**
12 **cility (such as a kiosk at a shopping center or**
13 **an airport) or whether the stand is located on**
14 **unimproved real estate (such as a lot or field**
15 **leased for retail purposes).**

16 **“(48) The term ‘at retail’, with respect to**
17 **the sale or purchase of a scheduled listed**
18 **chemical product, means a sale or purchase**
19 **for personal use, respectively.”.**

20 **(2) CONFORMING AMENDMENTS.—The**
21 **Controlled Substances Act (21 U.S.C. 801**
22 **et seq.) is amended—**

23 **(A) in section 102, in paragraph**
24 **(49) (as redesignated by paragraph**
25 **(1)(A) of this subsection)—**

1 (i) in subparagraph (A), by
2 striking “pseudoephedrine or”
3 and inserting “ephedrine,
4 pseudoephedrine, or”; and
5 (ii) by striking subparagraph
6 (B) and redesignating subpara-
7 graph (C) as subparagraph (B);
8 and
9 (B) in section 310(b)(3)(D)(ii), by
10 striking “102(46)” and inserting
11 “102(49)”.

12 **(b) RESTRICTIONS ON SALES QUANTITY; BE-**
13 **HIND-THE-COUNTER ACCESS; LOGBOOK REQUIRE-**
14 **MENT; TRAINING OF SALES PERSONNEL; PRIVACY**
15 **PROTECTIONS.—**

16 (1) **IN GENERAL.—**Section 310 of the
17 **Controlled Substances Act (21 U.S.C. 830)**
18 **is amended by adding at the end the fol-**
19 **lowing subsections:**

20 **“(d) SCHEDULED LISTED CHEMICALS; RE-**
21 **STRICTIONS ON SALES QUANTITY; REQUIREMENTS**
22 **REGARDING NONLIQUID FORMS.—**With respect
23 **to ephedrine base, pseudoephedrine base, or**
24 **phenylpropanolamine base in a scheduled**
25 **listed chemical product—**

1 “(1) the quantity of such base sold at
2 retail in such a product by a regulated
3 seller, or a distributor required to submit
4 reports by subsection (b)(3) may not, for
5 any purchaser, exceed a daily amount of
6 3.6 grams, without regard to the number
7 of transactions; and

8 “(2) such a seller or distributor may
9 not sell such a product in nonliquid form
10 (including gell caps) at retail unless the
11 product is packaged in blister packs,
12 each blister containing not more than 2
13 dosage units, or where the use of blister
14 packs is technically infeasible, the prod-
15 uct is packaged in unit dose packets or
16 pouches.

17 “(e) SCHEDULED LISTED CHEMICALS; BE-
18 HIND-THE-COUNTER ACCESS; LOGBOOK REQUIRE-
19 MENT; TRAINING OF SALES PERSONNEL; PRIVACY
20 PROTECTIONS.—

21 “(1) REQUIREMENTS REGARDING RETAIL
22 TRANSACTIONS.—

23 “(A) IN GENERAL.—Each regulated
24 seller shall ensure that, subject to
25 subparagraph (F), sales by such seller

1 **of a scheduled listed chemical prod-**
2 **uct at retail are made in accordance**
3 **with the following:**

4 “(i) In offering the product for
5 sale, the seller places the product
6 such that customers do not have
7 direct access to the product be-
8 fore the sale is made (in this para-
9 graph referred to as ‘behind-the-
10 counter’ placement). For purposes
11 of this paragraph, a behind-the-
12 counter placement of a product
13 includes circumstances in which
14 the product is stored in a locked
15 cabinet that is located in an area
16 of the facility involved to which
17 customers do have direct access.

18 “(ii) The seller delivers the
19 product directly into the custody
20 of the purchaser.

21 “(iii) The seller maintains, in
22 accordance with criteria issued
23 by the Attorney General, a writ-
24 ten or electronic list of such sales
25 that identifies the products by

1 name, the quantity sold, the
2 names and addresses of pur-
3 chasers, and the dates and times
4 of the sales (which list is referred
5 to in this subsection as the ‘log-
6 book’), except that such require-
7 ment does not apply to any pur-
8 chase by an individual of a single
9 sales package if that package con-
10 tains not more than 60 milligrams
11 of pseudoephedrine.

12 “(iv) In the case of a sale to
13 which the requirement of clause
14 (iii) applies, the seller does not
15 sell such a product unless—

16 “(I) the prospective pur-
17 chaser—

18 “(aa) presents an iden-
19 tification card that pro-
20 vides a photograph and is
21 issued by a State or the
22 Federal Government, or a
23 document that, with re-
24 spect to identification, is
25 considered acceptable for

1 purposes of sections
2 274a.2(b)(1)(v)(A) and
3 274a.2(b)(1)(v)(B) of title 8,
4 Code of Federal Regula-
5 tions (as in effect on or
6 after the date of the enact-
7 ment of the Combat Meth-
8 amphetamine Epidemic
9 Act of 2005); and

10 “(bb) signs the log-
11 book and enters in the
12 logbook his or her name,
13 address, and the date and
14 time of the sale; and

15 “(II) the seller—

16 “(aa) determines that
17 the name entered in the
18 logbook corresponds to
19 the name provided on
20 such identification and
21 that the date and time en-
22 tered are correct; and

23 “(bb) enters in the log-
24 book the name of the

1 **product and the quantity**
2 **sold.**

3 **“(v) The logbook includes, in**
4 **accordance with criteria of the**
5 **Attorney General, a notice to pur-**
6 **chasers that entering false state-**
7 **ments or misrepresentations in**
8 **the logbook may subject the pur-**
9 **chasers to criminal penalties**
10 **under section 1001 of title 18,**
11 **United States Code, which notice**
12 **specifies the maximum fine and**
13 **term of imprisonment under such**
14 **section.**

15 **“(vi) The seller maintains**
16 **each entry in the logbook for not**
17 **fewer than two years after the**
18 **date on which the entry is made.**

19 **“(vii) In the case of individ-**
20 **uals who are responsible for de-**
21 **livering such products into the**
22 **custody of purchasers or who**
23 **deal directly with purchasers by**
24 **obtaining payments for the prod-**
25 **ucts, the seller has submitted to**

1 **the Attorney General a self-cer-**
2 **tification that all such individuals**
3 **have, in accordance with criteria**
4 **under subparagraph (B)(ii), un-**
5 **dergone training provided by the**
6 **seller to ensure that the individ-**
7 **uals understand the requirements**
8 **that apply under this subsection**
9 **and subsection (d).**

10 **“(viii) The seller maintains a**
11 **copy of such certification and**
12 **records demonstrating that indi-**
13 **viduals referred to in clause (vii)**
14 **have undergone the training.**

15 **“(ix) If the seller is a mobile**
16 **retail vendor:**

17 **“(I) The seller complies**
18 **with clause (i) by placing the**
19 **product in a locked cabinet.**

20 **“(II) The seller does not**
21 **sell more than 7.5 grams of**
22 **ephedrine base,**
23 **pseudoephedrine base, or**
24 **phenylpropanolamine base in**

1 **such products per customer**
2 **during a 30-day period.**

3 **“(B) ADDITIONAL PROVISIONS RE-**
4 **GARDING CERTIFICATIONS AND TRAIN-**
5 **ING.—**

6 **“(i) IN GENERAL.—A regulated**
7 **seller may not sell any scheduled**
8 **listed chemical product at retail**
9 **unless the seller has submitted to**
10 **the Attorney General the self-cer-**
11 **tification referred to in subpara-**
12 **graph (A)(vii). The certification is**
13 **not effective for purposes of the**
14 **preceding sentence unless, in ad-**
15 **dition to provisions regarding the**
16 **training of individuals referred to**
17 **in such subparagraph, the certifi-**
18 **cation includes a statement that**
19 **the seller understands each of the**
20 **requirements that apply under**
21 **this paragraph and under sub-**
22 **section (d) and agrees to comply**
23 **with the requirements.**

24 **“(ii) ISSUANCE OF CRITERIA;**
25 **SELF-CERTIFICATION.—The Attor-**

1 ney General shall by regulation
2 establish criteria for certifi-
3 cations under this paragraph. The
4 criteria shall—

5 “(I) provide that the cer-
6 tifications are self-certifi-
7 cations provided through the
8 program under clause (iii);

9 “(II) provide that a sepa-
10 rate certification is required
11 for each place of business at
12 which a regulated seller sells
13 scheduled listed chemical
14 products at retail; and

15 “(III) include criteria for
16 training under subparagraph
17 (A)(vii).

18 “(iii) PROGRAM FOR REGULATED
19 SELLERS.—The Attorney General
20 shall establish a program regard-
21 ing such certifications and train-
22 ing in accordance with the fol-
23 lowing:

24 “(I) The program shall be
25 carried out through an Inter-

1 net site of the Department of
2 Justice and such other means
3 as the Attorney General deter-
4 mines to be appropriate.

5 “(II) The program shall in-
6 form regulated sellers that
7 section 1001 of title 18, United
8 States Code, applies to such
9 certifications.

10 “(III) The program shall
11 make available to such sellers
12 an explanation of the criteria
13 under clause (ii).

