



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

*In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances,
the Secretary-General has the honour to communicate the following legislative text / texts*

UNITED STATES OF AMERICA

Communicated by the Government of the United States of America

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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*Note by the Secretariat: These documents are a direct reproduction of the text / texts communicated to the Secretariat.



PUBLIC LAW 105–277—OCT. 21, 1998 112 STAT. 2681

*Public Law 105–277
105th Congress

An Act Making omnibus consolidated and emergency appropriations for the fiscal year ending September 30, 1999, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[...]

DIVISION F—NOT LEGALIZING MARIJUANA FOR MEDICINAL USE

It is the sense of the Congress that—

- (1) certain drugs are listed on Schedule I of the Controlled Substances Act¹ if they have a high potential for abuse, lack any currently accepted medical use in treatment, and are unsafe, even under medical supervision;
- (2) the consequences of illegal use of Schedule I drugs are well documented, particularly with regard to physical health, highway safety, and criminal activity;
- (3) pursuant to section 401 of the Controlled Substances Act, it is illegal to manufacture, distribute, or dispense marijuana, heroin, LSD, and more than 100 other Schedule I drugs;
- (4) pursuant to section 505 of the Federal Food, Drug and Cosmetic Act, before any drug can be approved as a medication in the United States, it must meet extensive scientific and medical standards established by the Food and Drug Administration to ensure it is safe and effective;
- (5) marijuana and other Schedule I drugs have not been approved by the Food and Drug Administration to treat any disease or condition;
- (6) the Federal Food, Drug and Cosmetic Act already prohibits the sale of any unapproved drug, including marijuana, that has not been proven safe and effective for medical purposes and grants the Food and Drug Administration the authority to enforce this prohibition through seizure and other civil action, as well as through criminal penalties;
- (7) marijuana use by children in grades 8 through 12 declined steadily from 1980 to 1992, but, from 1992 to 1996, has dramatically increased by 253 percent among 8th graders, 151 percent among 10th graders, and 84 percent among 12th graders, and the average age of first-time use of marijuana is now younger than it has ever been;
- (8) according to the 1997 survey by the Center on Addiction and Substance Abuse at Columbia University, 500,000 8th graders began using marijuana in the 6th and 7th grades;
- (9) according to that same 1997 survey, youths between the ages of 12 and 17 who use marijuana are 85 times more likely to use cocaine than those who abstain from marijuana, and 60 percent of adolescents who use marijuana before the age of 15 will later use cocaine; and
- (10) the rate of illegal drug use among youth is linked to their perceptions of the health and safety risks of those drugs, and the ambiguous cultural messages about marijuana use are contributing to a growing acceptance of marijuana use among children and teenagers;

¹ Note by the Secreteriat: E/NL.1987/14.

(11) Congress continues to support the existing Federal legal process for determining the safety and efficacy of drugs and opposes efforts to circumvent this process by legalizing marijuana, and other Schedule I drugs, for medicinal use without valid scientific evidence and the approval of the Food and Drug Administration; and

(12) not later than 90 days after the date of the enactment of this Act—

(A) the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on—

(i) the total quantity of marijuana eradicated in the United States during the period from 1992 through 1997; and

(ii) the annual number of arrests and prosecutions for Federal marijuana offenses during the period described in clause (i); and

(B) the Commissioner of Foods and Drugs shall submit to the Committee on Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the specific efforts underway to enforce sections 304 and 505 of the Federal Food, Drug and Cosmetic Act with respect to marijuana and other Schedule I drugs.

PL 106-310, 2000 HR 4365

METHAMPHETAMINE ANTI-PROLIFERATION ACT OF 2000

Subtitle A- Methamphetamine Production, Trafficking, and Abuse

PART I - CRIMINAL PENALTIES

SEC. 3611. ENHANCED PUNISHMENT OF AMPHETAMINE LABORATORY OPERATORS.

(a) AMENDMENT TO FEDERAL SENTENCING GUIDELINES.--Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any offense relating to the manufacture, importation, exportation, or trafficking in amphetamine (including an attempt or conspiracy to do any of the foregoing) in violation of-

- (1) the Controlled Substances Act (21 U.S.C. 801 et seq.);¹
- (2) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);² or
- (3) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).³

(b) GENERAL REQUIREMENT.--In carrying out this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) relating to amphetamine-

- (1) review and amend its guidelines to provide for increased penalties such that those penalties are comparable to the base offense level for methamphetamine; and
- (2) take any other action the Commission considers necessary to carry out this subsection.

(c) ADDITIONAL REQUIREMENTS.--In carrying out this section, the United States Sentencing Commission shall ensure that the sentencing guidelines for offenders convicted of offenses described in subsection (a) reflect the heinous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving amphetamines, including--

- (1) the rapidly growing incidence of amphetamine abuse and the threat to public safety that such abuse poses;
- (2) the high risk of amphetamine addiction;
- (3) the increased risk of violence associated with amphetamine trafficking and abuse; and

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.--The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

SEC. 3612. ENHANCED PUNISHMENT OF AMPHETAMINE OR METHAMPHETAMINE LABORATORY OPERATORS.

¹ Note by the Secreteriat: E/NL.1987/14.

² Note by the Secreteriat: E/NL.1987/14.

³ Note by the Secreteriat: amended by E/NL.2007/54.

(a) FEDERAL SENTENCING GUIDELINES.-

(1) IN GENERAL.--Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with paragraph (2) with respect to any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of-

(A) the Controlled Substances Act (21 U.S.C. 801 et seq.);

(B) the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.); or

(C) the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(2) REQUIREMENTS.--In carrying out this paragraph, the United States Sentencing Commission shall-

(A) if the offense created a substantial risk of harm to human life (other than a life described in subparagraph (B)) or the environment, increase the base offense level for the offense-

(i) by not less than 3 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 27, to not less than level 27; or

(B) if the offense created a substantial risk of harm to the life of a minor or incompetent, increase the base offense level for (4) the recent increase in the illegal and precursor chemicals.

importation of amphetamine
the offense-

(i) by not less than 6 offense levels above the applicable level in effect on the date of the enactment of this Act; or

(ii) if the resulting base offense level after an increase under clause (i) would be less than level 30, to not less than level 30.

(3) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.--The United States Sentencing Commission shall promulgate amendments pursuant to this subsection as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

(b) EFFECTIVE DATE.--The amendments made pursuant to this section shall apply with respect to any offense occurring on or after the date that is 60 days after the date of the enactment of this Act.

SEC. 3613. MANDATORY RESTITUTION FOR VIOLATIONS OF CONTROLLED SUBSTANCES ACT AND CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO AMPHETAMINE AND METHAMPHETAMINE.

(a) MANDATORY RESTITUTION.--Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended-

(1) in the matter preceding paragraph (1) , by striking "may" and inserting "shall";

(2) by inserting "amphetamine or" before "methamphetamine" each place it appears;

(3) in paragraph (2)-

(A) by inserting ", the State or local government concerned, or both the United States and the State or local

government concerned" after "United States" the first place it appears; and

(B) by inserting "or the State or local government concerned, as the case may be," after "United States" the second place it appears; and

(4) in paragraph (3), by striking "section 3663 of title 18, United States Code" and inserting "section 3663A of title 18, United States Code".

(b) DEPOSIT OF AMOUNTS IN DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.-- Section 524(c) (4) of title 28, United States Code, is amended-

(1) by striking "and" at the end of subparagraph B ;

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) all amounts collected-

"(i) by the United States pursuant to a reimbursement order under paragraph (2) of section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)); and

"(ii) pursuant to a restitution order under paragraph (1) or (3) of section 413(q) of the Controlled Substances Act for injuries to the United States.".

(c) CLARIFICATION OF CERTAIN ORDERS OF RESTITUTION.--Section 3663(c) (2) (B) of title 18, United States Code, is amended by inserting "which may be" after "the fine".

(d) EXPANSION OF APPLICABILITY OF MANDATORY RESTITUTION.--Section 3663A(c)(1)(A)(ii) of title 18, United States Code, is amended by inserting "or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a))," after "under this title,".

(e) TREATMENT OF ILLICIT SUBSTANCE MANUFACTURING OPERATIONS AS CRIMES AGAINST PROPERTY.--Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

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

SEC. 3614. METHAMPHETAMINE PARAPHERNALIA.

Section 422(d) of the Controlled Substances Act (21 U.S.C. 863(d)) is amended in the matter preceding paragraph (1) by inserting "methamphetamine," after "PCP,".

PART II--ENHANCED LAW ENFORCEMENT

SEC. 3621. ENVIRONMENTAL HAZARDS ASSOCIATED WITH ILLEGAL MANUFACTURE OF AMPHETAMINE AND METHAMPHETAMINE.

(a) USE OF AMOUNTS OR DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.--Section 524(c) (1) (E) of title 28, United States Code, is amended-

(1) by inserting "(i) for" before "disbursements"; (2) by inserting "and" after the semicolon; and (3) by adding at the end the following:

"(ii) for payment for-

"(I) costs incurred by or on behalf of the Department of Justice in connection with the removal, for purposes of Federal forfeiture and disposition, of any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine; and

"(II) costs incurred by or on behalf of a State or local government in connection with such removal in any case in which such State or local government has assisted in a Federal prosecution relating to amphetamine or methamphetamine, to the extent such costs exceed equitable sharing payments made to such State or local government in such case;".

(b) GRANTS UNDER DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.--Section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)(3)) is amended by inserting before the semicolon the following: "and to remove any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine".

(c) AMOUNTS SUPPLEMENT AND NOT SUPPLANT.-

(1) ASSETS FORFEITURE FUND.--Any amounts made available from the Department of Justice Assets Forfeiture Fund in a fiscal year by reason of the amendment made by subsection (a) shall supplement, and not supplant, any other amounts made available to the Department of Justice in such fiscal year from other sources for payment of costs described in section 524 (c) (1) (E) (ii) of title 28, United States Code, as so amended.

(2) GRANT PROGRAM.--Any amounts made available in a fiscal year under the grant program under section 501(b)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)(3)) for the removal of hazardous substances or pollutants or contaminants associated with the illegal manufacture of amphetamine or methamphetamine by reason of the amendment made by subsection (b) shall supplement, and not supplant, any other amounts made available in such fiscal year from other sources for such removal.

SEC. 3622. REDUCTION IN RETAIL SALES TRANSACTION THRESHOLD FOR NON-SAFE HARBOR PRODUCTS CONTAINING PSEUDOEPHEDRINE OR PHENYLPROPANOLAMINE.

(a) REDUCTION IN TRANSACTION THRESHOLD.--Section 102 (39) (A) (iv) (II) of the Controlled Substances Act (21 U.S.C. 802 (39) (A) (iv) (II)) is amended-

(1) by striking "24 grams" both places it appears and inserting "9 grams"; and

(2) by inserting before the semicolon at the end the following: "and sold in package sizes of not more than 3 grams of pseudoephedrine base or 3 grams of phenylpropanolamine base".

(b) EFFECTIVE DATE.--The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act.

SEC. 3623. TRAINING FOR DRUG ENFORCEMENT ADMINISTRATION AND STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO CLANDESTINE LABORATORIES.

(a) IN GENERAL.-

(1) REQUIREMENT.--The Administrator of the Drug Enforcement Administration shall carry out the programs described in subsection (b) with respect to the law enforcement personnel of States and localities determined by the Administrator to have *1232 significant levels of methamphetamine-related or amphetamine-related crime or projected by the Administrator to have the potential for such levels of crime in the future.

(2) DURATION.--The duration of any program under that subsection may not exceed 3 years.

