

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 Repealed.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 (a), which related to unlawful acts, was repealed.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provisions set out as a note under section 801 of this title, was to become effective 90 days after Oct. 27, 1986, was repealed by Pub.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”.