

§ 853a. Transferred**Editorial Notes****CODIFICATION**

Section, Pub. L. 100-690, title V, §5301, Nov. 18, 1988, 102 Stat. 4310, which related to denial of Federal benefits to drug traffickers and possessors, was renumbered section 421 of the Controlled Substances Act by Pub. L. 101-647, title X, §1002(d)(1), Nov. 29, 1990, 104 Stat. 4827, and is classified to section 862 of this title.

§ 854. Investment of illicit drug profits**(a) Prohibition**

It shall be unlawful for any person who has received any income derived, directly or indirectly, from a violation of this subchapter or subchapter II punishable by imprisonment for more than one year in which such person has participated as a principal within the meaning of section 2 of title 18, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this section if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any violation of this subchapter or subchapter II after such purchase do not amount in the aggregate to 1 per centum of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) Penalty

Whoever violates this section shall be fined not more than \$50,000 or imprisoned not more than ten years, or both.

(c) "Enterprise" defined

As used in this section, the term "enterprise" includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.

(d) Construction

The provisions of this section shall be liberally construed to effectuate its remedial purposes.

(Pub. L. 91-513, title II, §414, as added Pub. L. 98-473, title II, §303, Oct. 12, 1984, 98 Stat. 2049.)

§ 855. Alternative fine

In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

(Pub. L. 91-513, title II, §415, as added Pub. L. 98-473, title II, §2302, Oct. 12, 1984, 98 Stat. 2193.)

§ 856. Maintaining drug-involved premises**(a) Unlawful acts**

Except as authorized by this subchapter, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Criminal penalties

Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than \$500,000, or both, or a fine of \$2,000,000 for a person other than an individual.

(c) Violation as offense against property

A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii) of title 18.

(d) Civil penalties

(1) Any person who violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

(A) \$250,000; or

(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

(e) Declaratory and injunctive remedies

Any person who violates subsection (a) shall be subject to declaratory and injunctive remedies as set forth in section 843(f) of this title.

(Pub. L. 91-513, title II, §416, as added Pub. L. 99-570, title I, §1841(a), Oct. 27, 1986, 100 Stat. 3207-52; amended Pub. L. 106-310, div. B, title XXXVI, §3613(e), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 108-21, title VI, §608(b)(1), (2), (c), Apr. 30, 2003, 117 Stat. 691.)

Editorial Notes**AMENDMENTS**

2003—Pub. L. 108-21, §608(b)(2), substituted "Maintaining drug-involved premises" for "Establishment of manufacturing operations" in section catchline.

Subsec. (a)(1). Pub. L. 108-21, §608(b)(1)(A), substituted "open, lease, rent, use, or maintain any place, whether permanently or temporarily," for "open or maintain any place".

Subsec. (a)(2). Pub. L. 108-21, §608(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: "manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance."

Subsecs. (d), (e). Pub. L. 108-21, §608(c), added subsecs. (d) and (e).

2000—Subsec. (c). Pub. L. 106-310 added subsec. (c).

§ 857. Repealed. Pub. L. 101-647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859

Section, Pub. L. 99-570, title I, § 1822, Oct. 27, 1986, 100 Stat. 3207-51; Pub. L. 100-690, title VI, § 6485, Nov. 18, 1988, 102 Stat. 4384; Pub. L. 101-647, title XXIV, § 2401(b), Nov. 29, 1990, 104 Stat. 4859, related to interstate and foreign sale and transportation of drug paraphernalia.

Subsec. (a), which related to unlawful acts, was repealed.

Subsecs. (b) to (f) were redesignated as subsecs. (b) to (f) of section 422 of the Controlled Substances Act by section 2401(b) of Pub. L. 101-647 and transferred to section 863(b) to (f) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99-570, title I, § 1823, Oct. 27, 1986, 100 Stat. 3207-52, which provided that subtitle O (§§ 1821-1823) of title I of Pub. L. 99-570, enacting this section and provisions set out as a note under section 801 of this title, was to become effective 90 days after Oct. 27, 1986, was repealed by Pub. L. 101-647, title XXIV, § 2401(d), Nov. 29, 1990, 104 Stat. 4859.

§ 858. Endangering human life while illegally manufacturing controlled substance

Whoever, while manufacturing a controlled substance in violation of this subchapter, or attempting to do so, or transporting or causing to be transported materials, including chemicals, to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18 or imprisoned not more than 10 years, or both.

(Pub. L. 91-513, title II, § 417, as added Pub. L. 100-690, title VI, § 6301(a), Nov. 18, 1988, 102 Stat. 4370.)

§ 859. Distribution to persons under age twenty-one

(a) First offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b)) subject to (1) twice the maximum punishment authorized by section 841(b) of this title, and (2) at least twice any term of supervised release authorized by section 841(b) of this title, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.

(b) Second offense

Except as provided in section 860 of this title, any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction under subsection (a) of this section (or under section 333(b) of this title as in effect prior to May 1, 1971) has become final, is subject to (1)

three times the maximum punishment authorized by section 841(b) of this title, and (2) at least three times any term of supervised release authorized by section 841(b) of this title, for a second or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.

(Pub. L. 91-513, title II, § 418, formerly § 405, Oct. 27, 1970, 84 Stat. 1265; Pub. L. 98-473, title II, § 224(b), 503(b)(3), Oct. 12, 1984, 98 Stat. 2030, 2070; Pub. L. 99-570, title I, §§ 1004(a), 1005(b)(1), 1105(a), (b), Oct. 27, 1986, 100 Stat. 3207-6, 3207-11; Pub. L. 100-690, title VI, §§ 6452(b), 6455, 6456, Nov. 18, 1988, 102 Stat. 4371, 4372; renumbered § 418 and amended Pub. L. 101-647, title X, §§ 1002(a), 1003(a), title XXXV, § 3599L, Nov. 29, 1990, 104 Stat. 4827, 4828, 4932.)

Editorial Notes

CODIFICATION

Section was classified to section 845 of this title prior to renumbering by Pub. L. 101-647.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101-647, § 1003(a)(1), substituted “subject to (1) twice the maximum punishment authorized by section 841(b) of this title” for “punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title”.

Pub. L. 101-647, § 1002(a)(2)(A), substituted “section 860” for “section 845a”.

Subsec. (b). Pub. L. 101-647, § 3599L, substituted “has become final” for “have become final”.

Pub. L. 101-647, § 1003(a)(2), substituted “subject to (1) three times the maximum punishment authorized by section 841(b) of this title” for “punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 841(b) of this title”.

Pub. L. 101-647, § 1002(a)(2)(B), substituted “section 860” for “section 845a”.

1988—Subsec. (a). Pub. L. 100-690, § 6455, inserted at end “The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.”

Subsec. (b). Pub. L. 100-690, § 6452(b), struck out “or subsequent” after “Second” in heading, and in text struck out “or convictions” after “a prior conviction”, and inserted at end “Penalties for third and subsequent convictions shall be governed by section 841(b)(1)(A) of this title.”

Pub. L. 100-690, § 6456, struck out “The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.”

1986—Subsec. (a). Pub. L. 99-570, § 1105(a), inserted “Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year.”

Pub. L. 99-570, § 1004(a), substituted “term of supervised release” for “special parole term”.

Subsec. (b). Pub. L. 99-570, § 1105(b), inserted “Except to the extent a greater minimum sentence is otherwise provided by section 841(b) of this title, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.”

Pub. L. 99-570, § 1004(a), substituted “term of supervised release” for “special parole term”.