(b) COVERED PROGRAMS.--The programs described in this subsection are as follows:

(1) ADVANCED MOBILE CLANDESTINE LABORATORY TRAINING TEAMS.--A program of advanced mobile clandestine laboratory training teams, which shall provide information and training to State and local law enforcement personnel in techniques utilized in conducting undercover investigations and conspiracy cases, and other information designed to assist in the investigation of the illegal manufacturing and trafficking of amphetamine and methamphetamine.

(2) BASIC CLANDESTINE LABORATORY CERTIFICATION TRAINING.--A program of basic clandestine laboratory certification training, which shall provide information and training-

(A) to Drug Enforcement Administration personnel and State and local law enforcement personnel for purposes of enabling such personnel to meet any certification requirements under law with respect to the handling of wastes created by illegal amphetamine and methamphetamine laboratories; and

(B) to State and local law enforcement personnel for purposes of enabling such personnel to provide the information and training covered by subparagraph (A) to other State and local law enforcement personnel.

(3) CLANDESTINE LABORATORY RECERTIFICATION AND AWARENESS TRAINING.--A program of clandestine laboratory recertification and awareness training, which shall provide information and training to State and local law enforcement personnel for purposes of enabling such personnel to provide recertification and awareness training

relating to clandestine laboratories to additional State and local law enforcement personnel.

(c) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated for each of fiscal years 2000, 2001, and 2002 amounts as follows:

(1) \$1,500,000 to carry out the program described in subsection (b)(1).

(2) \$3,000,000 to carry out the program described in subsection (b)(2).

(3) \$1,000,000 to carry out the program described in subsection (b) (3)

SEC. 3624. COMBATING METHAMPHETAMINE AND AMPHETAMINE IN HIGH INTENSITY DRUG TRAFFICKING AREAS.

(a) IN GENERAL.-

(1) IN GENERAL.--The Director of National Drug Control Policy shall use amounts available under this section to combat the trafficking of methamphetamine and amphetamine in areas designated by the Director as high intensity drug trafficking areas.

(2) ACTIVITIES.--In meeting the requirement in paragraph (1), the Director shall transfer funds to appropriate Federal, State, and local governmental agencies for employing additional Federal law enforcement personnel, or facilitating the employment of additional State and local law enforcement personnel, including agents, investigators, prosecutors, laboratory technicians, chemists, investigative assistants, and drug-prevention specialists.

(b) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to carry out this section-

(1) \$15,000,000 for fiscal year 2000; and

(2) such sums as may be necessary for each of fiscal years 2001 through 2004.

(c) APPORTIONMENT OF FUNDS.-

(1) FACTORS IN APPORTIONMENT.--The Director shall apportion amounts appropriated for a fiscal year

pursuant to the authorization of appropriations in subsection (b) for activities under subsection (a) among and within areas designated by the Director as high intensity drug trafficking areas based on the following factors:

(A) The number of methamphetamine manufacturing facilities and amphetamine manufacturing facilities discovered by Federal, State, or local law enforcement officials in the previous fiscal year.

(B) The number of methamphetamine prosecutions and amphetamine prosecutions in Federal, State, or local courts in the previous fiscal year.

(C) The number of methamphetamine arrests and amphetamine arrests by Federal, State, or local law enforcement officials in the previous fiscal year.

(D) The amounts of methamphetamine, amphetamine, or listed chemicals (as that term is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)) seized by Federal, State, or local law enforcement officials in the previous fiscal year.

(E) Intelligence and predictive data from the Drug Enforcement Administration and the Department of Health and Human Services showing patterns and trends in abuse, trafficking, and transportation in methamphetamine, amphetamine, and listed chemicals (as that term is so defined).

(2) CERTIFICATION.--Before the Director apportions any funds under this subsection to a high intensity drug trafficking area, the Director shall certify that the law enforcement entities responsible for clandestine methamphetamine and amphetamine laboratory seizures in that area are providing laboratory seizure data to the national clandestine laboratory database at the El Paso Intelligence Center.

(d) LIMITATION ON ADMINISTRATIVE COSTS.--Not more than 5 percent of the amount appropriated in a fiscal year pursuant to the authorization of appropriations for that fiscal year in subsection (b) may be available in that fiscal year for administrative costs associated with activities under subsection (a).

SEC. 3625. COMBATING AMPHETAMINE AND METHAMPHETAMINE MANUFACTURING AND TRAFFICKING.

(a) ACTIVITIES.--In order to combat the illegal manufacturing and trafficking in amphetamine and methamphetamine, the Administrator of the Drug Enforcement Administration may-

(1) assist State and local law enforcement in small and mid-sized communities in all phases of investigations related to such manufacturing and trafficking, including assistance with foreign-language interpretation;

(2) staff additional regional enforcement and mobile enforcement teams related to such manufacturing and trafficking;

(3) establish additional resident offices and posts of duty to assist State and local law enforcement in rural areas in combating such manufacturing and trafficking;

(4) provide the Special Operations Division of the Administration with additional agents and staff to collect, evaluate, interpret, and disseminate critical intelligence targeting the command and control operations of major amphetamine and methamphetamine manufacturing and trafficking organizations;

(5) enhance the investigative and related functions of the Chemical Control Program of the Administration to implement more fully the provisions of the Comprehensive Methamphetamine Control Act of 1996 (Public Law 104-237);

(6) design an effective means of requiring an accurate accounting of the import and export of list I chemicals, and coordinate investigations relating to the diversion of such chemicals;

(7) develop a computer infrastructure sufficient to receive, process, analyze, and redistribute time-sensitive

enforcement information from suspicious order reporting to field offices of the Administration and other law enforcement and regulatory agencies, including the continuing development of the Suspicious Order Reporting and Tracking System (SORTS) and the Chemical Transaction Database (CTrans) of the Administration;

(8) establish an education, training, and communication process in order to alert the industry to current trends and emerging patterns in the illegal manufacturing of amphetamine and methamphetamine; and

(9) carry out such other activities as the Administrator considers appropriate.

(b) ADDITIONAL POSITIONS AND PERSONNEL.-

(1) IN GENERAL.--In carrying out activities under subsection (a), the Administrator may establish in the Administration not more than 50 full-time positions, including not more than 31 special-agent positions, and may appoint personnel to such positions.

(2) PARTICULAR POSITIONS.--In carrying out activities under paragraphs (5) through (8) of subsection (a), the Administrator may establish in the Administration not more than 15 full-time positions, including not more than 10 diversion investigator positions, and may appoint personnel to such positions. Any positions established under this paragraph are in addition to any positions established under paragraph (1).

(c) AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated for the Drug Enforcement Administration for each fiscal year after fiscal year 1999, \$9,500,000 for purposes of carrying out the activities authorized by subsection (a) and employing personnel in positions established under subsection (b), of which \$3,000,000 shall be available for activities under paragraphs (5) through (8) of subsection (a) and for employing personnel in positions established under subsection (b)(2).

PART III--ABUSE PREVENTION AND TREATMENT SEC. 3631. EXPANSION OF METHAMPHETAMINE RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o-2) is amended by adding at the end the following:

"(c) METHAMPHETAMINE RESEARCH.-

• (1) GRANTS OR COOPERATIVE AGREEMENTS.--The Director of the Institute may make grants or enter into cooperative agreements to expand the current and on- going interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to methamphetamine abuse and addiction and other biomedical, behavioral, and social issues related to methamphetamine abuse and addiction.

"(2) USE OF FUNDS.--Amounts made available under a grant or cooperative agreement under paragraph (1) for methamphetamine abuse and addiction may be used for research and clinical trials relating to-

• (A) the effects of methamphetamine abuse on the human body, including the brain;

"(B) the addictive nature of methamphetamine and how such effects differ with respect to different individuals;

• (C) the connection between methamphetamine abuse and mental health;

• (D) the identification and evaluation of the most effective methods of prevention of methamphetamine abuse and addiction;

"(E) the identification and development of the most effective methods of treatment of methamphetamine addiction, including pharmacological treatments;

(F) risk factors for methamphetamine abuse;

"(G) effects of methamphetamine abuse and addiction on pregnant women and their fetuses; and

"(H) cultural, social, behavioral, neurological and psychological reasons that individuals abuse methamphetamine, or refrain from abusing methamphetamine.

• (3) RESEARCH RESULTS.--The Director shall promptly disseminate research results under this subsection to Federal, State and local entities involved in combating methamphetamine abuse and addiction.

• (4) AUTHORIZATION OF APPROPRIATIONS.-

"(A) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to carry out paragraph (1), such sums as may be necessary for each fiscal year.

"(B) SUPPLEMENT NOT SUPPLANT.--Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on methamphetamine abuse and addiction."

SEC. 3632. METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE BY CENTER FOR SUBSTANCE ABUSE TREATMENT.

Subpart 1 of part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended by adding at the end the following new section:

"METHAMPHETAMINE AND AMPHETAMINE TREATMENT INITIATIVE "SEC. 514. (a) GRANTS-

“(1) AUTHORITY TO MAKE GRANTS.--The Director of the Center for Substance Abuse Treatment may make grants to States and Indian tribes recognized by the United States that have a high rate, or have had a rapid increase, in methamphetamine or amphetamine abuse or addiction in order to permit such States and Indian tribes to expand activities in connection with the treatment of methamphetamine or amphetamine abuser or addiction in the specific geographical areas of such States or Indian tribes, as the case may be, where there is such a rate or has been such an increase.

"(2) RECIPIENTS.--Any grants under paragraph (1) shall be directed to the substance abuse directors of the States, and of the appropriate tribal government authorities of the Indian tribes, selected by the Director to receive such grants.

• (3) NATURE OF ACTIVITIES.--Any activities under a grant under paragraph (1) shall be based on reliable scientific evidence of their efficacy in the treatment of methamphetamine or amphetamine abuse or addiction.

• (b) GEOGRAPHIC DISTRIBUTION.--The Director shall ensure that grants under subsection (a) are distributed equitably among the various regions of the country and among rural, urban, and suburban areas that are affected by methamphetamine or amphetamine abuse or addiction.

"(c) ADDITIONAL ACTIVITIES.--The Director shall-

“(1) evaluate the activities supported by grants under subsection (a) ;

“(2) disseminate widely such significant information derived from the evaluation as the Director considers appropriate to assist States, Indian tribes, and private providers of treatment services for methamphetamine or amphetamine abuser or addiction in the treatment of methamphetamine or amphetamine abuse or addiction; and

"(3) provide States, Indian tribes, and such providers with technical assistance in connection with the provision of such treatment.

"(d) AUTHORIZATION OF APPROPRIATIONS.-

"(1) IN GENERAL.--There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2000 and such sums as may be necessary for each of fiscal years 2001 and 2002.

"(2) USE OF CERTAIN FUNDS.--Of the funds appropriated to carry out this section in any fiscal year, the lesser of 5 percent of such funds or \$1,000,000 shall be available to the Director for purposes of carrying out subsection (c).

SEC. 3633. STUDY OF METHAMPHETAMINE TREATMENT. (a) STUDY.-

(1) REQUIREMENT.--The Secretary of Health and Human Services shall, in consultation with the Institute of Medicine of the National Academy of Sciences, conduct a study on the development of medications for the treatment of addiction to amphetamine and methamphetamine.

(2) REPORT.--Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the study conducted under paragraph (1).

(b) AUTHORIZATION OF APPROPRIATIONS.--There are hereby authorized to be appropriated for the Department of Health and Human Services for fiscal year 2000 such sums as may be necessary to meet the requirements of subsection (a).

