

111TH CONGRESS  
1ST SESSION

# H. R. 2469

To amend the Controlled Substances Act to enhance criminal penalties for drug trafficking offenses relating to distribution of heroin, marihuana, and methamphetamine and distribution to and use of children, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2009

Mr. POE of Texas (for himself, Mr. BURTON of Indiana, Mr. MCCAUL, Mr. COBLE, Mr. CHAFFETZ, Mr. SOUDER, and Mr. GALLEGLY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To amend the Controlled Substances Act to enhance criminal penalties for drug trafficking offenses relating to distribution of heroin, marihuana, and methamphetamine and distribution to and use of children, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Drug Trafficking  
5 Elimination Act of 2009”.

# **TITLE I—CRIMINAL ENHANCEMENTS**

**SEC. 101. CRIMINAL ENHANCEMENTS FOR UNLAWFUL MANUFACTURING, DISTRIBUTING, DISPENSING, OR POSSESSING WITH INTENT TO MANUFACTURE, DISTRIBUTE, OR POSSESS LARGE AMOUNTS OF HEROIN, MARIHUANA, AND METHAMPHETAMINE.**

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended by adding at the end the following:

“(F) In the case of a violation of subsection (a) of this section involving—

“(i) more than 10 kilograms of a mixture or substance containing a detectable amount of heroin;

“(ii) more than 10,000 kilograms of a mixture or substance containing a detectable amount of marihuana, or more than 10,000 marihuana plants regardless of weight; or

“(iii) more than 500 grams of methamphetamine, its salts, isomers, and salts of its isomers or more than 1.5 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers,

1 such person shall be subject to the same penalties as appli-  
 2 cable under subparagraph (A) of this paragraph, except  
 3 that such person shall be sentenced to a term of imprison-  
 4 ment which may not be less than 20 years.”.

5 **SEC. 102. CRIMINAL ENHANCEMENTS FOR UNLAWFUL IM-**  
 6 **PORTATION AND EXPORTATION OF LARGE**  
 7 **AMOUNTS OF HEROIN, MARIHUANA, AND**  
 8 **METHAMPHETAMINE.**

9 Section 1010(b) of the Controlled Substances Import  
 10 and Export Act (21 U.S.C. 960(b)) is amended by adding  
 11 at the end the following:

12 “(8) In the case of a violation of subsection (a) of  
 13 this section involving—

14 “(A) more than 10 kilograms of a mixture or  
 15 substance containing a detectable amount of heroin;

16 “(B) more than 10,000 kilograms of a mixture  
 17 or substance containing a detectable amount of mar-  
 18 ihuana; or

19 “(C) more than 500 grams of methamphet-  
 20 amine, its salts, isomers, and salts of its isomers or  
 21 more than 1.5 kilograms of a mixture or substance  
 22 containing a detectable amount of methamphet-  
 23 amine, its salts, isomers, or salts of its isomers,

24 the person committing such violation shall be subject to  
 25 the same penalties as applicable under paragraph (1) of

1 this subsection, except that such person shall be sentenced  
2 to a term of imprisonment which may not be less than  
3 20 years.”.

4 **SEC. 103. MANUFACTURING CONTROLLED SUBSTANCES ON**  
5 **FEDERAL PROPERTY.**

6 Section 401(b)(5) of the Controlled Substances Act  
7 (21 U.S.C. 841(b)(5)) is amended to read as follows:

8 “(5) MANUFACTURE OR CULTIVATION ON FEDERAL  
9 PROPERTY.—Any person who violates subsection (a) of  
10 this section by manufacturing or cultivating a controlled  
11 substance on Federal property shall be imprisoned for a  
12 term of not more than 10 years, which shall be imposed  
13 consecutively and in addition to the penalty imposed under  
14 paragraph (1).”.