14 “(IV) The program shall be
15 designed to permit the sub-
16 mission of the certifications
17 through such Internet site.

18 “(V) The program shall be
19 designed to automatically pro-
20 vide the explanation referred
21 to in subclause (III), and an
22 acknowledgement that the
23 Department has received a
24 certification, without requir-
25 ing direct interactions of reg-

1 **ulated sellers with staff of the**
2 **Department (other than the**
3 **provision of technical assist-**
4 **ance, as appropriate).**

5 **“(iv) AVAILABILITY OF CERTIFI-**
6 **CATION TO STATE AND LOCAL OFFI-**
7 **CIALS.—Promptly after receiving a**
8 **certification under subparagraph**
9 **(A)(vii), the Attorney General**
10 **shall make available a copy of the**
11 **certification to the appropriate**
12 **State and local officials.**

13 **“(C) PRIVACY PROTECTIONS.—In**
14 **order to protect the privacy of indi-**
15 **viduals who purchase scheduled list-**
16 **ed chemical products, the Attorney**
17 **General shall by regulation establish**
18 **restrictions on disclosure of informa-**
19 **tion in logbooks under subparagraph**
20 **(A)(iii). Such regulations shall—**

21 **“(i) provide for the disclosure**
22 **of the information as appropriate**
23 **to the Attorney General and to**
24 **State and local law enforcement**
25 **agencies; and**

1 “(ii) prohibit accessing, using,
2 or sharing information in the
3 logbooks for any purpose other
4 than to ensure compliance with
5 this title or to facilitate a product
6 recall to protect public health and
7 safety.

8 “(D) FALSE STATEMENTS OR MIS-
9 REPRESENTATIONS BY PURCHASERS.—
10 For purposes of section 1001 of title
11 18, United States Code, entering in-
12 formation in the logbook under sub-
13 paragraph (A)(iii) shall be considered
14 a matter within the jurisdiction of
15 the executive, legislative, or judicial
16 branch of the Government of the
17 United States.

18 “(E) GOOD FAITH PROTECTION.—A
19 regulated seller who in good faith re-
20 leases information in a logbook under
21 subparagraph (A)(iii) to Federal,
22 State, or local law enforcement au-
23 thorities is immune from civil liabil-
24 ity for such release unless the release

1 **constitutes gross negligence or inten-**
2 **tional, wanton, or willful misconduct.**

3 **“(F) INAPPLICABILITY OF REQUIRE-**
4 **MENTS TO CERTAIN SALES.—Subpara-**
5 **graph (A) does not apply to the sale**
6 **at retail of a scheduled listed chem-**
7 **ical product if a report on the sales**
8 **transaction is required to be sub-**
9 **mitted to the Attorney General under**
10 **subsection (b)(3).**

11 **“(G) CERTAIN MEASURES REGARDING**
12 **THEFT AND DIVERSION.—A regulated**
13 **seller may take reasonable measures**
14 **to guard against employing individ-**
15 **uals who may present a risk with re-**
16 **spect to the theft and diversion of**
17 **scheduled listed chemical products,**
18 **which may include, notwithstanding**
19 **State law, asking applicants for em-**
20 **ployment whether they have been**
21 **convicted of any crime involving or**
22 **related to such products or controlled**
23 **substances.”.**

24 **(2) EFFECTIVE DATES.—With respect to**
25 **subsections (d) and (e)(1) of section 310 of**

1 **the Controlled Substances Act, as added**
2 **by paragraph (1) of this subsection:**

3 **(A) Such subsection (d) applies on**
4 **and after the expiration of the 30-day**
5 **period beginning on the date of the**
6 **enactment of this Act.**

7 **(B) Such subsection (e)(1) applies**
8 **on and after September 30, 2006.**

9 **(c) MAIL-ORDER REPORTING.—**

10 **(1) IN GENERAL.—Section 310(e) of the**
11 **Controlled Substances Act, as added by**
12 **subsection (b)(1) of this section, is amend-**
13 **ed by adding at the end the following:**

14 **“(2) MAIL-ORDER REPORTING;**
15 **VERIFICATION OF IDENTITY OF PURCHASER;**
16 **30-DAY RESTRICTION ON QUANTITIES FOR IN-**
17 **DIVIDUAL PURCHASERS.—Each regulated**
18 **person who makes a sale at retail of a**
19 **scheduled listed chemical product and is**
20 **required under subsection (b)(3) to sub-**
21 **mit a report of the sales transaction to**
22 **the Attorney General is subject to the fol-**
23 **lowing:**

24 **“(A) The person shall, prior to**
25 **shipping the product, confirm the**

1 **identity of the purchaser in accord-**
2 **ance with procedures established by**
3 **the Attorney General. The Attorney**
4 **General shall by regulation establish**
5 **such procedures.**

6 **“(B) The person may not sell more**
7 **than 7.5 grams of ephedrine base,**
8 **pseudoephedrine base, or phenyl-**
9 **propanolamine base in such products**
10 **per customer during a 30-day pe-**
11 **riod.”.**

12 **(2) INAPPLICABILITY OF REPORTING EX-**
13 **EMPTION FOR RETAIL DISTRIBUTORS.—Sec-**
14 **tion 310(b)(3)(D)(ii) of the Controlled Sub-**
15 **stances Act (21 U.S.C. 830(b)(3)(D)(ii)) is**
16 **amended by inserting before the period**
17 **the following: “, except that this clause**
18 **does not apply to sales of scheduled list-**
19 **ed chemical products at retail”.**

20 **(3) EFFECTIVE DATE.—The amendments**
21 **made by paragraphs (1) and (2) apply on**
22 **and after the expiration of the 30-day pe-**
23 **riod beginning on the date of the enact-**
24 **ment of this Act.**

1 **(d) EXEMPTIONS FOR CERTAIN PRODUCTS.—**
2 **Section 310(e) of the Controlled Substances**
3 **Act, as added and amended by subsections (b)**
4 **and (c) of this section, respectively, is amend-**
5 **ed by adding at the end the following para-**
6 **graph:**

7 **“(3) EXEMPTIONS FOR CERTAIN PROD-**
8 **UCTS.—Upon the application of a manu-**
9 **facturer of a scheduled listed chemical**
10 **product, the Attorney General may by**
11 **regulation provide that the product is ex-**
12 **empt from the provisions of subsection**
13 **(d) and paragraphs (1) and (2) of this sub-**
14 **section if the Attorney General deter-**
15 **mines that the product cannot be used in**
16 **the illicit manufacture of methamphet-**
17 **amine.”.**

18 **(e) ENFORCEMENT OF REQUIREMENTS FOR**
19 **RETAIL SALES.—**

20 **(1) CIVIL AND CRIMINAL PENALTIES.—**

21 **(A) IN GENERAL.—Section 402(a) of**
22 **the Controlled Substances Act (21**
23 **U.S.C. 842(a)) is amended—**

24 **(i) in paragraph (10), by strik-**
25 **ing “or” after the semicolon;**

1 (ii) in paragraph (11), by strik-
2 ing the period at the end and in-
3 serting a semicolon; and

4 (iii) by inserting after para-
5 graph (11) the following para-
6 graphs:

7 “(12) who is a regulated seller, or a
8 distributor required to submit reports
9 under subsection (b)(3) of section 310—

10 “(A) to sell at retail a scheduled
11 listed chemical product in violation
12 of paragraph (1) of subsection (d) of
13 such section, knowing at the time of
14 the transaction involved (inde-
15 pendent of consulting the logbook
16 under subsection (e)(1)(A)(iii) of such
17 section) that the transaction is a vio-
18 lation; or

19 “(B) to knowingly or recklessly
20 sell at retail such a product in viola-
21 tion of paragraph (2) of such sub-
22 section (d);

23 “(13) who is a regulated seller to
24 knowingly or recklessly sell at retail a

1 **scheduled listed chemical product in vio-**
2 **lation of subsection (e) of such section; or**

3 **“(14) who is a regulated seller or an**
4 **employee or agent of such seller to dis-**
5 **close, in violation of regulations under**
6 **subparagraph (C) of section 310(e)(1), in-**
7 **formation in logbooks under subpara-**
8 **graph (A)(iii) of such section, or to refuse**
9 **to provide such a logbook to Federal,**
10 **State, or local law enforcement authori-**
11 **ties.”.**

12 **(B) CONFORMING AMENDMENT.—**

13 **Section 401(f)(1) of the Controlled**
14 **Substances Act (21 U.S.C. 841(f)(1)) is**
15 **amended by inserting after “shall”**
16 **the following: “, except to the extent**
17 **that paragraph (12), (13), or (14) of**
18 **section 402(a) applies,”.**

19 **(2) AUTHORITY TO PROHIBIT SALES BY**
20 **VIOLATORS.—Section 402(c) of the Con-**
21 **trolled Substances Act (21 U.S.C. 842(c))**
22 **is amended by adding at the end the fol-**
23 **lowing paragraph:**

24 **“(4)(A) If a regulated seller, or a dis-**
25 **tributor required to submit reports under sec-**