PART IV--REPORTS

SEC. 3641. REPORTS ON CONSUMPTION OF METHAMPHETAMINE AND OTHER ILLICIT DRUGS IN RURAL AREAS, METROPOLITAN AREAS, AND CONSOLIDATED METROPOLITAN AREAS.

The Secretary of Health and Human Services shall include in each National Household Survey on Drug Abuse appropriate prevalence data and information on the consumption of methamphetamine and other illicit drugs in rural areas, metropolitan areas, and consolidated metropolitan areas.

SEC. 3642. REPORT ON DIVERSION OF ORDINARY, OVER-THE-COUNTER PSEUDOEPHEDRINE AND PHENYLPROPANOLAMINE PRODUCTS.

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

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

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

(b) REPORT.-

(1) REQUIREMENT.--Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on the study conducted under subsection (a).

(2) ELEMENTS.--The report shall include-

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

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

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

(c) REGULATION OF RETAIL SALES.-

(1) IN GENERAL.--Notwithstanding section 401(d) of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 80; note) and subject to paragraph (2), the Attorney General shall establish by regulation a single-transaction limit of not less than 24 grams of ordinary, over-the-counter pseudoephedrine or phenylpropanolamine (as the case may be) for retail distributors if the Attorney General finds, in the report under subsection (b), that-

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

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

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

Subtitle B--Controlled Substances Generally

SEC. 3651. ENHANCED PUNISHMENT FOR TRAFFICKING IN LIST I CHEMICALS.

(a) AMENDMENTS TO FEDERAL SENTENCING GUIDELINES.--Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines in accordance with this section with respect to any violation of paragraph (1) or (2) of section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) involving a list I chemical and any violation of paragraph (1) or (3) of section 1010(d) of the Controlled Substance Import and Export Act (21 U.S.C. 960(d)) involving a list I chemical.

(b) EPHEDRINE, PHENYLPROPANOLAMINE, AND PSEUDOEPHEDRINE.-

(1) IN GENERAL.--In carrying this section, the United States Sentencing Commission shall, with respect to each offense described in subsection (a) involving ephedrine, phenylpropanolamine, or pseudoephedrine (including their salts, optical isomers, and salts of optical isomers), review and amend its guidelines to provide for increased penalties such that those penalties corresponded to the quantity of controlled substance that could reasonably have been manufactured using the quantity of ephedrine, phenylpropanolamine, or pseudoephedrine possessed or distributed.

(2) CONVERSION RATIOS.--For the purposes of the amendments made by this subsection, the quantity of controlled substance that could reasonably have been manufactured shall be determined by using a table of manufacturing conversion ratios for ephedrine, phenylpropanolamine, and pseudoephedrine, which table shall be established by the Sentencing Commission based on scientific, law enforcement, and other data the Sentencing Commission considers appropriate.

(c) OTHER LIST I CHEMICALS.--In carrying this section, the United States Sentencing Commission shall, with

respect to each offense described in subsection (a) involving any list I chemical other than ephedrine, phenylpropanolamine, or pseudoephedrine, review and amend its guidelines to provide for increased penalties such that those penalties reflect the dangerous nature of such offenses, the need for aggressive law enforcement action to fight such offenses, and the extreme dangers associated with unlawful activity involving methamphetamine and amphetamine, including-

- (1) the rapidly growing incidence of controlled substance manufacturing;
- (2) the extreme danger inherent in manufacturing controlled substances;
- (3) the threat to public safety posed by manufacturing controlled substances; and
- (4) the recent increase in the importation, possession, and distribution of list I chemicals for the purpose of manufacturing controlled substances.

(d) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.--The United States Sentencing Commission shall promulgate amendments pursuant to this section as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

SEC. 3652. MAIL ORDER REQUIREMENTS.

Section 310(b) (3) of the Controlled Substances Act (21 U.S.C. 830(b)(3)) is amended-

- (1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively;
- (2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

"(A) As used in this paragraph:

"(i) The term 'drug product' means an active ingredient in dosage form that has been approved or otherwise may be lawfully marketed under the Food, Drug, and Cosmetic Act for distribution in the United States.

"(ii) The term 'valid prescription' means a prescription which is issued for a legitimate medical purpose by an individual practitioner licensed by law to administer and prescribe the drugs concerned and acting in the usual course of the practitioner's professional practice.";

- (3) in subparagraph (B), as so redesignated, by inserting "or who engages in an export transaction" after "nonregulated person"; and

- (4) adding at the end the following:

"(D) Except as provided in subparagraph (E), the following distributions to a nonregulated person, and the following export transactions, shall not be subject to the reporting requirement in subparagraph (B):

"(i) Distributions of sample packages of drug products when such packages contain not more than two solid dosage units or the equivalent of two dosage units in liquid form, not to exceed 10 milliliters of liquid per package, and not more than one package is distributed to an individual or residential address in any 30-day period.

"(ii) Distributions of drug products by retail distributors that may not include face-to-face transactions to the extent that such distributions are consistent with the activities authorized for a retail distributor as specified in section 102(46).

"(iii) Distributions of drug products to a resident of a long term care facility (as that term is defined in regulations prescribed by the Attorney General) or distributions of drug products to a long term care facility for dispensing to or for use by a resident of that facility.

"(iv) Distributions of drug products pursuant to a valid prescription.

“ (v) Exports which have been reported to the Attorney General pursuant to section 1004 or 1018 or which are subject to a waiver granted under section 1018(e)(2).

“ (vi) Any quantity, method, or type of distribution or any quantity, method, or type of distribution of a specific listed chemical (including specific formulations or drug products) or of a group of listed chemicals (including specific formulations or drug products) which the Attorney General has excluded by regulation from such reporting requirement on the basis that such reporting is not necessary for the enforcement of this title or title III.

“ (E) The Attorney General may revoke any or all of the exemptions listed in subparagraph (D) for an individual regulated person if he finds that drug products distributed by the regulated person are being used in violation of this title or title III. The regulated person shall be notified of the revocation, which will be effective upon receipt by the person of such notice, as provided in section 1018(c)(1), and shall have the right to an expedited hearing as, provided in section 1018(c)(2).”.

SEC. 3653. THEFT AND TRANSPORTATION OF ANHYDROUS AMMONIA FOR PURPOSES OF ILLICIT PRODUCTION OF CONTROLLED SUBSTANCES.

(a) IN GENERAL.--Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following:

"ANHYDROUS AMMONIA

"SEC. 423. (a) It is unlawful for any person-

"(1) to steal anhydrous ammonia, or

"(2) to transport stolen anhydrous ammonia across State lines,

knowing, intending, or having reasonable cause to believe that such anhydrous ammonia will be used to manufacture a controlled substance in violation of this part.

"(b) Any person who violates subsection (a) shall be imprisoned or fined, or both, in accordance with section 403(d) as if such violation were a violation of a provision of section 403.”.

(b) CLERICAL AMENDMENT.--The table of contents for that Act is amended by inserting after the item relating to section 421 the following new items:

"Sec. 422. Drug paraphernalia.

"Sec. 423. Anhydrous ammonia.”.

(c) ASSISTANCE FOR CERTAIN RESEARCH.-

(1) AGREEMENT.--The Administrator of the Drug Enforcement Administration shall seek to enter into an agreement with Iowa State University in order to permit the University to continue and expand its current research into the development of inert agents that, when added to anhydrous ammonia, eliminate the usefulness of anhydrous ammonia as an ingredient in the production of methamphetamine.

(2) REIMBURSABLE PROVISION OF FUNDS.--The agreement under paragraph (1) may provide for the provision to Iowa State University, on a reimbursable basis, of \$500,000 for purposes the activities specified in that paragraph.

(3) AUTHORIZATION OF APPROPRIATIONS.--There is hereby authorized to be appropriated for the Drug Enforcement Administration for fiscal year 2000, \$500,000 for purposes of carrying out the agreement under this subsection.

Subtitle C--Ecstasy Anti-Proliferation Act of 2000

SEC. 3661. SHORT TITLE.

This subtitle may be cited as the "Ecstasy Anti-Proliferation Act of 2000".

SEC. 3662. FINDINGS.

Congress makes the following findings:

(1) The illegal importation of 3,4-methylenedioxy methamphetamine, commonly referred to as "MDMA" or "Ecstasy" (referred to in this subtitle as "Ecstasy"), has increased in recent years, as evidenced by the fact that Ecstasy seizures by the United States Customs Service have increased from less than 500,000 tablets during fiscal year 1997 to more than 9,000,000 tablets during the first 9 months of fiscal year 2000.

(2) Use of Ecstasy can cause long-lasting, and perhaps permanent, damage to the serotonin system of the brain, which is fundamental to the integration of information and emotion, and this damage can cause long-term problems with learning and memory.

(3) Due to the popularity and marketability of Ecstasy, there are numerous Internet websites with information on the effects of Ecstasy, the production of Ecstasy, and the locations of Ecstasy use (often referred to as "raves"). The availability of this information targets the primary users of Ecstasy, who are most often college students, young professionals, and other young people from middle--to high-income families.

(4) Greater emphasis needs to be placed on-

(A) penalties associated with the manufacture, distribution, and use of Ecstasy;

(B) the education of young people on the negative health effects of Ecstasy, since the reputation of Ecstasy as a "safe" drug is the most dangerous component of Ecstasy;

(C) the education of State and local law enforcement agencies regarding the growing problem of Ecstasy trafficking across the United States;

(D) reducing the number of deaths caused by Ecstasy use and the combined use of Ecstasy with other "club" drugs and alcohol; and

(E) adequate funding for research by the National Institute on Drug Abuse to-

(i) identify those most vulnerable to using Ecstasy and develop science- based prevention approaches tailored to the specific needs of individuals at high risk;

(ii) understand how Ecstasy produces its toxic effects and how to reverse neurotoxic damage;

(iii) develop treatments, including new medications and behavioral treatment approaches;

(iv) better understand the effects that Ecstasy has on the developing children and adolescents; and

(v) translate research findings into useful tools and ensure their effective dissemination.

SEC. 3663. ENHANCED PUNISHMENT OF ECSTASY TRAFFICKERS.

(a) AMENDMENT TO FEDERAL SENTENCING GUIDELINES.--Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission (referred to in this section as the "Commission") shall amend the Federal sentencing guidelines regarding any offense relating to the manufacture, importation, or exportation of, or trafficking in-

(1) 3,4-methylenedioxy methamphetamine;

(2) 3,4-methylenedioxy amphetamine;

(3) 3,4-methylenedioxy-N-ethylamphetamine; (4) paramethoxymethamphetamine (PMA); or

(5) any other controlled substance, as determined by the Commission in consultation with the Attorney General, that is marketed as Ecstasy and that has either a chemical structure substantially similar to that of 3,4-methylenedioxy methamphetamine or an effect on the central nervous system substantially similar to or greater than that of 3,4-methylenedioxy methamphetamine, including an attempt or conspiracy to commit an offense described in paragraph (1), (2), (3), (4), or (5) in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. 1901 et seq.).

(b) GENERAL REQUIREMENTS.--In carrying out this section, the Commission shall, with respect to each offense described in subsection (a)-

(1) review and amend the Federal sentencing guidelines to provide for increased penalties such that those penalties reflect the seriousness of these offenses and the need to deter them; and

(2) take any other action the Commission considers to be necessary to carry out this section.