15 **SEC. 104. USE OF HAZARDOUS SUBSTANCES ON FEDERAL**  
16 **LAND.**

17 Section 401(b)(6) of the Controlled Substances Act  
18 (21 U.S.C. 841(b)(6)) is amended to read as follows:

19 “(6) USE OF HAZARDOUS SUBSTANCES.—Any per-  
20 son who violates subsection (a) and knowingly uses a poi-  
21 son, chemical, or other hazardous substance on Federal  
22 land, and by such use—

23 “(A) creates a serious hazard to humans, wild-  
24 life, or domestic animals;

1 “(B) degrades or harms the environment or  
2 natural resources; or

3 “(C) pollutes an aquifer, spring, stream, river,  
4 or body of water,

5 shall be imprisoned for a term of not more than 5 years,  
6 which shall be imposed consecutively and in addition to  
7 the penalty imposed under paragraphs (1) and (5).”.

8 **SEC. 105. LISTED CHEMICALS.**

9 Section 401(c) of the Controlled Substances Act (21  
10 U.S.C. 841(c)) is amended by striking “20 years” and “10  
11 years” and inserting “30 years” and “20 years”, respec-  
12 tively.

13 **SEC. 106. MURDER AND OTHER VIOLENT CRIMES RELATED**  
14 **TO DRUG TRAFFICKING, AND DANGEROUS**  
15 **DRUG TRAFFICKING ORGANIZATIONS.**

16 (a) MURDER AND OTHER VIOLENT CRIMES COM-  
17 MITTED DURING AND IN RELATION TO A DRUG TRAF-  
18 FICKING CRIME.—Part D of the Controlled Substances  
19 Act (21 U.S.C. 841 et seq.) is amended by adding at the  
20 end the following new section:

21 “MURDER AND OTHER VIOLENT CRIMES COMMITTED  
22 DURING AND IN RELATION TO A DRUG TRAFFICKING  
23 CRIME

24 “SEC. 424. (a) IN GENERAL.—Whoever commits, or  
25 conspires, or attempts to commit, a crime of violence dur-  
26 ing and in relation to a drug trafficking crime, shall, un-

1 less the death penalty is otherwise imposed, in addition  
2 and consecutive to the punishment provided for the drug  
3 trafficking crime and in addition to being subject to a fine  
4 under title 18, United States Code—

5 “(1) if the crime of violence results in the death  
6 of any person, be sentenced to death or life in pris-  
7 on;

8 “(2) if the crime of violence is kidnapping, ag-  
9 gravated sexual abuse, or maiming, be imprisoned  
10 for life or any term of years not less than 30;

11 “(3) if the crime of violence is assault resulting  
12 in serious bodily injury, be imprisoned for life or any  
13 term of years not less than 20; and

14 “(4) in any other case, be imprisoned for life or  
15 for any term of years not less than 10.

16 “(b) VENUE.—A prosecution for a violation of this  
17 section may be brought in—

18 “(1) the judicial district in which the murder or  
19 other crime of violence occurred; or

20 “(2) any judicial district in which the drug traf-  
21 ficking crime may be prosecuted.

22 “(c) DEFINITIONS.—As used in this section—

23 “(1) the term ‘aggravated sexual abuse’ means  
24 an offense that, if committed in the special maritime

1 and territorial jurisdiction would be an offense under  
2 section 2241(a) of title 18, United States Code;

3 “(2) the term ‘crime of violence’ has the mean-  
4 ing given that term in section 16 of title 18, United  
5 States Code;

6 “(3) the term ‘drug trafficking crime’ has the  
7 meaning given that term in section 924(c)(2) of title  
8 18, United States Code; and

9 “(4) the term ‘serious bodily injury’ has the  
10 meaning given that term in section 1365 of title 18,  
11 United States Code.”.