1 **tion 310(b)(3), violates paragraph (12) of sub-**
2 **section (a) of this section, or if a regulated**
3 **seller violates paragraph (13) of such sub-**
4 **section, the Attorney General may by order**
5 **prohibit such seller or distributor (as the case**
6 **may be) from selling any scheduled listed**
7 **chemical product. Any sale of such a product**
8 **in violation of such an order is subject to the**
9 **same penalties as apply under paragraph (2).**

10 **“(B) An order under subparagraph (A)**
11 **may be imposed only through the same proce-**
12 **dures as apply under section 304(c) for an**
13 **order to show cause.”.**

14 **(f) PRESERVATION OF STATE AUTHORITY TO**
15 **REGULATE SCHEDULED LISTED CHEMICALS.—**
16 **This section and the amendments made by**
17 **this section may not be construed as having**
18 **any legal effect on section 708 of the Con-**
19 **trolled Substances Act as applied to the regu-**
20 **lation of scheduled listed chemicals (as de-**
21 **fin ed in section 102(45) of such Act).**

22 **SEC. 102. REGULATED TRANSACTIONS.**

23 **(a) CONFORMING AMENDMENTS REGARDING**
24 **SCHEDULED LISTED CHEMICALS.—The Con-**

1 **trolled Substances Act (21 U.S.C. 801 et seq.)**
2 **is amended—**

3 **(1) in section 102—**

4 **(A) in paragraph (39)(A)—**

5 **(i) by amending clause (iv) to**
6 **read as follows:**

7 **“(iv) any transaction in a listed**
8 **chemical that is contained in a drug**
9 **that may be marketed or distributed**
10 **lawfully in the United States under**
11 **the Federal Food, Drug, and Cosmetic**
12 **Act, subject to clause (v), unless—**

13 **“(I) the Attorney General has**
14 **determined under section 204**
15 **that the drug or group of drugs is**
16 **being diverted to obtain the listed**
17 **chemical for use in the illicit pro-**
18 **duction of a controlled substance;**
19 **and**

20 **“(II) the quantity of the listed**
21 **chemical contained in the drug**
22 **included in the transaction or**
23 **multiple transactions equals or**
24 **exceeds the threshold established**

1 **for that chemical by the Attorney**
2 **General;”;**

3 **(ii) by redesignating clause (v)**
4 **as clause (vi); and**

5 **(iii) by inserting after clause**
6 **(iv) the following clause:**

7 **“(v) any transaction in a sched-**
8 **uled listed chemical product; or”;** and

9 **(B) by striking the paragraph (45)**
10 **that relates to the term “ordinary**
11 **over-the-counter pseudoephedrine or**
12 **phenylpropanolamine product”;**

13 **(2) in section 204, by striking sub-**
14 **section (e); and**

15 **(3) in section 303(h), in the second**
16 **sentence, by striking “section**
17 **102(39)(A)(iv)” and inserting “clause (iv)**
18 **or (v) of section 102(39)(A)”.**

19 **(b) PUBLIC LAW 104-237.—Section 401 of**
20 **the Comprehensive Methamphetamine Con-**
21 **trol Act of 1996 (21 U.S.C. 802 note) (Public**
22 **Law 104-237) is amended by striking sub-**
23 **sections (d), (e), and (f).**

1 SEC. 103. AUTHORITY TO ESTABLISH PRODUCTION
2 QUOTAS.

3 Section 306 of the Controlled Substances
4 Act (21 U.S.C. 826) is amended—

5 (1) in subsection (a), by inserting
6 “and for ephedrine, pseudoephedrine,
7 and phenylpropanolamine” after “for
8 each basic class of controlled substance
9 in schedules I and II”;

10 (2) in subsection (b), by inserting “or
11 for ephedrine, pseudoephedrine, or phen-
12 ylpropanolamine” after “for each basic
13 class of controlled substance in schedule
14 I or II”;

15 (3) in subsection (c), in the first sen-
16 tence, by inserting “and for ephedrine,
17 pseudoephedrine, and phenylpropanola-
18 mine” after “for the basic classes of con-
19 trolled substances in schedules I and II”;

20 (4) in subsection (d), by inserting “or
21 ephedrine, pseudoephedrine, or phenyl-
22 propanolamine” after “that basic class of
23 controlled substance”;

24 (5) in subsection (e), by inserting “or
25 for ephedrine, pseudoephedrine, or phen-
26 ylpropanolamine” after “for a basic class

1 of controlled substance in schedule I or
2 II”;

3 (6) in subsection (f)—

4 (A) by inserting “or ephedrine,
5 pseudoephedrine, or phenyl-
6 propanolamine” after “controlled sub-
7 stances in schedules I and II”;

8 (B) by inserting “or of ephedrine,
9 pseudoephedrine, or phenyl-
10 propanolamine” after “the manufac-
11 ture of a controlled substance”; and

12 (C) by inserting “or chemicals”
13 after “such incidentally produced
14 substances”; and

15 (7) by adding at the end the following
16 subsection:

17 “(g) Each reference in this section to
18 ephedrine, pseudoephedrine, or phenyl-
19 propanolamine includes each of the salts, op-
20 tical isomers, and salts of optical isomers of
21 such chemical.”.

22 SEC. 104. PENALTIES; AUTHORITY FOR MANUFACTURING;
23 QUOTA.

24 Section 402(b) of the Controlled Sub-
25 stances Act (21 U.S.C. 842(b)) is amended by

1 **inserting after “manufacture a controlled sub-**
2 **stance in schedule I or II” the following: “, or**
3 **ephedrine, pseudoephedrine, or phenyl-**
4 **propanolamine or any of the salts, optical iso-**
5 **mers, or salts of optical isomers of such chem-**
6 **ical,”**

7 **SEC. 105. RESTRICTIONS ON IMPORTATION; AUTHORITY TO**
8 **PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC,**
9 **OR OTHER LEGITIMATE PURPOSES.**

10 **Section 1002 of the Controlled Substances**
11 **Import and Export Act (21 U.S.C. 952) is**
12 **amended—**

13 **(1) in subsection (a)—**

14 **(A) in the matter preceding para-**
15 **graph (1), by inserting “or ephedrine,**
16 **pseudoephedrine, or phenyl-**
17 **propanolamine,” after “schedule III,**
18 **IV, or V of title II,”; and**

19 **(B) in paragraph (1), by inserting**
20 **“, and of ephedrine, pseudoephedrine,**
21 **and phenylpropanolamine, ” after**
22 **“coca leaves”; and**

23 **(2) by adding at the end the following**
24 **subsections:**

1 “(d)(1) With respect to a registrant under
2 section 1008 who is authorized under sub-
3 section (a)(1) to import ephedrine,
4 pseudoephedrine, or phenylpropanolamine,
5 at any time during the year the registrant
6 may apply for an increase in the amount of
7 such chemical that the registrant is author-
8 ized to import, and the Attorney General may
9 approve the application if the Attorney Gen-
10 eral determines that the approval is nec-
11 essary to provide for medical, scientific, or
12 other legitimate purposes regarding the
13 chemical.

14 “(2) With respect to the application under
15 paragraph (1):

16 “(A) Not later than 60 days after re-
17 ceiving the application, the Attorney
18 General shall approve or deny the appli-
19 cation.

20 “(B) In approving the application, the
21 Attorney General shall specify the period
22 of time for which the approval is in ef-
23 fect, or shall provide that the approval is
24 effective until the registrant involved is

1 notified in writing by the Attorney Gen-
2 eral that the approval is terminated.

3 “(C) If the Attorney General does not
4 approve or deny the application before
5 the expiration of the 60-day period under
6 subparagraph (A), the application is
7 deemed to be approved, and such ap-
8 proval remains in effect until the Attor-
9 ney General notifies the registrant in
10 writing that the approval is terminated.

11 “(e) Each reference in this section to
12 ephedrine, pseudoephedrine, or phenyl-
13 propanolamine includes each of the salts, op-
14 tical isomers, and salts of optical isomers of
15 such chemical.”.