(c) ADDITIONAL REQUIREMENTS.--In carrying out this section, the Commission shall ensure that the Federal sentencing guidelines for offenders convicted of offenses described in subsection (a) reflect-

(1) the need for aggressive law enforcement action with respect to offenses involving the controlled substances described in subsection (a); and

(2) the dangers associated with unlawful activity involving such substances, including-

(A) the rapidly growing incidence of abuse of the controlled substances described in subsection (a) and the threat to public safety that such abuse poses;

(B) the recent increase in the illegal importation of the controlled substances described in subsection (a);

(C) the young age at which children are beginning to use the controlled substances described in subsection (a);

(D) the fact that the controlled substances described in subsection (a) are frequently marketed to youth;

(E) the large number of doses per gram of the controlled substances described in subsection (a); and

(F) any other factor that the Commission determines to be appropriate.

(d) SENSE OF THE CONGRESS.--It is the sense of the Congress that-

(1) the base offense levels for Ecstasy are too low, particularly for high-level traffickers, and should be increased, such that they are comparable to penalties for other drugs of abuse; and

(2) based on the fact that importation of Ecstasy has surged in the past few years, the traffickers are targeting the Nation's youth, and the use of Ecstasy among youth in the United States is increasing even as other drug use

among this population appears to be leveling off, the base offense levels for importing and trafficking the controlled substances described in subsection (a) should be increased.

(e) REPORT.--Not later than 60 days after the amendments pursuant to this section have been promulgated, the Commission shall-

(1) prepare a report describing the factors and information considered by the Commission in promulgating amendments pursuant to this section; and

(2) submit the report to-

(A) the Committee on the Judiciary, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate; and

(B) the Committee on the Judiciary, the Committee on Commerce, and the Committee on Appropriations of the House of Representatives.

SEC. 3664. EMERGENCY AUTHORITY TO UNITED STATES SENTENCING COMMISSION.

The United States Sentencing Commission shall promulgate amendments under this subtitle as soon as practicable after the date of the enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

SEC. 3665. EXPANSION OF ECSTASY AND CLUB DRUGS ABUSE PREVENTION EFFORTS.

(a) PUBLIC HEALTH SERVICE ACT.--Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section. 3306, is further amended by adding at the end the following:

"SEC. 506B. GRANTS FOR ECSTASY AND OTHER CLUB DRUGS ABUSE PREVENTION.

"(a) AUTHORITY.--The Administrator may make grants to, and enter into contracts and cooperative agreements with, public and nonprofit private entities to enable such entities-

"(1) to carry out school-based programs concerning the dangers of the abuse of and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other drugs commonly referred to as 'club drugs' using methods that are effective and science-based, including initiatives that give students the responsibility to create their own anti-drug abuse education programs for their schools; and

"(2) to carry out community-based abuse and addiction prevention programs relating to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs that are effective and science-based

"(b) USE OF FUNDS.--Amounts made available under a grant, contract or cooperative agreement under subsection (a) shall be used for planning, establishing, or administering prevention program; relating to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs.

“(1) DISCRETIONARY FUNCTIONS.--Amounts provided to an entity under this section may be used-

"(A) to carry out school-based programs that are focused on those districts with high or increasing rates of abuse and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs and targeted at populations that are most at risk to start abusing these drugs;

"(B) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for abuse of and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs;

“(C) to assist local government entities to conduct appropriate prevention activities relating to 3,4-

methylenedioxy methamphetamine, related drugs, and other club drugs;

"(D) to train and educate State and local law enforcement officials, prevention and education officials, health professionals, members of community anti-drug coalitions and parents on the signs of abuse of and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs and the options for treatment and prevention;

"(E) for planning, administration, and educational activities related to the prevention of abuse of and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs;

"(F) for the monitoring and evaluation of prevention activities relating to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs and reporting and disseminating resulting information to the public; and

"(G) for targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies.

"(2) PRIORITY.--The Administrator shall give priority in awarding grants under this section to rural and urban areas that are experiencing a high rate or rapid increases in abuse and addictions to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs.

"(d) ALLOCATION AND REPORT.-

"(1) PREVENTION PROGRAM ALLOCATION.--Not less than \$500,000 of the amount appropriated in each fiscal year to carry out this section shall be made available to the Administrator, acting in consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for abuse of and addiction to 3,4-methylenedioxy methamphetamine, related drugs, and other club drugs and the development of appropriate strategies for disseminating information about and implementing such programs.

"(2) REPORT.--The Administrator shall annually prepare and submit to the Committee on Health, Education, Labor, and Pensions, the Committee on the Judiciary, and the Committee on Appropriations of the Senate, and the Committee on Commerce, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives, a report containing the results of the analyses and evaluations conducted under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to carry out this section-

"(1) \$10,000,000 for fiscal year 2001; and

"(2) such sums as may be necessary for each succeeding fiscal year."

Subtitle D--Miscellaneous

SEC. 3671. ANTIDRUG MESSAGES ON FEDERAL GOVERNMENT INTERNET WEBSITES.

Not later than 90 days after the date of the enactment of this Act, the head of each department, agency, and establishment of the Federal Government shall, in consultation with the Director of the Office of National Drug Control Policy, place ant drug messages on appropriate Internet websites controlled by such department, agency, or establishment which messages shall, where appropriate, contain an electronic hyperlink to the Internet website, if any, of the Office.

SEC. 3672. REIMBURSEMENT BY DRUG ENFORCEMENT ADMINISTRATION OF EXPENSES INCURRED TO REMEDIATE METHAMPHETAMINE LABORATORIES.

(a) REIMBURSEMENT AUTHORIZED.--The Attorney General, acting through the Administrator of the Drug Enforcement Administration, may reimburse States, units of local government, Indian tribal governments, other public entities, and multi-jurisdictional or regional consortia thereof for expenses incurred to clean up and safely dispose of substances associated with clandestine methamphetamine laboratories which may present a danger to

public health or the environment.

(b) ADDITIONAL DEA PERSONNEL.--From amounts appropriated or otherwise made available to carry out this section, the Attorney General may hire not more than five additional Drug Enforcement Administration personnel to administer this section.

(c) AUTHORIZATION OF APPROPRIATIONS.--There is authorized to be appropriated to the Attorney General to carry out this section

\$20,000,000 for fiscal year 2001.

SEC. 3673. SEVERABILITY.

Any provision of this title held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed as to give the maximum effect permitted by law, unless such provision is held to be utterly invalid or unenforceable, in which event such provision shall be severed from this title and shall not affect the applicability of the remainder of this title, or of such provision, to other persons not similarly situated or to other, dissimilar circumstances.

Approved October 17, 2000

E/NL.2007/52

Public Law 108–358
108th Congress

An Act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors, Oct. 22, 2004 [S. 2195]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE.

This Act may be cited as the “Anabolic Steroid Control Act of 2004”.

SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802)¹ is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40); and

(B) by striking subparagraph (A) and inserting the following:

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

“(i) androstenediol— “(I) 3 β ,17 β -dihydroxy-5 α -androstane; and “(II) 3 α ,17 β -dihydroxy-5 α -androstane;

“(ii) androstenedione (5 α -androstane-3,17-dione);

“(iii) androstenediol—

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

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

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

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

“(iv) androstenedione—

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

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

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

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

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

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

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

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

“(x) >1-dihydrotestosterone (a.k.a. ‘1-testosterone’) (17 β -hydroxy-5 α -androst-1-en-3-one);

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

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

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

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

¹ Note by the Secretariat: E/NL.1987/14.

- one);
- “(xv) formebolone (2-formyl-17 α -methyl-11 α ,17 β dihydroxyandrost-1,4-dien-3-one);
- “(xvi) furazabol (17 α -methyl-17 β -hydroxyandrostano[2,3-c]furazan);
- “(xvii) 13 β -ethyl-17 α -hydroxygon-4-en-3-one;
- “(xviii) 4-hydroxytestosterone (4,17 β -dihydroxy-androst-4-en-3-one);
- “(xix) 4-hydroxy-19-nortestosterone (4,17 β -dihydroxy-estr-4-en-3-one);
- “(xx) mestanolone (17 α -methyl-17 β -hydroxy-5 α -androstan-3-one);
- “(xxi) mesterolone (1 α -methyl-17 β -hydroxy-[5 α]-androstan-3-one);
- “(xxii) methandienone (17 α -methyl-17 β -hydroxyandrost-1,4-dien-3-one);
- “(xxiii) methandriol (17 α -methyl-3 β ,17 β -dihydroxyandrost-5-ene);
- “(xxiv) methenolone (1-methyl-17 β -hydroxy-5 α -androst-1-en-3-one);
- “(xxv) 17 α -methyl-3 β ,17 β -dihydroxy-5 α -androstan-3-one;
- “(xxvi) 17 α -methyl-3 α ,17 β -dihydroxy-5 α -androstan-3-one;
- “(xxvii) 17 α -methyl-3 β ,17 β -dihydroxyandrost-4-ene.
- “(xxviii) 17 α -methyl-4-hydroxynandrolone (17 α -methyl-4-hydroxy-17 β -hydroxyestr-4-en-3-one);
- “(xxix) methyldienolone (17 α -methyl-17 β -hydroxyestra-4,9(10)-dien-3-one);
- “(xxx) methyltrienolone (17 α -methyl-17 β -hydroxyestra-4,9,11-trien-3-one);
- “(xxxi) methyltestosterone (17 α -methyl-17 β -hydroxyandrost-4-en-3-one);
- “(xxxii) mibolerone (7 α ,17 α -dimethyl-17 β -hydroxyestr-4-en-3-one);
- “(xxxiii) 17 α -methyl->1-dihydrotestosterone (17 β -hydroxy-17 α -methyl-5 α -androst-1-en-3-one) (a.k.a. ‘17- α -methyl-1-testosterone’);
- “(xxxiv) nandrolone (17 β -hydroxyestr-4-en-3-one);
- “(xxxv) norandrostenediol—
- “(I) 19-nor-4-androstenediol (3 β ,17 β -dihydroxyestr-4-ene);
- “(II) 19-nor-4-androstenediol (3 α ,17 β -dihydroxyestr-4-ene);
- “(III) 19-nor-5-androstenediol (3 β ,17 β -dihydroxyestr-5-ene); and
- “(IV) 19-nor-5-androstenediol (3 α ,17 β -dihydroxyestr-5-ene);
- “(xxxvi) norandrostenedione—
- “(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and
- “(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
- “(xxxvii) norbolethone (13 β ,17 α -diethyl-17 β -hydroxygon-4-en-3-one);
- “(xxxviii) norclostebol (4-chloro-17 β -hydroxyestr-4-en-3-one);
- “(xxxix) norethandrolone (17 α -ethyl-17 β -hydroxyestr-4-en-3-one);
- “(xl) normethandrolone (17 α -methyl-17 β -hydroxyestr-4-en-3-one);
- “(xli) oxandrolone (17 α -methyl-17 β -hydroxy-2-oxa-[5 α]-androstan-3-one);
- “(xlii) oxymesterone (17 α -methyl-4,17 β -dihydroxyandrost-4-en-3-one);
- “(xliii) oxymetholone (17 α -methyl-2-hydroxymethylene-17 β -hydroxy-[5 α]-androstan-3-one);
- “(xliv) stanozolol (17 α -methyl-17 α -hydroxy-[5 α]-androst-2-eno[3,2-c]-pyrazole);
- “(xlv) stenbolone (17 β -hydroxy-2-methyl-[5 α]-androst-1-en-3-one);
- “(xlvi) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
- “(xlvii) testosterone (17 β -hydroxyandrost-4-en-3-one);
- “(xlviii) tetrahydrogestrinone (13 β ,17 α -diethyl-17 β -hydroxygon-4,9,11-trien-3-one);
- “(xlix) trenbolone (17 β -hydroxyestr-4,9,11-trien-3-one); and
- “(lx) any salt, ester, or ether of a drug or substance described in this paragraph.