12 (b) DANGEROUS DRUG TRAFFICKING ORGANIZA-  
13 TIONS.—Part D of such Act is further amended by adding  
14 after section 424, as added by subsection (a) of this sec-  
15 tion, the following new section:

16 “DANGEROUS DRUG TRAFFICKING ORGANIZATIONS

17 “SEC. 425. (a) IN GENERAL.—Any person who know-  
18 ingly engages in a dangerous drug trafficking organiza-  
19 tion, as defined in subsection (b), shall be imprisoned for  
20 not less than 20 years nor more than life, fined in accord-  
21 ance with the provisions of title 18, United States Code,  
22 or both.

23 “(b) DANGEROUS DRUG TRAFFICKING ORGANIZA-  
24 TION DEFINED.—For purposes of this section, the term  
25 ‘dangerous drug trafficking organization’ means a formal

1 or informal group, organization, or association of 5 or  
2 more individuals—

3 “(1) that has as one of its purposes the com-  
4 mission of one or more drug trafficking crimes (as  
5 defined in section 924(c)(2) of title 18, United  
6 States Code);

7 “(2) one or more of the members of which com-  
8 mit or have committed, in furtherance of such pur-  
9 pose—

10 “(A) more than one violation of this part  
11 the punishment of which is a felony; and

12 “(B) 2 or more violations, in 2 or more  
13 separate criminal episodes, of section 424; and

14 “(3) the activities of which involve at least 50  
15 times the quantity of a substance described in sec-  
16 tion 401(b)(1)(B).

17 “(c) EXTRATERRITORIAL JURISDICTION.—There is  
18 jurisdiction over an offense under this section committed  
19 outside the United States if the individual committing the  
20 offense is a citizen of the United States or an alien law-  
21 fully admitted to the United States for permanent resi-  
22 dence (as defined in section 101(a)(20) of the Immigration  
23 and Nationality Act (8 U.S.C. 1101(a)(20))).”.

24 (c) CLERICAL AMENDMENT.—The table of contents  
25 for the Comprehensive Drug Abuse Prevention and Con-



1 trol Act of 1970 is amended by inserting after the item  
 2 relating to section 423 the following:

“Sec. 424. Murder and other violent crimes committed during and in relation  
 to a drug trafficking crime.

“Sec. 425. Dangerous drug trafficking organizations.”.

3 **TITLE II—PROTECTING CHIL-**  
 4 **DREN FROM DRUG TRAF-**  
 5 **FICKERS**

6 **SEC. 201. DISTRIBUTION TO PERSONS UNDER AGE 21 AND**  
 7 **PREGNANT PERSONS.**

8 (a) IN GENERAL.—Section 418 of the Controlled  
 9 Substances Act (21 U.S.C. 859) is amended to read as  
 10 follows:

11 “DISTRIBUTION TO PERSONS UNDER AGE 21 AND  
 12 PREGNANT PERSONS

13 “SEC. 418. (a) DISTRIBUTION TO PERSONS UNDER  
 14 21.—Except as provided in subsection (b), any person at  
 15 least 18 years of age who violates section 401(a)(1) by  
 16 distributing a controlled substance to a person under 21  
 17 years of age shall be sentenced to a term of imprisonment  
 18 of not less than 3 years nor more than 10 years in addition  
 19 and consecutive to any punishment under section 401(b).  
 20 The mandatory minimum sentencing provisions of this  
 21 subsection shall not apply to offenses involving 5 grams  
 22 or less of marihuana.

23 “(b) DISTRIBUTION TO PREGNANT PERSONS.—Ex-  
 24 cept as authorized by this title, any person who knowingly

1 provides or distributes any controlled substance to a preg-  
 2 nant individual in violation of any provision of this title  
 3 shall be sentenced to a term of imprisonment of not less  
 4 than 3 years nor more than 10 years in addition and con-  
 5 secutive to any punishment under section 401(b).

6 “(c) SECOND OR SUBSEQUENT OFFENSES.—Any  
 7 person at least 18 years of age who violates subsections  
 8 (a) or (b) after a prior conviction under section 401(a)  
 9 has become final shall be sentenced to a term of imprison-  
 10 ment of not less than 5 years nor more than 20 years  
 11 in addition and consecutive to any punishment under sec-  
 12 tion 401(b). Penalties for third and subsequent convictions  
 13 shall be governed by section 401(b)(1)(A).”.