16 SEC. 106. NOTICE OF IMPORTATION OR EXPORTATION; AP-
17 PROVAL OF SALE OR TRANSFER BY IM-
18 PORTER OR EXPORTER.

19 (a) IN GENERAL.—Section 1018 of the Con-
20 trolled Substances Import and Export Act (21
21 U.S.C. 971) is amended—

22 (1) in subsection (b)(1), in the first
23 sentence, by striking “or to an importa-
24 tion by a regular importer” and inserting

1 **“or to a transaction that is an importa-**
2 **tion by a regular importer”;**

3 **(2) by redesignating subsections (d)**
4 **and (e) as subsections (e) and (f), respec-**
5 **tively;**

6 **(3) by inserting after subsection (c)**
7 **the following subsection:**

8 **“(d)(1)(A) Information provided in a no-**
9 **tice under subsection (a) or (b) shall include**
10 **the name of the person to whom the importer**
11 **or exporter involved intends to transfer the**
12 **listed chemical involved, and the quantity of**
13 **such chemical to be transferred.**

14 **“(B) In the case of a notice under sub-**
15 **section (b) submitted by a regular importer,**
16 **if the transferee identified in the notice is not**
17 **a regular customer, such importer may not**
18 **transfer the listed chemical until after the ex-**
19 **piration of the 15-day period beginning on the**
20 **date on which the notice is submitted to the**
21 **Attorney General.**

22 **“(C) After a notice under subsection (a) or**
23 **(b) is submitted to the Attorney General, if**
24 **circumstances change and the importer or ex-**
25 **porter will not be transferring the listed**

1 **chemical to the transferee identified in the**
2 **notice, or will be transferring a greater quan-**
3 **tity of the chemical than specified in the no-**
4 **tice, the importer or exporter shall update the**
5 **notice to identify the most recent prospective**
6 **transferee or the most recent quantity or both**
7 **(as the case may be) and may not transfer the**
8 **listed chemical until after the expiration of**
9 **the 15-day period beginning on the date on**
10 **which the update is submitted to the Attorney**
11 **General, except that such 15-day restriction**
12 **does not apply if the prospective transferee**
13 **identified in the update is a regular customer.**
14 **The preceding sentence applies with respect**
15 **to changing circumstances regarding a trans-**
16 **feree or quantity identified in an update to**
17 **the same extent and in the same manner as**
18 **such sentence applies with respect to chang-**
19 **ing circumstances regarding a transferee or**
20 **quantity identified in the original notice**
21 **under subsection (a) or (b).**

22 **“(D) In the case of a transfer of a listed**
23 **chemical that is subject to a 15-day restriction**
24 **under subparagraph (B) or (C), the transferee**
25 **involved shall, upon the expiration of the 15-**

1 **day period, be considered to qualify as a reg-**
2 **ular customer, unless the Attorney General**
3 **otherwise notifies the importer or exporter**
4 **involved in writing.**

5 **“(2) With respect to a transfer of a listed**
6 **chemical with which a notice or update re-**
7 **ferred to in paragraph (1) is concerned:**

8 **“(A) The Attorney General, in accord-**
9 **ance with the same procedures as apply**
10 **under subsection (c)(2)—**

11 **“(i) may order the suspension of**
12 **the transfer of the listed chemical by**
13 **the importer or exporter involved, ex-**
14 **cept for a transfer to a regular cus-**
15 **tomers, on the ground that the chem-**
16 **ical may be diverted to the clandest-**
17 **ine manufacture of a controlled sub-**
18 **stance (without regard to the form of**
19 **the chemical that may be diverted, in-**
20 **cluding the diversion of a finished**
21 **drug product to be manufactured**
22 **from bulk chemicals to be trans-**
23 **ferred), subject to the Attorney Gen-**
24 **eral ordering such suspension before**
25 **the expiration of the 15-day period re-**

1 **ferred to in paragraph (1) with re-**
2 **spect to the importation or expor-**
3 **tation (in any case in which such a**
4 **period applies); and**

5 **“(ii) may, for purposes of clause**
6 **(i) and paragraph (1), disqualify a**
7 **regular customer on such ground.**

8 **“(B) From and after the time when**
9 **the Attorney General provides written**
10 **notice of the order under subparagraph**
11 **(A) (including a statement of the legal**
12 **and factual basis for the order) to the im-**
13 **porter or exporter, the importer or ex-**
14 **porter may not carry out the transfer.**

15 **“(3) For purposes of this subsection:**

16 **“(A) The terms ‘importer’ and ‘ex-**
17 **porter’ mean a regulated person who im-**
18 **ports or exports a listed chemical, respec-**
19 **tively.**

20 **“(B) The term ‘transfer’, with respect**
21 **to a listed chemical, includes the sale of**
22 **the chemical.**

23 **“(C) The term ‘transferee’ means a**
24 **person to whom an importer or exporter**
25 **transfers a listed chemical.”; and**

1 (4) by adding at the end the following
2 subsection:

3 “(g) Within 30 days after a transaction
4 covered by this section is completed, the im-
5 porter or exporter shall send the Attorney
6 General a return declaration containing par-
7 ticulars of the transaction, including the date,
8 quantity, chemical, container, name of trans-
9 ferees, and such other information as the At-
10 torney General may specify in regulations.
11 For importers, a single return declaration
12 may include the particulars of both the im-
13 portation and distribution. If the importer
14 has not distributed all chemicals imported by
15 the end of the initial 30-day period, the im-
16 porter shall file supplemental return declara-
17 tions no later than 30 days from the date of
18 any further distribution, until the distribu-
19 tion or other disposition of all chemicals im-
20 ported pursuant to the import notification or
21 any update are accounted for.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) CONTROLLED SUBSTANCES IMPORT
24 AND EXPORT ACT.—The Controlled Sub-

1 **stances Import and Export Act (21 U.S.C.**
2 **951 et seq.) is amended—**

3 **(A) in section 1010(d)(5), by strik-**
4 **ing “section 1018(e)(2) or (3)” and in-**
5 **serting “paragraph (2) or (3) of sec-**
6 **tion 1018(f)”;** and

7 **(B) in section 1018(c)(1), in the**
8 **first sentence, by inserting before the**
9 **period the following: “(without re-**
10 **gard to the form of the chemical that**
11 **may be diverted, including the diver-**
12 **sion of a finished drug product to be**
13 **manufactured from bulk chemicals to**
14 **be transferred)”.**

15 **(2) CONTROLLED SUBSTANCES ACT.—Sec-**
16 **tion 310(b)(3)(D)(v) of the Controlled Sub-**
17 **stances Act (21 U.S.C. 830(b)(3)(D)(v)) is**
18 **amended by striking “section 1018(e)(2)”**
19 **and inserting “section 1018(f)(2)”.**

20 **SEC. 107. ENFORCEMENT OF RESTRICTIONS ON IMPORTA-**
21 **TION AND OF REQUIREMENT OF NOTICE OF**
22 **TRANSFER.**

23 **Section 1010(d)(6) of the Controlled Sub-**
24 **stances Import and Export Act (21 U.S.C.**
25 **960(d)(6)) is amended to read as follows:**

1 **“(6) imports a listed chemical in viola-**
2 **tion of section 1002, imports or exports**
3 **such a chemical in violation of section**
4 **1007 or 1018, or transfers such a chemical**
5 **in violation of section 1018(d); or”.**

6 **SEC. 108. COORDINATION WITH UNITED STATES TRADE**
7 **REPRESENTATIVE.**

8 **In implementing sections 103 through 107**
9 **and section 201 of this Act, the Attorney Gen-**
10 **eral shall consult with the United States**
11 **Trade Representative to ensure implementa-**
12 **tion complies with all applicable inter-**
13 **national treaties and obligations of the United**
14 **States.**

15 **TITLE II—INTERNATIONAL REG-**
16 **ULATION OF PRECURSOR**
17 **CHEMICALS**

18 **SEC. 201. INFORMATION ON FOREIGN CHAIN OF DISTRIBU-**
19 **TION; IMPORT RESTRICTIONS REGARDING**
20 **FAILURE OF DISTRIBUTORS TO COOPERATE.**

21 Section 1018 of the Controlled Substances Import
22 and Export Act (21 U.S.C. 971), as amended by section
23 105(a) of this Act, is further amended by adding at the
24 end the following subsection:

1 “(g)(1) With respect to a registered person importing
2 ephedrine, pseudoephedrine, or phenylpropanolamine (re-
3 ferred to in this section as an ‘importer’), a notice of im-
4 portation under subsection (a) or (b) shall include all in-
5 formation known to the importer on the chain of distribu-
6 tion of such chemical from the manufacturer to the im-
7 porter.

8 “(2) For the purpose of preventing or responding to
9 the diversion of ephedrine, pseudoephedrine, or phenyl-
10 propanolamine for use in the illicit production of meth-
11 amphetamine, the Attorney General may, in the case of
12 any person who is a manufacturer or distributor of such
13 chemical in the chain of distribution referred to in para-
14 graph (1) (which person is referred to in this subsection
15 as a ‘foreign-chain distributor’), request that such dis-
16 tributor provide to the Attorney General information
17 known to the distributor on the distribution of the chem-
18 ical, including sales.

19 “(3) If the Attorney General determines that a for-
20 eign-chain distributor is refusing to cooperate with the At-
21 torney General in obtaining the information referred to in
22 paragraph (2), the Attorney General may, in accordance
23 with procedures that apply under subsection (e), issue an
24 order prohibiting the importation of ephedrine,
25 pseudoephedrine, or phenylpropanolamine in any case in

1 which such distributor is part of the chain of distribution
2 for such chemical. Not later than 60 days prior to issuing
3 the order, the Attorney General shall publish in the Fed-
4 eral Register a notice of intent to issue the order. During
5 such 60-day period, imports of the chemical with respect
6 to such distributor may not be restricted under this para-
7 graph.”.

8 **SEC. 202. REQUIREMENTS RELATING TO THE LARGEST EX-**
9 **PORTING AND IMPORTING COUNTRIES OF**
10 **CERTAIN PRECURSOR CHEMICALS.**

11 (a) REPORTING REQUIREMENTS.—Section 489(a) of
12 the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a))
13 is amended by adding at the end the following new para-
14 graph:

15 “(8)(A) A separate section that contains the
16 following:

17 “(i) An identification of the five countries
18 that exported the largest amount of
19 pseudoephedrine, ephedrine, and phenyl-
20 propanolamine (including the salts, optical iso-
21 mers, or salts of optical isomers of such chemi-
22 cals, and also including any products or sub-
23 stances containing such chemicals) during the
24 preceding calendar year.