The substances excluded under this subparagraph may at any time be scheduled by the

Attorney General in accordance with the authority and requirements of subsections (a) through (c) of section 201.”; and

(2) in paragraph (44), by inserting “anabolic steroids,” after “marihuana,”.

(b) **AUTHORITY AND CRITERIA FOR CLASSIFICATION.**—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(1) in paragraph (1), by striking “substance from a schedule if such substance” and inserting “drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug”; and

(2) in paragraph (3), by adding at the end the following:

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

(c) **ANABOLIC STEROIDS CONTROL ACT.**—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101–647) is 21 USC 802 note. amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

- (1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;
- (2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use; and
- (3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

(a) **IN GENERAL.**—The Secretary of Health and Human Services (referred to in this Act as the “Secretary”) shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

(b) **ELIGIBILITY.**—

- (1) **APPLICATION.**—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.
- (2) **PREFERENCE.**—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—
 - (A) the Athletes Training and Learning to Avoid Steroids program;
 - (B) The Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and
 - (C) other programs determined to be effective by the National Institute on Drug Abuse.

(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2005 through 2010.

SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$1,000,000 for each of fiscal years 2005 through 2010.

Approved October 22, 2004.

E/NL.2007/53

**PUBLIC LAW 109-177 [H.R. 3199]
MAR. 09, 2006**

An Act to extend and modify authorities needed to combat terrorism, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[*1] SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "USA PATRIOT Improvement and Reauthorization Act of 2005".

(b) Table of Contents.--The table of contents for this Act is as follows: Sec. 1. Short title; table of contents.

TITLE I--USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT

TITLE II--TERRORIST DEATH PENALTY ENHANCEMENT

Sec. 201. Short title.

TITLE III--REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

TITLE IV--COMBATING TERRORISM FINANCING

TITLE V--MISCELLANEOUS PROVISIONS TITLE VI--SECRET SERVICE

TITLE VII--COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

Sec. 701. Short title.

[...]

Subtitle A--Domestic regulation of precursor chemicals

Sec. 711. Scheduled listed chemical products; restrictions on sales quantity, behind-the-counter access, and other safeguards.

Sec. 712. Regulated transactions.

Sec. 713. Authority to establish production quotas.

Sec. 714. Penalties; authority for manufacturing; quota.

Sec. 715. Restrictions on importation; authority to permit imports for medical, scientific, or other legitimate purposes.

Sec. 716. Notice of importation or exportation; approval of sale or transfer by importer or exporter.

Sec. 717. Enforcement of restrictions on importation and of requirement of notice of transfer.

Sec. 718. Coordination with United States Trade Representative. Subtitle B--International regulation of precursor chemicals

Sec. 721. Information on foreign chain of distribution; import restrictions regarding failure of distributors to cooperate.

Sec. 722. Requirements relating to the largest exporting and importing countries of certain precursor chemicals.

Sec. 723. Prevention of smuggling of methamphetamine into the United States from Mexico.

Subtitle C--Enhanced criminal penalties for methamphetamine production and trafficking

Sec. 731. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs.

Sec. 732. Manufacturing controlled substances on Federal property.

Sec. 733. Increased punishment for methamphetamine kingpins.

Sec. 734. New child-protection criminal enhancement.

Sec. 735. Amendments to certain sentencing court reporting requirements.
Sec. 736. Semiannual reports to Congress.

Subtitle D--Enhanced environmental regulation of methamphetamine byproducts

Sec. 741. Biennial report to Congress on agency designations of by-products of methamphetamine laboratories as hazardous materials.
Sec. 742. Methamphetamine production report.
Sec. 743. Cleanup costs.

Subtitle E--Additional programs and activities

Sec. 751. Improvements to Department of Justice drug court grant program.
Sec. 752. Drug courts funding.
Sec. 753. Feasibility study on Federal drug courts.
Sec. 754. Grants to hot spot areas to reduce availability of methamphetamine.
Sec. 755. Grants for programs for drug-endangered children.
Sec. 756. Authority to award competitive grants to address methamphetamine use by pregnant and parenting women offenders.

[...]

TITLE VII--COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

[*701] Sec. 701. SHORT TITLE.

This title may be cited as the "Combat Methamphetamine Epidemic Act of 2005".

Subtitle A--Domestic Regulation of Precursor Chemicals

[*711] Sec. 711. SCHEDULED LISTED CHEMICAL PRODUCTS; RESTRICTIONS ON SALES QUANTITY, BEHIND-THE-COUNTER ACCESS, AND OTHER SAFEGUARDS.

(a) Scheduled Listed Chemical Products.--

(1) In general.-- Section 102 of the Controlled Substances Act (21 U.S.C. 802)¹ is amended--

(A) by redesignating paragraph (46) as paragraph (49); and
(B) by inserting after paragraph (44) the following paragraphs:

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

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

"(ii) may be marketed or distributed lawfully in the United States under the Federal, Food, Drug, and Cosmetic Act as a nonprescription drug. Each reference in clause (i) to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical.

"(B) Such term does not include a product described in subparagraph (A) if the product contains a chemical specified in such subparagraph that the Attorney General has under section 201(a) added to any of the schedules under section 202(c). In the absence of such scheduling by the Attorney General, a chemical specified in such subparagraph may not be considered to be a controlled substance.

¹ Note by the Secreteriat: E/NL.1987/14.

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

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

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

(2) Conforming amendments.-- The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended--

(A) in section 102, in paragraph (49) (as redesignated by paragraph (1)(A) of this subsection)--

(i) in subparagraph (A), by striking "pseudoephedrine or" and inserting "ephedrine, pseudoephedrine, or"; and

(ii) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(B) in section 310(b)(3)(D)(ii), by striking "102(46)" and inserting "102(49)". (b) Restrictions on Sales Quantity; Behind-the-Counter Access; Logbook Requirement; Training of Sales Personnel; Privacy Protections.--

(1) In general.-- Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended by adding at the end the following subsections:

"(d) Scheduled Listed Chemicals; Restrictions on Sales Quantity; Requirements Regarding Nonliquid Forms.--With respect to ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product--

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

"(2) such a seller or distributor may not sell such a product in nonliquid form (including gel caps) at retail unless the product is packaged in blister packs, each blister containing not more than 2 dosage units, or where the use of blister packs is technically infeasible, the product is packaged in unit dose packets or pouches.

"(e) Scheduled Listed Chemicals; Behind-the-Counter Access; Logbook Requirement; Training of Sales Personnel; Privacy Protections.--

"(1) Requirements regarding retail transactions.----

"(A) In general.--Each regulated seller shall ensure that, subject to subparagraph (F), sales by such seller of a scheduled listed chemical product at retail are made in accordance with the following:

"(i) In offering the product for sale, the seller places the product such that customers do not have direct access to the product before the sale is made (in this paragraph referred to as 'behind-the-counter' placement). For purposes of this paragraph, a behind-the-counter placement of a product includes circumstances in which the product is stored in a locked cabinet that is located in an area of the facility involved to which customers do have direct access.

"(ii) The seller delivers the product directly into the custody of the purchaser.

"(iii) The seller maintains, in accordance with criteria issued by the Attorney General, a written or electronic list of such sales that identifies the products by name, the quantity sold, the names and addresses of purchasers, and the dates and times of the sales (which list is referred to in this subsection as the 'logbook'), except that such requirement does not apply to any purchase by an individual of a single sales package if that package contains not more than 60 milligrams of pseudoephedrine.

"(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does not sell such a product unless--

"(I) the prospective purchaser--

"(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after the date of the enactment of the Combat Methamphetamine Epidemic Act of 2005); and

"(bb) signs the logbook and enters in the logbook his or her name, address, and the date and time of the sale; and

"(II) the seller--

"(aa) determines that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct; and

"(bb) enters in the logbook the name of the product and the quantity sold.

"(v) The logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements or misrepresentations in the logbook may subject the purchasers to criminal penalties under section 1001 of title 18, United States Code, which notice specifies the maximum fine and term of imprisonment under such section.

"(vi) The seller maintains each entry in the logbook for not fewer than two years after the date on which the entry is made.

"(vii) In the case of individuals who are responsible for delivering such products into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products, the seller has submitted to the Attorney General a self-certification that all such individuals have, in accordance with criteria under subparagraph (B)(ii), undergone training provided by the seller to ensure that the individuals understand the requirements that apply under this subsection and subsection (d).

"(viii) The seller maintains a copy of such certification and records demonstrating that individuals referred to in clause (vii) have undergone the training.

"(ix) If the seller is a mobile retail vendor:

"(I) The seller complies with clause (i) by placing the product in a locked cabinet.

"(II) The seller does not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day

period.

"(B) Additional provisions regarding certifications and training.--

"(i) In general.--A regulated seller may not sell any scheduled listed chemical product at retail unless the seller has submitted to the Attorney General the self-certification referred to in subparagraph (A)(vii). The certification is not effective for purposes of the preceding sentence unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, the certification includes a statement that the seller understands each of the requirements that apply under this paragraph and under subsection (d) and agrees to comply with the requirements.

"(ii) Issuance of criteria; self-certification.--The Attorney General shall by regulation establish criteria for certifications under this paragraph. The criteria shall--

"(I) provide that the certifications are self-certifications provided through the program under clause (iii);

"(II) provide that a separate certification is required for each place of business at which a regulated seller sells scheduled listed chemical products at retail; and

"(III) include criteria for training under subparagraph (A)(vii).

"(iii) Program for regulated sellers.—

The Attorney General shall establish a program regarding such certifications and training in accordance with the following:

"(I) The program shall be carried out through an Internet site of the Department of Justice and such other means as the Attorney General determines to be appropriate.

"(II) The program shall inform regulated sellers that section 1001 of title 18, United States Code, applies to such certifications.

"(III) The program shall make available to such sellers an explanation of the criteria under clause (ii).

"(IV) The program shall be designed to permit the submission of the certifications through such Internet site.

"(V) The program shall be designed to automatically provide the explanation referred to in subclause (III), and an acknowledgement that the Department has received a certification, without requiring direct interactions of regulated sellers with staff of the Department (other than the provision of technical assistance, as appropriate).

"(iv) Availability of certification to state and local officials.--Promptly after receiving a certification under subparagraph (A)(vii), the Attorney General shall make available a copy of the certification to the appropriate State and local officials.

"(C) Privacy protections.--In order to protect the privacy of individuals who purchase scheduled listed chemical products, the Attorney General shall by regulation establish restrictions on disclosure of information in logbooks under subparagraph (A)(iii). Such regulations shall--

"(i) provide for the disclosure of the information as appropriate to the Attorney General and to State and local law enforcement agencies; and

"(ii) prohibit accessing, using, or sharing information in the logbooks for any purpose other than to ensure compliance with this title or to facilitate a product recall to protect public health and safety.

"(D) False statements or misrepresentations by purchasers.--For purposes of section 1001 of title 18, United States Code, entering information in the logbook under subparagraph (A)(iii) shall be considered a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States.

"(E) Good faith protection.--A regulated seller who in good faith releases information in a logbook under subparagraph (A)(iii) to Federal, State, or local law enforcement authorities is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

"(F) Inapplicability of requirements to certain sales.--Subparagraph (A) does not apply to the sale at retail of a scheduled listed chemical product if a report on the sales transaction is required to be submitted to the Attorney General under subsection (b)(3).