14 (b) CLERICAL AMENDMENT.—The item relating to  
 15 section 418 in the table of contents for the Comprehensive  
 16 Drug Abuse Prevention and Control Act of 1970 is  
 17 amended to read as follows:

“Sec. 418. Distribution to persons under age 21 and pregnant persons.”.

18 **SEC. 202. DISTRIBUTION IN OR NEAR SCHOOLS.**

19 Section 419 of the Controlled Substances Act (21  
 20 U.S.C. 860) is amended to read as follows:

21 “DISTRIBUTION IN OR NEAR SCHOOLS

22 “SEC. 419. (a) IN GENERAL.—Except as provided by  
 23 subsection (b), whoever violates section 401(a)(1) or sec-  
 24 tion 416 by distributing, possessing with intent to dis-  
 25 tribute, or manufacturing a controlled substance in or on,

1 or within one thousand feet of, the real property com-  
2 prising a public or private elementary, vocational, or sec-  
3 ondary school or a public or private college, junior college,  
4 or university, or a playground, or housing facility owned  
5 by a public housing authority, or within 100 feet of a pub-  
6 lic or private youth center, public swimming pool, or video  
7 arcade facility, shall be sentenced to a term of imprison-  
8 ment of not less than 3 years nor more than 10 years  
9 in addition and consecutive to any punishment under sec-  
10 tion 401(b). The mandatory minimum sentencing provi-  
11 sions of this subsection shall not apply to offenses involv-  
12 ing 5 grams or less of marihuana.

13 “(b) SECOND OR SUBSEQUENT OFFENSES.—Who-  
14 ever violates subsection (a) after a prior conviction under  
15 section 401(a) has become final shall be sentenced to a  
16 term of imprisonment of not less than 5 years nor more  
17 than 20 years in addition and consecutive to any punish-  
18 ment under section 401(b). Penalties for third and subse-  
19 quent convictions shall be governed by section  
20 401(b)(1)(A).

21 “(c) DEFINITIONS.—As used in this section—

22 “(1) the term ‘playground’ means any outdoor  
23 facility (including any parking lot appurtenant  
24 thereto) intended for recreation, open to the public,  
25 and with any portion thereof containing three or

1 more separate apparatus intended for the recreation  
 2 of children including, but not limited to, sliding  
 3 boards, swingsets, and teeterboards;

4 “(2) the term ‘youth center’ means any rec-  
 5 reational facility and/or gymnasium (including any  
 6 parking lot appurtenant thereto), intended primarily  
 7 for use by persons under 18 years of age, which reg-  
 8 ularly provides athletic, civic, or cultural activities;

9 “(3) the term ‘video arcade facility’ means any  
 10 facility, legally accessible to children, intended pri-  
 11 marily for the use of pinball and video machines for  
 12 amusement containing a minimum of ten machines  
 13 that are either pinball or video machines; and

14 “(4) the term ‘swimming pool’ includes any  
 15 parking lot appurtenant thereto.”.

16 **SEC. 203. EMPLOYMENT OR USE OF PERSONS UNDER 18**  
 17 **YEARS OF AGE IN DRUG OPERATIONS.**

18 Section 420 of the Controlled Substances Act (21  
 19 U.S.C. 861) is amended to read as follows:

20 “EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF  
 21 AGE IN DRUG OPERATIONS

22 “SEC. 420. (a) Any person at least 18 years of age  
 23 who knowingly—

24 “(1) employs, hires, uses, persuades, induces,  
 25 entices, or coerces, a person under 18 years of age  
 26 to violate any provision of this title or title III;

1           “(2) employs, hires, uses, persuades, induces,  
2           entices, or coerces a person under 18 years of age  
3           to assist in avoiding detection or apprehension, for  
4           any such violation, by any Federal, State, or local  
5           law enforcement official; or

6           “(3) receives a controlled substance from a per-  
7           son under 18 years of age, other than an immediate  
8           family member, in violation of this title or title III,  
9           shall be sentenced to a term of imprisonment of not less  
10          than 3 years nor more than 10 years in addition and con-  
11          secutive to any punishment under section 401(b).

12          “(b) Whoever violates subsection (a) after a prior  
13          conviction under section 401(a) has become final shall be  
14          sentenced to a term of imprisonment of not less than 5  
15          years nor more than 20 years in addition and consecutive  
16          to any punishment under section 401(b). Penalties for  
17          third and subsequent convictions shall be governed by sec-  
18          tion 401(b)(1)(A).”.

19      **SEC. 204. MAINTAINING DRUG-INVOLVED PREMISES IN RE-**  
20                                      **LATION TO INVOLVEMENT OF CHILDREN.**

21          Section 416(b) of the Controlled Substances Act (21  
22          U.S.C. 856(b)) is amended by inserting (1) before “Any  
23          person” and by adding the following new paragraph:

24                  “(2) Any person who violates subsection (a)  
25          knowing that the manufacture, distribution, storage,

1 or use of any controlled substance involves a person  
2 under the age of 18 shall be sentenced to a term of  
3 imprisonment of not less than 5 years nor more than  
4 20 years.”.

5 **SEC. 205. MODIFICATION OF SAFETY VALVE PROVISION.**

6 Section 3553(f) of title 18, United States Code, is  
7 amended—

8 (1) in paragraph (4), by inserting “and was not  
9 engaged in a dangerous drug trafficking organiza-  
10 tion (as defined in section 425 of the Controlled  
11 Substances Act)” after “section 408 of the Con-  
12 trolled Substances Act”;

13 (2) by striking “and” at the end of paragraph  
14 (4);

15 (3) by redesignating paragraph (5) as para-  
16 graph (6); and

17 (4) by inserting after paragraph (4) the fol-  
18 lowing:

19 “(5) no part of the offense or relevant conduct  
20 involved manufacturing, possessing with intent to  
21 distribute, or distributing any controlled substance  
22 in or near the presence of a child or conduct consti-  
23 tuting an offense under section 418, 419, or 420 of  
24 the Controlled Substances Act (21 U.S.C. 859, 860,  
25 or 861); and”.

1 **TITLE III—NATIONAL DRUG**  
2 **TRAFFICKING ENFORCEMENT**  
3 **STRATEGY**

4 **SEC. 301. NATIONAL ENFORCEMENT STRATEGY.**

5 (a) DEVELOPMENT OF STRATEGY.—The Attorney  
6 General, in consultation with the Secretary of Homeland  
7 Security, shall develop a National Drug Trafficking En-  
8 forcement Strategy.

9 (b) REPORT.—Not later than February 1 of each  
10 year, the Attorney General shall submit to the Committees  
11 on the Judiciary of the Senate and the House of Rep-  
12 resentatives a report containing the following:

13 (1) A description of the drug enforcement ac-  
14 tivities of the Federal Bureau of Investigations, the  
15 Drug Enforcement Agency, the Department of  
16 Homeland Security, and other Federal law enforce-  
17 ment agencies, including international and domestic  
18 enforcement strategies and coordination efforts  
19 among all law enforcement agencies.

20 (2) A description of the allocation of the re-  
21 sources of the entities listed in paragraph (1) for the  
22 investigation and prosecution of alleged violations of  
23 the Controlled Substances Act (21 U.S.C. 801 et  
24 seq.), including violations involving significant drug  
25 trafficking organizations.

1           (3) A description of measures being taken to  
2       give priority in the allocation of such resources de-  
3       scribed in paragraph (2) to alleged violations involv-  
4       ing—

5           (A) persons who have imported into the  
6       United States substantial quantities of con-  
7       trolled substances; and

8           (B) persons involved in violations that have  
9       endangered children.

○