1 “(ii) An identification of the five countries
2 that imported the largest amount of the chemi-
3 cals described in clause (i) during the preceding
4 calendar year and have the highest rate of di-
5 version of such chemicals for use in the illicit
6 production of methamphetamine (either in that
7 country or in another country).

8 “(iii) An economic analysis of the total
9 worldwide production of the chemicals described
10 in clause (i) as compared to the legitimate de-
11 mand for such chemicals worldwide.

12 “(B) The identification of countries that im-
13 ported the largest amount of chemicals under sub-
14 paragraph (A)(ii) shall be based on the following:

15 “(i) An economic analysis that estimates
16 the legitimate demand for such chemicals in
17 such countries as compared to the actual or es-
18 timated amount of such chemicals that is im-
19 ported into such countries.

20 “(ii) The best available data and other in-
21 formation regarding the production of meth-
22 amphetamine in such countries and the diver-
23 sion of such chemicals for use in the production
24 of methamphetamine.”.

1 (b) ANNUAL CERTIFICATION PROCEDURES.—Section
2 490(a) of the Foreign Assistance Act of 1961 (22 U.S.C.
3 2291j(a)) is amended—

4 (1) in paragraph (1), by striking “major illicit
5 drug producing country or major drug-transit coun-
6 try” and inserting “major illicit drug producing
7 country, major drug-transit country, or country
8 identified pursuant to clause (i) or (ii) of section
9 489(a)(8)(A) of this Act”; and

10 (2) in paragraph (2), by inserting after “(as de-
11 termined under subsection (h))” the following: “or
12 country identified pursuant to clause (i) or (ii) of
13 section 489(a)(8)(A) of this Act”.

14 (c) CONFORMING AMENDMENT.—Section 706 of the
15 Foreign Relations Authorization Act, Fiscal Year 2003
16 (22 U.S.C. 2291j-1) is amended in paragraph (5) by add-
17 ing at the end the following:

18 “(C) Nothing in this section shall affect the re-
19 quirements of section 490 of the Foreign Assistance
20 Act of 1961 (22 U.S.C. 2291j) with respect to coun-
21 tries identified pursuant to section clause (i) or (ii)
22 of 489(a)(8)(A) of the Foreign Assistance Act of
23 1961.”.

24 (d) PLAN TO ADDRESS DIVERSION OF PRECURSOR
25 CHEMICALS.—In the case of each country identified pur-

1 suant to clause (i) or (ii) of section 489(a)(8)(A) of the
2 Foreign Assistance Act of 1961 (as added by subsection
3 (a)) with respect to which the President has not trans-
4 mitted to Congress a certification under section 490(b) of
5 such Act (22 U.S.C. 2291j(b)), the Secretary of State, in
6 consultation with the Attorney General, shall, not later
7 than 180 days after the date on which the President trans-
8 mits the report required by section 489(a) of such Act (22
9 U.S.C. 2291h(a)), submit to Congress a comprehensive
10 plan to address the diversion of the chemicals described
11 in section 489(a)(8)(A)(i) of such Act to the illicit produc-
12 tion of methamphetamine in such country or in another
13 country, including the establishment, expansion, and en-
14 hancement of regulatory, law enforcement, and other in-
15 vestigative efforts to prevent such diversion.

16 (e) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to the Secretary of State
18 to carry out section 489(a)(8) of the Foreign Assistance
19 Act of 1961 (as added by subsection (a)) \$1,000,000 for
20 each of the fiscal years 2006 and 2007.

21 **SEC. 203. PREVENTION OF SMUGGLING OF METHAMPHET-**
22 **AMINE INTO THE UNITED STATES FROM MEX-**
23 **ICO.**

24 (a) IN GENERAL.—The Secretary of State, acting
25 through the Assistant Secretary of the Bureau for Inter-

1 national Narcotics and Law Enforcement Affairs, shall
2 take such actions as are necessary to prevent the smug-
3 gling of methamphetamine into the United States from
4 Mexico.

5 (b) SPECIFIC ACTIONS.—In carrying out subsection
6 (a), the Secretary shall—

7 (1) improve bilateral efforts at the United
8 States-Mexico border to prevent the smuggling of
9 methamphetamine into the United States from Mex-
10 ico;

11 (2) seek to work with Mexican law enforcement
12 authorities to improve the ability of such authorities
13 to combat the production and trafficking of meth-
14 amphetamine, including by providing equipment and
15 technical assistance, as appropriate; and

16 (3) encourage the Government of Mexico to
17 take immediate action to reduce the diversion of
18 pseudoephedrine by drug trafficking organizations
19 for the production and trafficking of methamphet-
20 amine.

21 (c) REPORT.—Not later than one year after the date
22 of the enactment of this Act, and annually thereafter, the
23 Secretary shall submit to the appropriate congressional
24 committees a report on the implementation of this section
25 for the prior year.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary to carry
3 out this section \$4,000,000 for each of the fiscal years
4 2006 and 2007.

5 **TITLE III—ENHANCED CRIMINAL**
6 **PENALTIES FOR METH-**
7 **AMPHETAMINE PRODUCTION**
8 **AND TRAFFICKING**

9 **SEC. 301. ENHANCED PENALTIES FOR METHAMPHETAMINE**
10 **PRODUCTION, POSSESSION, OR TRAF-**
11 **FICKING.**

12 (a) MANUFACTURE, DISTRIBUTION, DISPENSATION,
13 OR CERTAIN POSSESSION OF METHAMPHETAMINE.—Sec-
14 tion 401 of the Controlled Substances Act (21 U.S.C. 841)
15 is amended—

16 (1) in subsection (b)(1)(A)(viii)—

17 (A) by striking “50 grams” and inserting
18 “5 grams”; and

19 (B) by striking “500 grams” and inserting
20 “50 grams”; and

21 (2) in subsection (b)(1)(b)(viii)—

22 (A) by striking “5 grams” and inserting
23 “3 grams”; and

24 (B) by striking “50 grams” and inserting
25 “30 grams”.

1 (b) IMPORTATION OR EXPORTATION OF METH-
 2 AMPHETAMINE.—Section 1010 of the Controlled Sub-
 3 stances Import and Export Act (21 U.S.C. 960) is amend-
 4 ed—

5 (1) in subsection (b)(1)(H)—

6 (A) by striking “50 grams” and inserting
 7 “5 grams”; and

8 (B) by striking “500 grams” and inserting
 9 “50 grams”; and

10 (2) in subsection (b)(2)(H)—

11 (A) by striking “5 grams” and inserting
 12 “3 grams”; and

13 (B) by striking “50 grams” and inserting
 14 “30 grams”.

15 **SEC. 302. SMUGGLING METHAMPHETAMINE OR METH-**
 16 **AMPHETAMINE PRECURSOR CHEMICALS**
 17 **INTO THE UNITED STATES WHILE USING FA-**
 18 **CILITATED ENTRY PROGRAMS.**

19 (a) ENHANCED PRISON SENTENCE.—The sentence
 20 of imprisonment imposed on a person convicted of an of-
 21 fense under the Controlled Substances Act (21 U.S.C. 801
 22 et seq.) or the Controlled Substances Import and Export
 23 Act (21 U.S.C. 951 et seq.), involving methamphetamine
 24 or any listed chemical that is defined in section 102(33)
 25 of the Controlled Substances Act (21 U.S.C. 802(33)),

1 shall, if the offense is committed under the circumstance
2 described in subsection (b), be increased by a consecutive
3 term of imprisonment of not more than 15 years.

4 (b) CIRCUMSTANCES.—For purposes of subsection
5 (a), the circumstance described in this subsection is that
6 the offense described in subsection (a) was committed by
7 a person who—

8 (1) was enrolled in, or who was acting on behalf
9 of any person or entity enrolled in, any dedicated
10 commuter lane, alternative or accelerated inspection
11 system, or other facilitated entry program adminis-
12 tered or approved by the Federal Government for
13 use in entering the United States; and

14 (2) committed the offense while entering the
15 United States, using such lane, system, or program.

16 (c) PERMANENT INELIGIBILITY.—Any person whose
17 term of imprisonment is increased under subsection (a)
18 shall be permanently and irrevocably barred from being
19 eligible for or using any lane, system, or program de-
20 scribed in subsection (b)(1).

21 **SEC. 303. MANUFACTURING CONTROLLED SUBSTANCES ON**
22 **FEDERAL PROPERTY.**

23 Subsection (b) of section 401 of the Controlled Sub-
24 stances Act (21 U.S.C. 841(b)) is amended in paragraph
25 (5) by inserting “or manufacturing” after “cultivating”.

1 **SEC. 304. INCREASED PUNISHMENT FOR METHAMPHET-**
 2 **AMINE KINGPINS.**

3 Section 408 of the Controlled Substances Act (21
 4 U.S.C. 848) is amended by adding at the end the fol-
 5 lowing:

6 “(s) SPECIAL PROVISION FOR METHAMPHET-
 7 AMINE.—For the purposes of subsection (b), in the case
 8 of continuing criminal enterprise involving methamphet-
 9 amine or its salts, isomers, or salts of isomers, paragraph
 10 (2)(A) shall be applied by substituting ‘100’ for ‘300’, and
 11 paragraph (2)(B) shall be applied by substituting
 12 ‘\$1,000,000’ for ‘\$10 million dollars.’”