"(G) Certain measures regarding theft and diversion.--A regulated seller may take reasonable measures to guard against employing individuals who may present a risk with respect to the theft and diversion of scheduled listed chemical products, which may include, notwithstanding State law, asking applicants for employment whether they have been convicted of any crime involving or related to such products or controlled substances."

(2) Effective dates.-- With respect to subsections (d) and (e)(1) of section 310 of the Controlled Substances Act, as added by paragraph (1) of this subsection:

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

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

(c) Mail-Order Reporting.--

(1) In general.-- Section 310(e) of the Controlled Substances Act, as added by subsection (b)(1) of this section, is amended by adding at the end the following:

"(2) Mail-order reporting; verification of identity of purchaser; 30-day restriction on quantities for individual purchasers.-- Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required under subsection (b)(3) to submit a report of the sales transaction to the Attorney General is subject to the following:

"(A) The person shall, prior to shipping the product, confirm the identity of the purchaser in accordance with procedures established by the Attorney General. The Attorney General shall by regulation establish such procedures.

"(B) The person may not sell more than 7.5 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in such products per customer during a 30-day period."

(2) Inapplicability of reporting exemption for retail distributors.-- Section 310(b)(3)(D)(ii) of the Controlled Substances Act (21 U.S.C. 830(b)(3)(D)(ii)) is amended by inserting before the period the following: ", except that this clause does not apply to sales of scheduled listed chemical products at retail".

(3) Effective date.-- The amendments made by paragraphs (1) and (2) apply on and after the expiration

of the 30-day period beginning on the date of the enactment of this Act.

- (c) Exemptions for Certain Products.--Section 310(e) of the Controlled Substances Act, as added and amended by subsections (b) and (c) of this section, respectively, is amended by adding at the end the following paragraph:

"(3) Exemptions for certain products.-- Upon the application of a manufacturer of a scheduled listed chemical product, the Attorney General may by regulation provide that the product is exempt from the provisions of subsection (d) and paragraphs (1) and (2) of this subsection if the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine."

- (e) Restrictions on Quantity Purchased During 30-Day Period.--

(1) In general.-- Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following: "It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30 day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial carrier or the Postal Service."

(2) Effective date.-- The amendment made by paragraph (1) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act.

- (f) Enforcement of Requirements for Retail Sales.--

- (1) Civil and criminal penalties.----

(A) In general.--Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended--

- (i) in paragraph (10), by striking "or" after the semicolon;
- (ii) in paragraph (11), by striking the period at the end and inserting a semicolon; and
- (iii) by inserting after paragraph (11) the following paragraphs:

"(12) who is a regulated seller, or a distributor required to submit reports under subsection (b)(3) of section 310--

"(A) to sell at retail a scheduled listed chemical product in violation of paragraph (1) of subsection (d) of such section, knowing at the time of the transaction involved (independent of consulting the logbook under subsection (e)(1)(A)(iii) of such section) that the transaction is a violation; or

"(B) to knowingly or recklessly sell at retail such a product in violation of paragraph (2) of such subsection (d);

"(13) who is a regulated seller to knowingly or recklessly sell at retail a scheduled listed chemical product in violation of subsection (e) of such section; or

"(14) who is a regulated seller or an employee or agent of such seller to disclose, in violation of regulations under subparagraph (C) of section 310(e)(1), information in logbooks under subparagraph (A)(iii) of such section, or to refuse to provide such a logbook to Federal, State, or local law

enforcement authorities."

(B) Conforming amendment.--Section 401(f)(1) of the Controlled Substances Act (21 U.S.C. 841(f)(1)) is amended by inserting after "shall" the following: ", except to the extent that paragraph (12), (13), or (14) of section 402(a) applies,".

(2) Authority to prohibit sales by violators.-- Section 402(c) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended by adding at the end the following paragraph:

"(4)(A) If a regulated seller, or a distributor required to submit reports under section 310(b)(3), violates paragraph (12) of subsection (a) of this section, or if a regulated seller violates paragraph (13) of such subsection, the Attorney General may by order prohibit such seller or distributor (as the case may be) from selling any scheduled listed chemical product. Any sale of such a product in violation of such an order is subject to the same penalties as apply under paragraph (2).

"(B) An order under subparagraph (A) may be imposed only through the same procedures as apply under section 304(c) for an order to show cause."

(g) Preservation of State Authority to Regulate Scheduled Listed Chemicals.--This section and the amendments made by this section may not be construed as having any legal effect on section 708 of the Controlled Substances Act as applied to the regulation of scheduled listed chemicals (as defined in section 102(45) of such Act).

[*712] Sec. 712. REGULATED TRANSACTIONS.

(a) Conforming Amendments Regarding Scheduled Listed Chemicals.--The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended--

(1) in section 102--

(A) in paragraph (39)(A)--

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

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act, subject to clause (v), unless--

"(I) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

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

(ii) by redesignating clause (v) as clause (vi); and

(iii) by inserting after clause (iv) the following clause:

"(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 310(b)(3); or"; and
(B) by striking the paragraph (45) that relates to the term "ordinary over-the-counter pseudoephedrine or phenylpropanolamine product";

(2) in section 204, by striking subsection (e); and

(3) in section 303(h), in the second sentence, by striking "section 102(39)(A)(iv)" and inserting "clause (iv) or (v) of section 102(39)(A)".

(b) Public Law 104-237.--Section 401 of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 802 note) (Public Law 104-237) is amended by striking subsections (d), (e), and (f).

[*713] Sec. 713. AUTHORITY TO ESTABLISH PRODUCTION QUOTAS.

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

(1) in subsection (a), by inserting "and for ephedrine, pseudoephedrine, and phenylpropanolamine" after "for each basic class of controlled substance in schedules I and II";

(2) in subsection (b), by inserting "or for ephedrine, pseudoephedrine, or phenylpropanolamine" after "for each basic class of controlled substance in schedule I or II";

(3) in subsection (c), in the first sentence, by inserting "and for ephedrine, pseudoephedrine, and phenylpropanolamine" after "for the basic classes of controlled substances in schedules I and II";

(4) in subsection (d), by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine" after "that basic class of controlled substance";

(5) in subsection (e), by inserting "or for ephedrine, pseudoephedrine, or phenylpropanolamine" after "for a basic class of controlled substance in schedule I or II";

(6) in subsection (f)--

(A) by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine" after "controlled substances in schedules I and II";

(B) by inserting "or of ephedrine, pseudoephedrine, or phenylpropanolamine" after "the manufacture of a controlled substance"; and

(C) by inserting "or chemicals" after "such incidentally produced substances"; and

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

"(g) Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical."

[*714] Sec. 714. PENALTIES; AUTHORITY FOR MANUFACTURING; QUOTA.

Section 402(b) of the Controlled Substances Act (21 U.S.C. 842(b)) is amended by inserting after "manufacture a controlled substance in schedule I or II" the following: ", or ephedrine, pseudoephedrine, or phenylpropanolamine or any of the salts, optical isomers, or salts of optical isomers of such chemical,".

[*715] Sec. 715. RESTRICTIONS ON IMPORTATION; AUTHORITY TO PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC, OR OTHER LEGITIMATE PURPOSES.

Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended--

(1) in subsection (a)--

(A) in the matter preceding paragraph (1), by inserting "or ephedrine, pseudoephedrine, or phenylpropanolamine," after "schedule III, IV, or V of title II,"; and

(B) in paragraph (1), by inserting ", and of ephedrine, pseudoephedrine, and phenylpropanolamine, " after "coca leaves"; and

(2) by adding at the end the following subsections:

"(d)(1) With respect to a registrant under section 1008 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, at any time during the year the registrant may apply for an increase in the amount of such chemical that the registrant is authorized to import, and the Attorney General may approve the application if the Attorney General determines that the approval is necessary to provide for medical, scientific, or other legitimate purposes regarding the chemical.

"(2) With respect to the application under paragraph (1):

"(A) Not later than 60 days after receiving the application, the Attorney General shall approve or deny the application.

"(B) In approving the application, the Attorney General shall specify the period of time for which the approval is in effect, or shall provide that the approval is effective until the registrant involved is notified in writing by the Attorney General that the approval is terminated.

"(C) If the Attorney General does not approve or deny the application before the expiration of the 60-day period under subparagraph (A), the application is deemed to be approved, and such approval remains in effect until the Attorney General notifies the registrant in writing that the approval is terminated.

"(e) Each reference in this section to ephedrine, pseudoephedrine, or phenylpropanolamine includes each of the salts, optical isomers, and salts of optical isomers of such chemical."

[*716] Sec. 716. NOTICE OF IMPORTATION OR EXPORTATION; APPROVAL OF SALE OR TRANSFER BY IMPORTER OR EXPORTER.

(a) In General.--Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended--

(1) in subsection (b)(1), in the first sentence, by striking "or to an importation by a regular importer" and inserting "or to a transaction that is an importation by a regular importer";

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(3) by inserting after subsection (c) the following subsection:

"(d)(1)(A) Information provided in a notice under subsection (a) or (b) shall include the name of the person to whom the importer or exporter involved intends to transfer the listed chemical involved, and the quantity of such chemical to be transferred.

"(B) In the case of a notice under subsection (b) submitted by a regular importer, if the transferee identified in the notice is not a regular customer, such importer may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the notice is submitted to the Attorney General.

"(C) After a notice under subsection (a) or (b) is submitted to the Attorney General, if circumstances change and the importer or exporter will not be transferring the listed chemical to the transferee identified in the notice, or will be transferring a greater quantity of the chemical than specified in the notice, the importer or exporter shall update the notice to identify the most recent prospective transferee or the most recent quantity or both (as the case may be) and may not transfer the listed chemical until after the expiration of the 15-day period beginning on the date on which the update is submitted to the Attorney General, except that such 15-day restriction does not apply if the prospective transferee identified in the update is a regular customer. The preceding sentence applies with respect to changing circumstances regarding a transferee or quantity identified in an update to the same extent and in the same manner as such sentence applies with respect to changing circumstances regarding a transferee or quantity identified in the original notice under subsection (a) or (b).

"(D) In the case of a transfer of a listed chemical that is subject to a 15-day restriction under subparagraph (B) or (C), the transferee involved shall, upon the expiration of the 15-day period, be considered to qualify as a regular customer, unless the Attorney General otherwise notifies the importer or exporter involved in writing.

"(2) With respect to a transfer of a listed chemical with which a notice or update referred to in paragraph (1) is concerned:

"(A) The Attorney General, in accordance with the same procedures as apply under subsection (c)(2)--

"(i) may order the suspension of the transfer of the listed chemical by the importer or exporter involved, except for a transfer to a regular customer, on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance (without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred), subject to the Attorney General ordering such suspension before the expiration of the 15-day period referred to in paragraph (1) with respect to the importation or exportation (in any case in which such a period applies); and

"(ii) may, for purposes of clause (i) and paragraph (1), disqualify a regular customer on such ground.

"(B) From and after the time when the Attorney General provides written notice of the order under subparagraph (A) (including a statement of the legal and factual basis for the order) to the importer or exporter, the importer or exporter may not carry out the transfer.

"(3) For purposes of this subsection:

"(A) The terms 'importer' and 'exporter' mean a regulated person who imports or exports a listed chemical, respectively.

"(B) The term 'transfer', with respect to a listed chemical, includes the sale of the chemical.

"(C) The term 'transferee' means a person to whom an importer or exporter transfers a listed chemical."; and

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

"(g) Within 30 days after a transaction covered by this section is completed, the importer or exporter shall send the Attorney General a return declaration containing particulars of the transaction, including the date, quantity, chemical, container, name of transferees, and such other information as the Attorney General may specify in regulations. For importers, a single return declaration may include the particulars of both the importation and distribution. If the importer has not distributed all chemicals imported by the end of the initial 30-day period, the importer shall file supplemental return declarations no later than 30 days from the date of any further distribution, until the distribution or other disposition of all chemicals imported pursuant to the import notification or any update are accounted for.".

(b) Conforming Amendments.--

(1) Controlled substances import and export act.-- The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended--

(A) in section 1010(d)(5), by striking "section 1018(e)(2) or (3)" and inserting "paragraph (2) or (3) of section 1018(f)"; and

(B) in section 1018(c)(1), in the first sentence, by inserting before the period the following: "(without regard to the form of the chemical that may be diverted, including the diversion of a finished drug product to be manufactured from bulk chemicals to be transferred)".

(2) Controlled substances act.-- Section 310(b)(3)(D)(v) of the Controlled Substances Act (21 U.S.C. 830(b)(3)(D)(v)) is amended by striking "section 1018(e)(2)" and inserting "section 1018(f)(2)".

[*717] Sec. 717. ENFORCEMENT OF RESTRICTIONS ON IMPORTATION AND OF REQUIREMENT OF NOTICE OF TRANSFER.

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

"(6) imports a listed chemical in violation of section 1002, imports or exports such a chemical in violation of section 1007 or 1018, or transfers such a chemical in violation of section 1018(d); or".

[*718] Sec. 718. COORDINATION WITH UNITED STATES TRADE REPRESENTATIVE.

In implementing sections 713 through 717 and section 721 of this title, the Attorney General shall consult with the United States Trade Representative to ensure implementation complies with all applicable international treaties and obligations of the United States.

Subtitle B--International Regulation of Precursor Chemicals

[*721] Sec. 721. INFORMATION ON FOREIGN CHAIN OF DISTRIBUTION; IMPORT RESTRICTIONS REGARDING FAILURE OF DISTRIBUTORS TO COOPERATE.

Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 716(a)(4) of this title, is further amended by adding at the end the following subsection:

"(h)(1) With respect to a regulated person importing ephedrine, pseudoephedrine, or phenylpropanolamine (referred to in this section as an 'importer'), a notice of importation under subsection (a) or (b) shall include all information known to the importer on the chain of distribution of such chemical from the manufacturer to the importer.

"(2) For the purpose of preventing or responding to the diversion of ephedrine, pseudoephedrine, or phenylpropanolamine for use in the illicit production of methamphetamine, the Attorney General may, in the case of any person who is a manufacturer or distributor of such chemical in the chain of distribution referred to in paragraph (1) (which person is referred to in this subsection as a 'foreign-chain distributor'), request that such distributor provide to the Attorney General information known to the distributor on the distribution of the chemical, including sales.

"(3) If the Attorney General determines that a foreign-chain distributor is refusing to cooperate with the Attorney General in obtaining the information referred to in paragraph (2), the Attorney General may, in accordance with procedures that apply under subsection (c), issue an order prohibiting the importation of ephedrine, pseudoephedrine, or phenylpropanolamine in any case in which such distributor is part of the chain of distribution for such chemical. Not later than 60 days prior to issuing the order, the Attorney General shall publish in the Federal Register a notice of intent to issue the order. During such 60-day period, imports of the chemical with respect to such distributor may not be restricted under this paragraph."

[*722] Sec. 722. REQUIREMENTS RELATING TO THE LARGEST EXPORTING AND IMPORTING COUNTRIES OF CERTAIN PRECURSOR CHEMICALS.

(a) Reporting Requirements.--Section 489(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a)) is amended by adding at the end the following new paragraph:

"(8)(A) A separate section that contains the following:

"(i) An identification of the five countries that exported the largest amount of pseudoephedrine, ephedrine, and phenylpropanolamine (including the salts, optical isomers, or salts of optical isomers of such chemicals, and also including any products or substances containing such chemicals) during the preceding calendar year.

"(ii) An identification of the five countries that imported the largest amount of the chemicals described in clause (i) during the preceding calendar year and have the highest rate of diversion of such chemicals for use in the illicit production of methamphetamine (either in that country or

in another country).

"(iii) An economic analysis of the total worldwide production of the chemicals described in clause (i) as compared to the legitimate demand for such chemicals worldwide.

"(B) The identification of countries that imported the largest amount of chemicals under subparagraph (A)(ii) shall be based on the following:

"(i) An economic analysis that estimates the legitimate demand for such chemicals in such countries as compared to the actual or estimated amount of such chemicals that is imported into such countries.

"(ii) The best available data and other information regarding the production of methamphetamine in such countries and the diversion of such chemicals for use in the production of methamphetamine."

(b) Annual Certification Procedures.--Section 490(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)) is amended--

(1) in paragraph (1), by striking "major illicit drug producing country or major drug-transit country" and inserting "major illicit drug producing country, major drug-transit country, or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act"; and

(2) in paragraph (2), by inserting after "(as determined under subsection (h))" the following: "or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act".

(c) Conforming Amendment.--Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291j-1) is amended in paragraph (5) by adding at the end the following:

"(C) Nothing in this section shall affect the requirements of section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) with respect to countries identified pursuant to section clause (i) or (ii) of 489(a)(8)(A) of the Foreign Assistance Act of 1961."

(d) Plan to Address Diversion of Precursor Chemicals.--In the case of each country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of the Foreign Assistance Act of 1961 (as added by subsection (a)) with respect to which the President has not transmitted to Congress a certification under section 490(b) of such Act (22 U.S.C. 2291j(b)), the Secretary of State, in consultation with the Attorney General, shall, not later than 180 days after the date on which the President transmits the report required by section 489(a) of such Act (22 U.S.C. 2291h(a)), submit to Congress a comprehensive plan to address the diversion of the chemicals described in section 489(a)(8)(A)(i) of such Act to the illicit production of methamphetamine in such country or in another country, including the establishment, expansion, and enhancement of regulatory, law enforcement, and other investigative efforts to prevent such diversion.

(e) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary of State to carry out this section \$ 1,000,000 for each of the fiscal years 2006 and 2007.

[*723] Sec. 723. PREVENTION OF SMUGGLING OF METHAMPHETAMINE INTO THE UNITED STATES FROM MEXICO.

(a) In General.--The Secretary of State, acting through the Assistant Secretary of the Bureau for International Narcotics and Law Enforcement Affairs, shall take such actions as are necessary to

prevent the smuggling of methamphetamine into the United States from Mexico.

(b) Specific Actions.--In carrying out subsection (a), the Secretary shall--

(1) improve bilateral efforts at the United States-Mexico border to prevent the smuggling of methamphetamine into the United States from Mexico;

(2) seek to work with Mexican law enforcement authorities to improve the ability of such authorities to combat the production and trafficking of methamphetamine, including by providing equipment and technical assistance, as appropriate; and

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

(c) Report.--Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this section for the prior year.

(d) Authorization of Appropriations.--There are authorized to be appropriated to the Secretary to carry out this section \$ 4,000,000 for each of the fiscal years 2006 and 2007.

Subtitle C--Enhanced Criminal Penalties for Methamphetamine Production and Trafficking

[*731] Sec. 731. SMUGGLING METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITATED ENTRY PROGRAMS.

(a) Enhanced Prison Sentence.--The sentence of imprisonment imposed on a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.)¹, involving methamphetamine or any listed chemical that is defined in section 102(33) of the Controlled Substances Act (21 U.S.C. 802(33)), shall, if the offense is committed under the circumstance described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

(b) Circumstances.--For purposes of subsection (a), the circumstance described in this subsection is that the offense described in subsection (a) was committed by a person who--

(1) was enrolled in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

(2) committed the offense while entering the United States, using such lane, system, or program. (c) Permanent Ineligibility.--Any person whose term of imprisonment is increased under subsection (a) shall be permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

¹ Note by the Secretary: E/NL.1987/14.

[*732] Sec. 732. MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.

Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended in paragraph (5) by inserting "or manufacturing" after "cultivating".

[*733] Sec. 733. INCREASED PUNISHMENT FOR METHAMPHETAMINE KINGPINS.

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

"(s) Special Provision for Methamphetamine.--For the purposes of subsection (b), in the case of continuing criminal enterprise involving methamphetamine or its salts, isomers, or salts of isomers, paragraph (2)(A) shall be applied by substituting '200' for '300', and paragraph (2)(B) shall be applied by substituting '\$ 5,000,000' for '\$ 10 million dollars'."

[*734] Sec. 734. NEW CHILD-PROTECTION CRIMINAL ENHANCEMENT.

(a) In General.--The Controlled Substances Act is amended by inserting after section 419 (21 U.S.C. 860) the following:

" Consecutive sentence for manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine on premises where children are present or reside "Sec. 419a. Whoever violates section 401(a)(1) by manufacturing or distributing, or possessing with intent to manufacture or distribute, methamphetamine or its salts, isomers or salts of isomers on premises in which an individual who is under the age of 18 years is present or resides, shall, in addition to any other sentence imposed, be imprisoned for a period of any term of years but not more than 20 years, subject to a fine, or both."

(b) Clerical Amendment.--The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to 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."

[*735] Sec. 735. AMENDMENTS TO CERTAIN SENTENCING COURT REPORTING REQUIREMENTS.

Section 994(w) of title 28, United States Code , is amended-- (1) in paragraph (1)-- (A) by inserting ", in a format approved and required by the Commission," after "submits to the Commission";

(B) in subparagraph (B)--

(i) by inserting "written" before "statement of reasons"; and

(ii) by inserting "and which shall be stated on the written statement of reasons form issued by the Judicial Conference and approved by the United States Sentencing Commission" after "applicable guideline range"; and

(C) by adding at the end the following:

"The information referred to in subparagraphs (A) through (F) shall be submitted by the sentencing court in a format approved and required by the Commission."; and

(2) in paragraph (4), by striking "may assemble or maintain in electronic form that include any" and

inserting "itself may assemble or maintain in electronic form as a result of the".

[*736] Sec. 736. SEMIANNUAL REPORTS TO CONGRESS.

(a) In General.--The Attorney General shall, on a semiannual basis, submit to the congressional committees and organizations specified in subsection (b) reports that--

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

(2) the measures being taken to give priority in the allocation of such resources to such violations involving--

(A) persons alleged to have imported into the United States substantial quantities of methamphetamine or scheduled listed chemicals (as defined pursuant to the amendment made by section 711(a)(1));

(B) persons alleged to have manufactured methamphetamine; and

(C) circumstances in which the violations have endangered children. (b) Congressional Committees.--The congressional committees and organizations referred to in subsection (a) are--

(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.

Subtitle D--Enhanced Environmental Regulation of Methamphetamine Byproducts

[*741] Sec. 741. BIENNIAL REPORT TO CONGRESS ON AGENCY DESIGNATIONS OF BY-PRODUCTS OF METHAMPHETAMINE LABORATORIES AS HAZARDOUS MATERIALS.

Section 5103 of title 49, United States Code, is amended by adding at the end the following:

"(d) Biennial Report.--The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 51 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose an unreasonable risk to health and safety or property when transported in commerce in a particular amount and form."

[*742] Sec. 742. METHAMPHETAMINE PRODUCTION REPORT.

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

"(j) Methamphetamine Production.--Not later than every 24 months, the Administrator shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report setting forth information collected by the Administrator from law enforcement agencies, States, and other relevant stakeholders that identifies the byproducts of the methamphetamine production process and whether the Administrator considers each of the byproducts to be a hazardous waste pursuant to this section and relevant regulations."

[*743] Sec. 743. CLEANUP COSTS.

(a) In General.--Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended--

(1) in the matter preceding paragraph (1), by inserting ", the possession, or the possession with intent to distribute," after "manufacture"; and

(2) in paragraph (2), by inserting ", or on premises or in property that the defendant owns, resides, or does business in" after "by the defendant".

(b) Savings Clause.--Nothing in this section shall be interpreted or construed to amend, alter, or otherwise affect the obligations, liabilities and other responsibilities of any person under any Federal or State environmental laws.

Subtitle E--Additional Programs and Activities

[*751] Sec. 751. IMPROVEMENTS TO DEPARTMENT OF JUSTICE DRUG COURT GRANT PROGRAM.

Section 2951 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797u) is amended by adding at the end the following new subsection:

"(c) Mandatory Drug Testing and Mandatory Sanctions.--

"(1) Mandatory testing.-- Grant amounts under this part may be used for a drug court only if the drug court has mandatory periodic testing as described in subsection (a)(3)(A). The Attorney General shall, by prescribing guidelines or regulations, specify standards for the timing and manner of complying with such requirements. The standards--

"(A) shall ensure that--

"(i) each participant is tested for every controlled substance that the participant has been known to abuse, and for any other controlled substance the Attorney General or the court may require; and

"(ii) the testing is accurate and practicable; and

"(B) may require approval of the drug testing regime to ensure that adequate testing occurs.

"(2) Mandatory sanctions.-- The Attorney General shall, by prescribing guidelines or regulations, specify that grant amounts under this part may be used for a drug court only if the drug court imposes graduated sanctions that increase punitive measures, therapeutic measures, or both whenever a participant fails a drug test. Such sanctions and measures may include, but are not limited to, one or more of the following:

"(A) Incarceration.

"(B) Detoxification treatment.

"(C) Residential treatment.

"(D) Increased time in program.

"(E) Termination from the program.

"(F) Increased drug screening requirements.

"(G) Increased court appearances.

"(H) Increased counseling.

- "(I) Increased supervision.
- "(J) Electronic monitoring.
- "(K) In-home restriction.
- "(L) Community service.
- "(M) Family counseling.
- "(N) Anger management classes."

[*752] Sec. 752. DRUG COURTS FUNDING.

Section 1001(25)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 2591 (25)(A)) is amended by adding at the end the following:

"(v) \$ 70,000,000 for fiscal year 2006."

[*753] Sec. 753. FEASIBILITY STUDY ON FEDERAL DRUG COURTS.

The Attorney General shall, conduct a feasibility study on the desirability of a drug court program for Federal offenders who are addicted to controlled substances. The Attorney General lower-level, non-violate report the results of that study to Congress not later than June 30, 2006.

[*754] Sec. 754. GRANTS TO HOT SPOT AREAS TO REDUCE AVAILABILITY OF METHAMPHETAMINE.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

II "PART II--CONFRONTING USE OF METHAMPHETAMINE

"Sec. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS PUBLIC SAFETY AND METHAMPHETAMINE MANUFACTURING, SALE, AND USE IN HOT SPOTS.

"(a) Purpose and Program Authority.--

"(1) Purpose.-- It is the purpose of this part to assist States--

"(A) to carry out programs to address the manufacture, sale, and use of methamphetamine drugs; and

"(B) to improve the ability of State and local government institutions of to carry out such programs.

"(2) Grant authorization.-- The Attorney General, through the Bureau of Justice Assistance in the Office of Justice Programs may make grants to States to address the manufacture, sale, and use of methamphetamine to enhance public safety.

"(3) Grant projects to address methamphetamine manufacture sale and use.-- Grants made under subsection (a) may be used for programs, projects, and other activities to--

"(A) investigate, arrest and prosecute individuals violating laws related to the use, manufacture, or sale of methamphetamine;

"(B) reimburse the Drug Enforcement Administration for expenses related to the clean up of methamphetamine clandestine labs;

"(C) support State and local health department and environmental agency services deployed to address methamphetamine; and

"(D) procure equipment, technology, or support systems, or pay for resources, if the applicant for such a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in the reduction in the use, sale, and manufacture of methamphetamine.

"Sec. 2997. FUNDING.

"There are authorized to be appropriated to carry out this part \$ 99,000,000 for each fiscal year 2006, 2007, 2008, 2009, and 2010."

[*755] Sec. 755. GRANTS FOR PROGRAMS FOR DRUG-ENDANGERED CHILDREN.

(a) In General.--The Attorney General shall make grants to States for the purpose of carrying out programs to provide comprehensive services to aid children who are living in a home in which methamphetamine or other controlled substances are unlawfully manufactured, distributed, dispensed, or used.

(b) Certain Requirements.--The Attorney General shall ensure that the services carried out with grants under subsection (a) include the following:

(1) Coordination among law enforcement agencies, prosecutors, child protective services, social services, health care services, and any other services determined to be appropriate by the Attorney General to provide assistance regarding the problems of children described in subsection (a).

(2) Transition of children from toxic or drug-endangering environments to appropriate residential environments.

(c) Authorization of Appropriations.--For the purpose of carrying out this section, there are authorized to be appropriated \$ 20,000,000 for each of the fiscal years 2006 and 2007. Amounts appropriated under the preceding sentence shall remain available until expended.

[*756] Sec. 756. AUTHORITY TO AWARD COMPETITIVE GRANTS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.

(a) Purpose and Program Authority.--

(1) Grant authorization.-- The Attorney General may award competitive grants to address the use of methamphetamine among pregnant and parenting women offenders to promote public safety, public health, family permanence and well being.

(2) Purposes and program authority.-- Grants awarded under this section shall be used to facilitate or enhance and collaboration between the criminal justice, child welfare, and State substance abuse systems in order to carry out programs to address the use of methamphetamine drugs by pregnant and parenting women offenders.

(b) Definitions.--In this section, the following definitions shall apply:

(1) Child welfare agency.-- The term "child welfare agency" means the State agency responsible

for child and/or family services and welfare.

(2) Criminal justice agency.-- The term "criminal justice agency" means an agency of the State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

(c) Applications.--

(1) In general.-- No grant may be awarded under this section unless an application has been submitted to, and approved by, the Attorney General.

(2) Application.-- An application for a grant under this section shall be submitted in such form, and contain such information, as the Attorney General, may prescribe by regulation or guidelines.

(3) Eligible entities.-- The Attorney General shall make grants to States, territories, and Indian Tribes. Applicants must demonstrate extensive collaboration with the State criminal justice agency and child welfare agency in the planning and implementation of the program.

(4) Contents.-- In accordance with the regulations or guidelines established by the Attorney General in consultation with the Secretary of Health and Human Services, each application for a grant under this section shall contain a plan to expand the State's services for pregnant and parenting women offenders who are pregnant women and/or women with dependent children for the use of methamphetamine or methamphetamine and other drugs and include the following in the plan:

(A) A description of how the applicant will work jointly with the State criminal justice and child welfare agencies needs associated with the use of methamphetamine or methamphetamine and other drugs by pregnant and parenting women offenders to promote family stability and permanence.

(B) A description of the nature and the extent of the problem of methamphetamine use by pregnant and parenting women offenders.

(C) A certification that the State has involved counties and other units of local government, when appropriate, in the development, expansion, modification, operation or improvement of proposed programs to address the use, manufacture, or sale of methamphetamine.

(D) A certification that funds received under this section will be used to supplement, not supplant, other Federal, State, and local funds.

(E) A description of clinically appropriate practices and procedures to--

(i) screen and assess pregnant and parenting women offenders for addiction to methamphetamine and other drugs;

(ii) when clinically appropriate for both the women and children, provide family treatment for pregnant and parenting women offenders, with clinically appropriate services in the same location to promote family permanence and self sufficiency; and

(iii) provide for a process to enhance or ensure the abilities of the child welfare agency, criminal justice agency and State substance agency to work together to re-unite families when appropriate in the case where family treatment is not provided.

(d) Period of Grant.--The grant shall be a three-year grant. Successful applicants may reapply for only one additional three-year funding cycle and the Attorney General may approve such applications.

(e) Performance Accountability; Reports and Evaluations.--

(1) Reports.-- Successful applicants shall submit to the Attorney General a report on the activities carried out under the grant at the end of each fiscal year.

(2) Evaluations.-- Not later than 12 months at the end of the 3 year funding cycle under this section, the Attorney General shall submit a report to the appropriate committees of jurisdiction that summarizes the results of the evaluations conducted by recipients and recommendations for further legislative action.

(f) Authorization of Appropriations.--There are authorized to be appropriated to carry out this section such sums as may be necessary.

E/NL.2007/54

Public Law 109–304, Oct. 6, 2006

109th Congress

An Act to complete the codification of title 46, United States Code, “Shipping”, as positive law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[...]

“Subtitle VII—Security and Drug Enforcement

“Chapter Sec.

“701. Port Security70101

“703. Maritime Security70301

“705. Maritime Drug Law Enforcement 70501”.

[...]

“CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

“Sec.

“70501. Findings and declarations.

“70502. Definitions.

“70503. Manufacture, distribution, or possession of controlled substances on vessels.

“70504. Jurisdiction and venue.

“70505. Failure to comply with international law as a defense.

“70506. Penalties.

“70507. Forfeitures.

“§ 70501. Findings and declarations

“Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

“§ 70502. Definitions

“(a) APPLICATION OF OTHER DEFINITIONS.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

“(b) VESSEL OF THE UNITED STATES.—In this chapter, the term ‘vessel of the United States’ means—

“(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

“(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

“(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and “(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

“(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

“(c) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—

“(1) IN GENERAL.—In this chapter, the term ‘vessel subject to the jurisdiction of the United States’ includes—

“(A) a vessel without nationality;

“(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

“(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

“(D) a vessel in the customs waters of the United States;

“(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

“(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

“(i) is entering the United States;

“(ii) has departed the United States; or

“(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

“(2) CONSENT OR WAIVER OF OBJECTION.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

“(A) may be obtained by radio, telephone, or similar oral or electronic means; and

“(B) is proved conclusively by certification of the Secretary of State or the Secretary’s designee.

“(d) VESSEL WITHOUT NATIONALITY.—

“(1) IN GENERAL.—In this chapter, the term ‘vessel without nationality’ includes—

“(A) a vessel aboard which the master or individual in charge makes a claim of registry that is denied by the nation whose registry is claimed;

“(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

“(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

“(2) VERIFICATION OR DENIAL.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim is proved conclusively by certification of the Secretary of State or the Secretary’s designee.

“(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

“(1) possession on board the vessel and production of documents evidencing the vessel’s nationality as provided in article 5 of the 1958 Convention on the High Seas;

“(2) flying its nation’s ensign or flag; or

“(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

“§ 70503. Manufacture, distribution, or possession of controlled substances on vessels

“(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

“(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

“(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

“(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

“(c) NONAPPLICATION.—

“(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

“(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier’s business; or

“(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual’s duties.

“(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel’s manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

“(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

“§ 70504. Jurisdiction and venue

“(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

“(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

“(1) the district at which the person enters the United States; or

“(2) the District of Columbia.

“§ 70505. Failure to comply with international law as a defense

“A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

“§ 70506. Penalties

“(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

“(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

“§ 70507. Forfeitures

“(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission

of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

“(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

“(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

“(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

“(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

“(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel’s smuggling capability;

“(D) the presence of engines that are excessively overpowered in relation to the design and size of the vessel;

“(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

“(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

“(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

“(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

“(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel’s stated purpose.

“(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

“(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

“(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

“(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

“(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

“(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.”.