13 **TITLE II—INTERNATIONAL REG-**
 14 **ULATION OF PRECURSOR**
 15 **CHEMICALS**

16 **SEC. 201. INFORMATION ON FOREIGN CHAIN OF DISTRIBUTION;**
 17 **IMPORT RESTRICTIONS REGARDING**
 18 **FAILURE OF DISTRIBUTORS TO COOPERATE.**

19 *Section 1018 of the Controlled Substances Import and*
 20 *Export Act (21 U.S.C. 971), as amended by section 105(a)*
 21 *of this Act, is further amended by adding at the end the*
 22 *following subsection:*

23 “(g)(1) *With respect to a regulated person importing*
 24 *ephedrine, pseudoephedrine, or phenylpropanolamine (re-*
 25 *ferred to in this section as an ‘importer’), a notice of impor-*
 26 *tation under subsection (a) or (b) shall include all informa-*

1 *tion known to the importer on the chain of distribution of*
2 *such chemical from the manufacturer to the importer.*

3 “(2) *For the purpose of preventing or responding to*
4 *the diversion of ephedrine, pseudoephedrine, or phenyl-*
5 *propanolamine for use in the illicit production of meth-*
6 *amphetamine, the Attorney General may, in the case of any*
7 *person who is a manufacturer or distributor of such chem-*
8 *ical in the chain of distribution referred to in paragraph*
9 *(1) (which person is referred to in this subsection as a ‘for-*
10 *foreign-chain distributor’), request that such distributor pro-*
11 *vide to the Attorney General information known to the dis-*
12 *tributor on the distribution of the chemical, including sales.*

13 “(3) *If the Attorney General determines that a foreign-*
14 *chain distributor is refusing to cooperate with the Attorney*
15 *General in obtaining the information referred to in para-*
16 *graph (2), the Attorney General may, in accordance with*
17 *procedures that apply under subsection (c), issue an order*
18 *prohibiting the importation of ephedrine, pseudoephedrine,*
19 *or phenylpropanolamine in any case in which such dis-*
20 *tributor is part of the chain of distribution for such chem-*
21 *ical. Not later than 60 days prior to issuing the order, the*
22 *Attorney General shall publish in the Federal Register a*
23 *notice of intent to issue the order. During such 60-day pe-*
24 *riod, imports of the chemical with respect to such dis-*
25 *tributor may not be restricted under this paragraph.”.*

1 **SEC. 202. REQUIREMENTS RELATING TO THE LARGEST EX-**
2 **PORTING AND IMPORTING COUNTRIES OF**
3 **CERTAIN PRECURSOR CHEMICALS.**

4 (a) *REPORTING REQUIREMENTS.*—Section 489(a) of
5 the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a))
6 is amended by adding at the end the following new para-
7 graph:

8 “(8)(A) A separate section that contains the fol-
9 lowing:

10 “(i) An identification of the five countries
11 that exported the largest amount of
12 pseudoephedrine, ephedrine, and phenyl-
13 propanolamine (including the salts, optical iso-
14 mers, or salts of optical isomers of such chemi-
15 cals, and also including any products or sub-
16 stances containing such chemicals) during the
17 preceding calendar year.

18 “(ii) An identification of the five countries
19 that imported the largest amount of the chemi-
20 cals described in clause (i) during the preceding
21 calendar year and have the highest rate of diver-
22 sion of such chemicals for use in the illicit pro-
23 duction of methamphetamine (either in that
24 country or in another country).

25 “(iii) An economic analysis of the total
26 worldwide production of the chemicals described

1 *in clause (i) as compared to the legitimate de-*
2 *mand for such chemicals worldwide.*

3 “(B) *The identification of countries that im-*
4 *ported the largest amount of chemicals under sub-*
5 *paragraph (A)(ii) shall be based on the following:*

6 “(i) *An economic analysis that estimates*
7 *the legitimate demand for such chemicals in such*
8 *countries as compared to the actual or estimated*
9 *amount of such chemicals that is imported into*
10 *such countries.*

11 “(ii) *The best available data and other in-*
12 *formation regarding the production of meth-*
13 *amphetamine in such countries and the diver-*
14 *sion of such chemicals for use in the production*
15 *of methamphetamine.”.*

16 (b) *ANNUAL CERTIFICATION PROCEDURES.—Section*
17 *490(a) of the Foreign Assistance Act of 1961 (22 U.S.C.*
18 *2291j(a)) is amended—*

19 (1) *in paragraph (1), by striking “major illicit*
20 *drug producing country or major drug-transit coun-*
21 *try” and inserting “major illicit drug producing*
22 *country, major drug-transit country, or country iden-*
23 *tified pursuant to clause (i) or (ii) of section*
24 *489(a)(8)(A) of this Act”;* and

1 (2) *in paragraph (2), by inserting after “(as de-*
2 *termined under subsection (h))” the following: “or*
3 *country identified pursuant to clause (i) or (ii) of sec-*
4 *tion 489(a)(8)(A) of this Act”.*

5 (c) *CONFORMING AMENDMENT.—Section 706 of the*
6 *Foreign Relations Authorization Act, Fiscal Year 2003 (22*
7 *U.S.C. 2291j-1) is amended in paragraph (5) by adding*
8 *at the end the following:*

9 “*(C) Nothing in this section shall affect the re-*
10 *quirements of section 490 of the Foreign Assistance*
11 *Act of 1961 (22 U.S.C. 2291j) with respect to coun-*
12 *tries identified pursuant to section clause (i) or (ii)*
13 *of 489(a)(8)(A) of the Foreign Assistance Act of*
14 *1961.”.*

15 (d) *PLAN TO ADDRESS DIVERSION OF PRECURSOR*
16 *CHEMICALS.—In the case of each country identified pursu-*
17 *ant to clause (i) or (ii) of section 489(a)(8)(A) of the For-*
18 *ign Assistance Act of 1961 (as added by subsection (a))*
19 *with respect to which the President has not transmitted to*
20 *Congress a certification under section 490(b) of such Act*
21 *(22 U.S.C. 2291j(b)), the Secretary of State, in consultation*
22 *with the Attorney General, shall, not later than 180 days*
23 *after the date on which the President transmits the report*
24 *required by section 489(a) of such Act (22 U.S.C. 2291h(a)),*
25 *submit to Congress a comprehensive plan to address the di-*

1 *version of the chemicals described in section 489(a)(8)(A)(i)*
2 *of such Act to the illicit production of methamphetamine*
3 *in such country or in another country, including the estab-*
4 *lishment, expansion, and enhancement of regulatory, law*
5 *enforcement, and other investigative efforts to prevent such*
6 *diversion.*

7 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
8 *authorized to be appropriated to the Secretary of State to*
9 *carry out this section \$1,000,000 for each of the fiscal years*
10 *2006 and 2007.*

11 **SEC. 203. PREVENTION OF SMUGGLING OF METHAMPHET-**
12 **AMINE INTO THE UNITED STATES FROM MEX-**
13 **ICO.**

14 (a) *IN GENERAL.—The Secretary of State, acting*
15 *through the Assistant Secretary of the Bureau for Inter-*
16 *national Narcotics and Law Enforcement Affairs, shall take*
17 *such actions as are necessary to prevent the smuggling of*
18 *methamphetamine into the United States from Mexico.*

19 (b) *SPECIFIC ACTIONS.—In carrying out subsection*
20 *(a), the Secretary shall—*

21 (1) *improve bilateral efforts at the United*
22 *States-Mexico border to prevent the smuggling of*
23 *methamphetamine into the United States from Mex-*
24 *ico;*

1 (2) *seek to work with Mexican law enforcement*
2 *authorities to improve the ability of such authorities*
3 *to combat the production and trafficking of meth-*
4 *amphetamine, including by providing equipment and*
5 *technical assistance, as appropriate; and*

6 (3) *encourage the Government of Mexico to take*
7 *immediate action to reduce the diversion of*
8 *pseudoephedrine by drug trafficking organizations for*
9 *the production and trafficking of methamphetamine.*

10 (c) *REPORT.—Not later than one year after the date*
11 *of the enactment of this Act, and annually thereafter, the*
12 *Secretary shall submit to the appropriate congressional*
13 *committees a report on the implementation of this section*
14 *for the prior year.*

15 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
16 *authorized to be appropriated to the Secretary to carry out*
17 *this section \$4,000,000 for each of the fiscal years 2006 and*
18 *2007.*

1 **TITLE III—ENHANCED CRIMINAL**
2 **PENALTIES FOR METH-**
3 **AMPHETAMINE PRODUCTION**
4 **AND TRAFFICKING**

5 **SEC. 301. POSSESSION OF SCHEDULED LISTED CHEMICAL**
6 **WITH INTENT TO MANUFACTURE CON-**
7 **TROLLED SUBSTANCE.**

8 *Section 401 of the Controlled Substances Act (21*
9 *U.S.C. 841) is amended by adding at the end the following*
10 *subsection:*

11 *“(g) Except as authorized by this title, any person who*
12 *knowingly or intentionally possesses ephedrine,*
13 *pseudoephedrine, or phenylpropanolamine, or any of its*
14 *salts, optical isomers, or salts of optical isomers, with intent*
15 *to manufacture a controlled substance shall be fined in ac-*
16 *cordance with title 18, United States Code, or imprisoned*
17 *for any term of years or life, or both.”.*

18 **SEC. 302. SMUGGLING METHAMPHETAMINE OR METH-**
19 **AMPHETAMINE PRECURSOR CHEMICALS INTO**
20 **THE UNITED STATES WHILE USING FACILI-**
21 **TATED ENTRY PROGRAMS.**

22 *(a) ENHANCED PRISON SENTENCE.—The sentence of*
23 *imprisonment imposed on a person convicted of an offense*
24 *under the Controlled Substances Act (21 U.S.C. 801 et seq.)*
25 *or the Controlled Substances Import and Export Act (21*

1 *U.S.C. 951 et seq.*), involving methamphetamine or any
2 listed chemical that is defined in section 102(33) of the Con-
3 trolled Substances Act (21 *U.S.C.* 802(33), shall, if the of-
4 fense is committed under the circumstance described in sub-
5 section (b), be increased by a consecutive term of imprison-
6 ment of not more than 15 years.

7 (b) *CIRCUMSTANCES*.—For purposes of subsection (a),
8 the circumstance described in this subsection is that the of-
9 fense described in subsection (a) was committed by a person
10 who—

11 (1) was enrolled in, or who was acting on behalf
12 of any person or entity enrolled in, any dedicated
13 commuter lane, alternative or accelerated inspection
14 system, or other facilitated entry program adminis-
15 tered or approved by the Federal Government for use
16 in entering the United States; and

17 (2) committed the offense while entering the
18 United States, using such lane, system, or program.

19 (c) *PERMANENT INELIGIBILITY*.—Any person whose
20 term of imprisonment is increased under subsection (a)
21 shall be permanently and irrevocably barred from being eli-
22 gible for or using any lane, system, or program described
23 in subsection (b)(1).

1 **SEC. 303. MANUFACTURING CONTROLLED SUBSTANCES ON**
2 **FEDERAL PROPERTY.**

3 *Subsection (b) of section 401 of the Controlled Sub-*
4 *stances Act (21 U.S.C. 841(b)) is amended in paragraph*
5 *(5) by inserting “or manufacturing” after “cultivating”.*

6 **SEC. 304. INCREASED PUNISHMENT FOR METHAMPHET-**
7 **AMINE KINGPINS.**

8 *Section 408 of the Controlled Substances Act (21*
9 *U.S.C. 848) is amended by adding at the end the following:*

10 *“(s) SPECIAL PROVISION FOR METHAMPHETAMINE.—*
11 *For the purposes of subsection (b), in the case of continuing*
12 *criminal enterprise involving methamphetamine or its*
13 *salts, isomers, or salts of isomers, paragraph (2)(A) shall*
14 *be applied by substituting ‘200’ for ‘300’, and paragraph*
15 *(2)(B) shall be applied by substituting ‘\$5,000,000’ for ‘\$10*
16 *million dollars’.*”

17 **SEC. 305. NEW CHILD-PROTECTION CRIMINAL ENHANCE-**
18 **MENT.**

19 *(a) IN GENERAL.—The Controlled Substances Act is*
20 *amended by inserting after section 419 (21 U.S.C. 860) the*
21 *following:*

1 “CONSECUTIVE SENTENCE FOR MANUFACTURING OR DIS-
 2 TRIBUTING, OR POSSESSING WITH INTENT TO MANU-
 3 FACTURE OR DISTRIBUTE, METHAMPHETAMINE ON
 4 PREMISES WHERE CHILDREN ARE PRESENT OR RE-
 5 SIDE

6 “SEC. 419a. Whoever violates section 401(a)(1) by
 7 manufacturing or distributing, or possessing with intent to
 8 manufacture or distribute, methamphetamine or its salts,
 9 isomers or salts of isomers on premises in which an indi-
 10 vidual who is under the age of 18 years is present or resides,
 11 shall, in addition to any other sentence imposed, be impris-
 12 oned for a period of any term of years but not more than
 13 20 years, subject to a fine, or both. ”.

14 (b) CLERICAL AMENDMENT.—The table of contents of
 15 the Comprehensive Drug Abuse Prevention and Control Act
 16 of 1970 is amended by inserting after the item relating to
 17 section 419 the following new item:

“Sec. 419a. Consecutive sentence for manufacturing or distributing, or possessing
 with intent to manufacture or distribute, methamphetamine on
 premises where children are present or reside.”.

18 **SEC. 306. AMENDMENTS TO CERTAIN SENTENCING COURT**
 19 **REPORTING REQUIREMENTS.**

20 Section 994(w) of title 28, United States Code, is
 21 amended—

22 (1) in paragraph (1)—

1 (A) by inserting “, in a format approved
2 and required by the Commission,” after “submits
3 to the Commission”;

4 (B) in subparagraph (B)—

5 (i) by inserting “written” before
6 “statement of reasons”; and

7 (ii) by inserting “and which shall be
8 stated on the written statement of reasons
9 form issued by the Judicial Conference and
10 approved by the United States Sentencing
11 Commission” after “applicable guideline
12 range”; and

13 (C) by adding at the end the following:

14 *“The information referred to in subparagraphs (A) through*
15 *(F) shall be submitted by the sentencing court in a format*
16 *approved and required by the Commission.”; and*

17 (2) in paragraph (4), by striking “may assemble
18 or maintain in electronic form that include any” and
19 inserting “itself may assemble or maintain in elec-
20 tronic form as a result of the”.

21 **SEC. 307. SEMIANNUAL REPORTS TO CONGRESS.**

22 (a) *IN GENERAL.*—The Attorney General shall, on a
23 semiannual basis, submit to the congressional committees
24 and organizations specified in subsection (b) reports that—

1 (1) *describe the allocation of the resources of the*
2 *Drug Enforcement Administration and the Federal*
3 *Bureau of Investigation for the investigation and*
4 *prosecution of alleged violations of the Controlled*
5 *Substances Act involving methamphetamine; and*

6 (2) *the measures being taken to give priority in*
7 *the allocation of such resources to such violations in-*
8 *volving—*

9 (A) *persons alleged to have imported into*
10 *the United States substantial quantities of meth-*
11 *amphetamine, or ephedrine, pseudoephedrine, or*
12 *phenylpropanolamine or any of its salts, optical*
13 *isomers, or salts of optical isomers;*

14 (B) *persons alleged to have manufactured*
15 *methamphetamine; and*

16 (C) *circumstances in which the violations*
17 *have endangered children.*

18 (b) *CONGRESSIONAL COMMITTEES.—The congressional*
19 *committees and organizations referred to in subsection (a)*
20 *are—*

21 (1) *in the House of Representatives, the Com-*
22 *mittee on the Judiciary, the Committee on Energy*
23 *and Commerce, and the Committee on Government*
24 *Reform; and*

1 (2) *in the Senate, the Committee on the Judici-*
 2 *ary, the Committee on Commerce, Science, and*
 3 *Transportation, and the Caucus on International*
 4 *Narcotics Control.*

5 **[TITLE IV—ENHANCED ENVI-**
 6 **RONMENTAL REGULATION OF**
 7 **METHAMPHETAMINE BY-**
 8 **PRODUCTS**

9 **[SEC. 401. DESIGNATION OF BY-PRODUCTS OF METH-**
 10 **AMPHETAMINE LABORATORIES AS HAZ-**
 11 **ARDOUS MATERIALS AND WASTE UNDER**
 12 **HAZARDOUS MATERIALS TRANSPORTATION**
 13 **ACT AND SOLID WASTE DISPOSAL ACT.**

14 **[(a) HAZARDOUS MATERIALS TRANSPORTATION**
 15 **ACT.—**The Secretary of Transportation, after consulta-
 16 tion with the Attorney General, shall utilize the authority
 17 provided by section 5103 of title 49, United States Code,
 18 to designate as hazardous materials for purposes of chap-
 19 ter 51 of such title those by-products of the methamphet-
 20 amine-production process that the Secretary determines
 21 may pose an unreasonable risk to health and safety or
 22 property when transported in commerce in a particular
 23 amount and form.

24 **[(b) SOLID WASTE DISPOSAL ACT.—**The Adminis-
 25 trator of the Environmental Protection Agency, after con-

1 sultation with the Attorney General, shall utilize the au-
2 thority provided by section 3001 of the Solid Waste Dis-
3 posal Act (42 U.S.C. 6921) to designate as hazardous
4 waste for purposes of such Act (42 U.S.C. 6901 et seq.)
5 those by-products of the methamphetamine-production
6 process that the Administrator determines are likely to
7 cause long-term harm to the environment in the event of
8 improper disposal and inadequate remediation.

9 **[(e) TIME FOR DESIGNATION; ADDITIONAL DES-**
10 **IGNATIONS.**—The designations required by subsections (a)
11 and (b) shall be completed not later than 18 months after
12 the date of the enactment of this Act. After the expiration
13 of such 18-month period, if the Secretary of Transpor-
14 tation or the Administrator of the Environmental Protec-
15 tion Agency determines that additional by-products of the
16 methamphetamine-production process meet the criteria for
17 designation pursuant to subsection (a) or (b), respectively,
18 then the Secretary or the Administrator (as the case may
19 be), after consultation with the Attorney General, shall
20 designate the by-products accordingly.

21 **[SEC. 402. CLEANUP COSTS.**

22 **[Section 413(q) of the Controlled Substances Act (21**
23 **U.S.C. 853(q)) is amended—**

1 [(1) in the matter preceding paragraph (1), by
2 inserting “, the possession, or the possession with in-
3 tent to distribute, ” after “manufacture”; and

4 [(2) in paragraph (2), by inserting “, or on
5 premises or in property that the defendant owns, re-
6 sides, or does business in” after “by the defend-
7 ant”.]

8 **TITLE IV—ENHANCED ENVIRON-**
9 **MENTAL REGULATION OF**
10 **METHAMPHETAMINE BY-**
11 **PRODUCTS**

12 **SEC. 401. BIENNIAL REPORT TO CONGRESS ON AGENCY**
13 **DESIGNATIONS OF BY-PRODUCTS OF METH-**
14 **AMPHETAMINE LABORATORIES AS HAZ-**
15 **ARDOUS MATERIALS.**

16 **Section 5103 of title 49, Unites States**
17 **Code, is amended by adding at the end the fol-**
18 **lowing:**

19 “(d) **BIENNIAL REPORT.—The Secretary of**
20 **Transportation shall submit to the Committee**
21 **on Transportation and Infrastructure of the**
22 **House of Representatives and the Senate**
23 **Committee on Commerce, Science, and Trans-**
24 **portation a biennial report providing infor-**
25 **mation on whether the Secretary has des-**

1 **ignated as hazardous materials for purposes**
2 **of chapter 51 of such title all by-products of**
3 **the methamphetamine-production process**
4 **that are known by the Secretary to pose an**
5 **unreasonable risk to health and safety or**
6 **property when transported in commerce in a**
7 **particular amount and form.”.**

8 **SEC. 402. METHAMPHETAMINE PRODUCTION REPORT.**

9 **Section 3001 of the Solid Waste Disposal**
10 **Act (42 U.S.C. 6921) is amended at the end by**
11 **adding the following:**

12 **“(j) METHAMPHETAMINE PRODUCTION.—Not**
13 **later than every 24 months, the Administrator**
14 **shall submit to the Committee on Energy and**
15 **Commerce of the House of Representatives**
16 **and the Committee on Environment and Pub-**
17 **lic Works of the Senate a report setting forth**
18 **information collected by the Administrator**
19 **from law enforcement agencies, States, and**
20 **other relevant stakeholders that identifies the**
21 **byproducts of the methamphetamine produc-**
22 **tion process and whether the Administrator**
23 **considers each of the byproducts to be a haz-**
24 **ardous waste pursuant to this section and rel-**
25 **evant regulations.”.**

1 SEC. 403. CLEANUP COSTS.

2 (a) IN GENERAL.—Section 413(q) of the
3 Controlled Substances Act (21 U.S.C. 853(q)) is
4 amended—

5 (1) in the matter preceding paragraph
6 (1), by inserting “, the possession, or the
7 possession with intent to distribute, ”
8 after “manufacture”; and

9 (2) in paragraph (2), by inserting “, or
10 on premises or in property that the de-
11 fendant owns, resides, or does business
12 in” after “by the defendant”.

13 (b) SAVINGS CLAUSE.—Nothing in this sec-
14 tion shall be interpreted or construed to
15 amend, alter, or otherwise affect the obliga-
16 tions, liabilities and other responsibilities of
17 any person under any Federal or State envi-
18 ronmental laws.

19 ***TITLE V—ADDITIONAL***
20 ***PROGRAMS AND ACTIVITIES***

21 ***SEC. 501. IMPROVEMENTS TO DEPARTMENT OF JUSTICE***
22 ***DRUG COURT GRANT PROGRAM.***

23 *Section 2951 of the Omnibus Crime Control and Safe*
24 *Streets Act of 1968 (42 U.S.C. 3797u) is amended by add-*
25 *ing at the end the following new subsection:*

1 “(c) *MANDATORY DRUG TESTING AND MANDATORY*
2 *SANCTIONS.*—

3 “(1) *MANDATORY TESTING.*—*Grant amounts*
4 *under this part may be used for a drug court only*
5 *if the drug court has mandatory periodic testing as*
6 *described in subsection (a)(3)(A). The Attorney Gen-*
7 *eral shall, by prescribing guidelines or regulations,*
8 *specify standards for the timing and manner of com-*
9 *plying with such requirements. The standards—*

10 “(A) *shall ensure that—*

11 “(i) *each participant is tested for every*
12 *controlled substance that the participant*
13 *has been known to abuse, and for any other*
14 *controlled substance the Attorney General or*
15 *the court may require; and*

16 “(ii) *the testing is accurate and prac-*
17 *ticable; and*

18 “(B) *may require approval of the drug test-*
19 *ing regime to ensure that adequate testing oc-*
20 *curs.*

21 “(2) *MANDATORY SANCTIONS.*—*The Attorney*
22 *General shall, by prescribing guidelines or regula-*
23 *tions, specify that grant amounts under this part*
24 *may be used for a drug court only if the drug court*
25 *imposes graduated sanctions that increase punitive*

1 **“PART II—CONFRONTING USE OF**
2 **METHAMPHETAMINE**

3 **“SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS**
4 **PUBLIC SAFETY AND METHAMPHETAMINE**
5 **MANUFACTURING, SALE, AND USE IN HOT**
6 **SPOTS.**

7 *“(a) PURPOSE AND PROGRAM AUTHORITY.—*

8 *“(1) PURPOSE.—It is the purpose of this part to*
9 *assist States—*

10 *“(A) to carry out programs to address the*
11 *manufacture, sale, and use of methamphetamine*
12 *drugs; and*

13 *“(B) to improve the ability of State and*
14 *local government institutions of to carry out*
15 *such programs.*

16 *“(2) GRANT AUTHORIZATION.—The Attorney*
17 *General, through the Bureau of Justice Assistance in*
18 *the Office of Justice Programs may make grants to*
19 *States to address the manufacture, sale, and use of*
20 *methamphetamine to enhance public safety.*

21 *“(3) GRANT PROJECTS TO ADDRESS METH-*
22 *AMPHETAMINE MANUFACTURE SALE AND USE.—*
23 *Grants made under subsection (a) may be used for*
24 *programs, projects, and other activities to—*

1 “(A) investigate, arrest and prosecute indi-
2 viduals violating laws related to the use, manu-
3 facture, or sale of methamphetamine;

4 “(B) reimburse the Drug Enforcement Ad-
5 ministration for expenses related to the clean up
6 of methamphetamine clandestine labs and related
7 environmental damage;

8 “(C) support State and local health depart-
9 ment and environmental agency services de-
10 ployed to address methamphetamine; and

11 “(D) procure equipment, technology, or sup-
12 port systems, or pay for resources, if the appli-
13 cant for such a grant demonstrates to the satis-
14 faction of the Attorney General that expenditures
15 for such purposes would result in the reduction
16 in the use, sale, and manufacture of meth-
17 amphetamine.

18 **“SEC. 2997. FUNDING.**

19 *“There are authorized to be appropriated to carry out*
20 *this part \$99,000,000 for each fiscal year 2006, 2007, 2008,*
21 *2009, and 2010.”.*

22 **SEC. 503. GRANTS FOR PROGRAMS FOR DRUG-ENDAN-**
23 **GERED CHILDREN.**

24 *(a) IN GENERAL.—The Attorney General shall make*
25 *grants to States for the purpose of carrying out programs*

1 *to provide a comprehensive response to aid children who*
2 *are living in a home in which methamphetamine or other*
3 *controlled substances are unlawfully manufactured, admin-*
4 *istered, or distributed.*

5 *(b) CERTAIN REQUIREMENTS.—The Attorney General*
6 *shall ensure that the procedures and services of programs*
7 *carried out with grants under subsection (a) include the*
8 *following:*

9 *(1) Coordination among law enforcement agen-*
10 *cies, prosecutors, child protective services, and health*
11 *professionals.*

12 *(2) Removal of children from toxic or drug-en-*
13 *dangering environments.*

14 *(c) AUTHORIZATION OF APPROPRIATIONS.—For the*
15 *purpose of carrying out this section, there are authorized*
16 *to be appropriated \$20,000,000 for each of the fiscal years*
17 *2006 and 2007. Amounts appropriated under the preceding*
18 *sentence shall remain available until expended.*

Union Calendar No. 167

109TH CONGRESS
1ST Session

H. R. 3889

[Report No. 109-299, Parts I and II]

A BILL

To further regulate and punish illicit conduct relating to methamphetamine, and for other purposes.

NOVEMBER 17, 2005

Reported from the Committee on Energy and
Commerce with amendments

NOVEMBER 17, 2005

Committees on International Relations and Transportation and Infrastructure discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed