

forcement of the meat inspection laws." In the original, the parenthetical "(U.S.C., title 21, secs. 71 to 96, inclusive)" followed the phrase "meat inspection laws". The "meat inspection laws" are classified generally to this chapter.

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to section 95 of this title.

#### § 695. Payment of cost of meat-inspection service; exception

The cost of inspection rendered on and after July 1, 1948, under the requirements of laws relating to Federal inspection of meat and meat food products shall be borne by the United States except the cost of overtime pursuant to section 394 of title 7.

(June 5, 1948, ch. 423, 62 Stat. 344.)

#### CODIFICATION

Section was not enacted as part of the Federal Meat Inspection Act which is classified to subchapters I to IV of this chapter.

Section was formerly classified to section 98 of this title.

### CHAPTER 13—DRUG ABUSE PREVENTION AND CONTROL

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#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 801a, 955b of this title; title 10 section 374; title 22 sections 283s, 284k, 285p, 2291.

#### SUBCHAPTER I—CONTROL AND ENFORCEMENT

##### SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 951, 952, 958, 962, 965 of this title; title 40 section 304m; title 42 sections 242, 261.

##### PART A—INTRODUCTORY PROVISIONS

#### § 801. Congressional findings and declarations: controlled substances

The Congress makes the following findings and declarations:

(1) Many of the drugs included within this subchapter have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

(2) The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of the American people.

(3) A major portion of the traffic in controlled substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce because—

(A) after manufacture, many controlled substances are transported in interstate commerce,

(B) controlled substances distributed locally usually have been transported in interstate commerce immediately before their distribution, and

(C) controlled substances possessed commonly flow through interstate commerce immediately prior to such possession.

(4) Local distribution and possession of controlled substances contribute to swelling the interstate traffic in such substances.

(5) Controlled substances manufactured and distributed intrastate cannot be differentiated from controlled substances manufactured and distributed interstate. Thus, it is not feasible to distinguish, in terms of controls, between controlled substances manufactured and distributed interstate and controlled substances manufactured and distributed intrastate.

(6) Federal control of the intrastate incidents of the traffic in controlled substances is essential to the effective control of the interstate incidents of such traffic.

(7) The United States is a party to the Single Convention on Narcotic Drugs, 1953, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances.

(Pub. L. 91-513, title II, § 101, Oct. 27, 1970, 84 Stat. 1242.)

#### REFERENCES IN TEXT

This subchapter, referred to in par. (1), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out below and Tables.

#### EFFECTIVE DATE

Section 704 of Pub. L. 91-513 provided that:

"(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

"(b) Parts A, B, E, and F of this title [Parts A, B, E, and F of this subchapter], section 702 [set out as a note under section 321 of this title], this section, and sections 705 through 709 [set out as sections 901 to 904 of this title and as a note under this section], shall become effective upon enactment [Oct. 27, 1970].

"(c) Sections 305 (relating to labels and labeling) [section 825 of this title], and 306 (relating to manufacturing quotas) [section 826 of this title] shall become effective on the date specified in subsection (a) of this section, except that the Attorney General may by order published in the Federal Register postpone the effective date of either or both of these sections for such period as he may determine to be necessary for the efficient administration of this title [this subchapter]."

#### SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-633, § 1, Nov. 11, 1978, 92 Stat. 3768, provided: "That this Act [enacting sections 801a, 830, and 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealing section 830 of this title (effective Jan. 1, 1981), and enacting provisions set out as notes under sections 801a, 812, and 830 of this title] may be cited as the 'Psychotropic Substances Act of 1978'."

#### SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93-281, § 1, May 14, 1974, 88 Stat. 124, provided: "That this Act [amending sections 802, 823, 824, and 827 of this title] may be cited as the 'Narcotic Addict Treatment Act of 1974'."

#### SHORT TITLE

Pub. L. 91-513, in the provisions preceding section 1 immediately following the enacting clause, provided: "That this Act [enacting this chapter and sections 257a, 2688l-1, 2888n-1, and 3509 of Title 42, The Public Health and Welfare, amending sections 162, 198a, 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114, 1952, and 4251 of Title 18, Crimes and Criminal Procedure, sections 1584, 2078, 2079, and 2080 of Title 19, Customs Duties, sections 4901, 4905, 6808, 7012, 7103, 7326, 7607, 7609, 7641, 7651, and 7655 of Title 26, Internal Revenue Code, section 2901 of Title 28, Judiciary and Judicial Procedure, section 304m of Title 40, Public Buildings, Property, and Works, sections 201, 225a, 242, 242a, 246, 257, 258, 259, 260, 261, 261a, 2688k, 2688l, 2688m, 2688n, 2688o, 2688r, and 3411 of Title 42, The Public Health and Welfare, section 239a of Title 46, Shipping, and section 787 of Title 49, Appendix, Transportation, repealing sections 171 to 174, 176 to 185, 188 to 188n, 191 to 193, 197, 198, 199, 360a, and 501 to 517 of this title, sections 1401 to 1407 and 3616 of Title 18, sections 4701 to 4707, 4711 to 4716, 4721 to 4726, 4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, 4771 to 4776, 7237, 7238, and 7491 of Title 26, sec-

tions 529a and 529g of former Title 31, Money and Finance, and section 1421m of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section and sections 171, 321, 822, 951, and 957 of this title] may be cited as the 'Comprehensive Drug Abuse Prevention and Control Act of 1970'."

Section 100 of title II of Pub. L. 91-513 provided that: "This title [enacting this subchapter, repealing section 300a of this title, amending sections 321, 331, 333, 334, 360, 372, and 381 of this title, sections 1114 and 1952 of Title 18, Crimes and Criminal Procedure, and section 242 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 321 and 822 of this title] may be cited as the 'Controlled Substances Act'."

#### CONTINUATION OF ORDERS, RULES, AND REGULATIONS

Section 705 of Pub. L. 91-513 provided that: "Any orders, rules, and regulations which have been promulgated under any law affected by this title [this subchapter] and which are in effect on the day preceding enactment of this title [Oct. 27, 1970] shall continue in effect until modified, superseded, or repealed."

#### COMMISSION ON MARIHUANA AND DRUG ABUSE

Section 601 of Pub. L. 91-513, as amended by Pub. L. 92-13, May 14, 1971, 85 Stat. 37, provided that:

"(a) [ESTABLISHMENT; COMPOSITION] There is established a commission to be known as the Commission on Marihuana and Drug Abuse (hereafter in this section referred to as the 'Commission'). The Commission shall be composed of—

"(1) two Members of the Senate appointed by the President of the Senate;

"(2) two Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(3) nine members appointed by the President of the United States.

At no time shall more than one of the members appointed under paragraph (1), or more than one of the members appointed under paragraph (2), or more than five of the members appointed under paragraph (3) be members of the same political party.

"(b) [CHAIRMAN; VICE CHAIRMAN; COMPENSATION OF MEMBERS; MEETINGS] (1) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. Seven members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

"(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Members of the Commission from private life shall receive \$100 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

"(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

"(c) [PERSONNEL; EXPERTS; INFORMATION FROM DEPARTMENTS AND AGENCIES] (1) The Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall re-

ceive compensation at a rate to be fixed by the Commission, but not in excess of \$75 per diem, including traveltime. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

"(d) [MARIHUANA STUDY; REPORT TO THE PRESIDENT AND THE CONGRESS] (1) The Commission shall conduct a study of marihuana including, but not limited to, the following areas:

"(A) the extent of use of marihuana in the United States to include its various sources of users, number of arrests, number of convictions, amount of marihuana seized, type of user, nature of use;

"(B) an evaluation of the efficacy of existing marihuana laws;

"(C) a study of the pharmacology of marihuana and its immediate and long-term effects, both physiological and psychological;

"(D) the relationship of marihuana use to aggressive behavior and crime;

"(E) the relationship between marihuana and the use of other drugs; and

"(F) the international control of marihuana.

"(2) Within one year after the date on which funds first become available to carry out this section, the Commission shall submit to the President and the Congress a comprehensive report on its study and investigation under this subsection which shall include its recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

"(e) [STUDY AND INVESTIGATION OF CAUSES OF DRUG ABUSE; REPORT TO THE PRESIDENT AND THE CONGRESS; TERMINATION OF COMMISSION] The Commission shall conduct a comprehensive study and investigation of the causes of drug abuse and their relative significance. The Commission shall submit to the President and the Congress such interim reports as it deems advisable and shall within two years after the date on which funds first become available to carry out this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

"(f) [LIMITATION ON EXPENDITURES] Total expenditures of the Commission shall not exceed \$4,000,000."

#### EXECUTIVE ORDER No. 11599

Ex. Ord. No. 11599, June 17, 1971, 36 F.R. 11793, which established the Special Action Office for Drug Abuse Prevention, was superseded. See Prior Provisions notes set out under section 1111 of this title.

#### EXECUTIVE ORDER No. 11641

Ex. Ord. No. 11641, Jan. 28, 1972, 37 F.R. 2421, which established the Office for Drug Abuse Law Enforcement, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out as a note under this section.

#### EXECUTIVE ORDER No. 11676

Ex. Ord. No. 11676, July 27, 1972, 37 F.R. 15125, which established the Office of National Narcotics Intelligence, was revoked by Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, set out as a note under this section.

#### EX. ORD. NO. 11727. DRUG LAW ENFORCEMENT

Ex. Ord. No. 11727, July 6, 1973, 38 F.R. 18357, provided:

Reorganization Plan No. 2 of 1973 [set out in the Appendix to Title 5, Government Organization and Employees], which becomes effective on July 1, 1973, among other things establishes a Drug Enforcement Administration in the Department of Justice. In my message to the Congress transmitting that plan, I stated that all functions of the Office for Drug Abuse Law Enforcement (established pursuant to Executive Order No. 11641 of January 28, 1972) and the Office of National Narcotics Intelligence (established pursuant to Executive Order No. 11676 of July 27, 1972) would, together with other related functions, be merged in the new Drug Enforcement Administration.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the United States, including section 5317 of title 5 of the United States Code, as amended, it is hereby ordered as follows:

SECTION 1. The Attorney General, to the extent permitted by law, is authorized to coordinate all activities of executive branch departments and agencies which are directly related to the enforcement of laws respecting narcotics and dangerous drugs. Each department and agency of the Federal Government shall, upon request and to the extent permitted by law, assist the Attorney General in the performance of functions assigned to him pursuant to this order, and the Attorney General may, in carrying out those functions, utilize the services of any other agencies, Federal and State, as may be available and appropriate.

SEC. 2. Executive Order No. 11641 of January 28, 1972, is revoked and the Attorney General shall provide for the reassignment of the functions of the Office for Drug Abuse Law Enforcement and for the abolishment of that Office.

SEC. 3. Executive Order No. 11676 of July 27, 1972, is hereby revoked and the Attorney General shall provide for the reassignment of the functions of the Office of National Narcotics Intelligence and for the abolishment of that Office.

SEC. 4. Section 1 of Executive Order No. 11708 of March 23, 1973, as amended [set out as a note under section 5317 of Title 5, Government Organization and Employees], placing certain positions in level IV of the Executive Schedule is hereby further amended by deleting—

(1) "(6) Director, Office for Drug Abuse Law Enforcement, Department of Justice."; and

(2) "(7) Director, Office of National Narcotics Intelligence, Department of Justice."

SEC. 5. The Attorney General shall provide for the winding up of the affairs of the two offices and for the reassignment of their functions.

SEC. 6. This order shall be effective as of July 1, 1973.

RICHARD NIXON.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 1456.

§ 801a. Congressional findings and declarations: psychotropic substances

The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse of psychotropic substances has become a phenomenon

common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances.

(2) The United States has joined with other countries in executing an international treaty, entitled the Convention on Psychotropic Substances and signed at Vienna, Austria, on February 21, 1971, which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances. The Convention is not self-executing, and the obligations of the United States thereunder may only be performed pursuant to appropriate legislation. It is the intent of the Congress that the amendments made by this Act, together with existing law, will enable the United States to meet all of its obligations under the Convention and that no further legislation will be necessary for that purpose.

(3) In implementing the Convention on Psychotropic Substances, the Congress intends that, consistent with the obligations of the United States under the Convention, control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970 [21 U.S.C. 801 et seq.]. This will insure that (A) the availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes will not be unduly restricted; (B) nothing in the Convention will interfere with bona fide research activities; and (C) nothing in the Convention will interfere with ethical medical practice in this country as determined by the Secretary of Health and Human Services on the basis of a consensus of the views of the American medical and scientific community.

(Pub. L. 95-633, title I, § 101, Nov. 10, 1978, 92 Stat. 3768; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

#### REFERENCES IN TEXT

This Act, referred to in par. (2), is Pub. L. 95-633, Nov. 10, 1978, 92 Stat. 2768, as amended, known as the Psychotropic Substances Act of 1978, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

The Comprehensive Drug Abuse Prevention and Control Act of 1970, referred to in par. (3), is Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to this chapter [§ 801 et seq.]. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### CODIFICATION

Section was enacted as a part of the Psychotropic Substances Act of 1978, and not as a part of the Con-

trolled Substances Act which comprises this subchapter.

#### CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (3) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3503(b) of Title 20, Education.

#### EFFECTIVE DATE

Section 112 of Pub. L. 95-633 provided that: "This title [enacting sections 801 and 852 of this title, amending sections 352, 802, 811, 812, 823, 827, 872, 952, and 953 of this title and section 242a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 801 and 812 of this title] and the amendments made by this title shall take effect on the date the Convention on Psychotropic Substances, signed at Vienna, Austria on February 21, 1971, enters into force in respect to the United States." [The Convention entered into force in respect to the United States on July 15, 1980.]

#### § 802. Definitions

As used in this subchapter:

(1) The term "addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "administer" refers to the direct application of a controlled substance to the body of a patient or research subject by—

(A) a practitioner (or, in his presence, by his authorized agent), or

(B) the patient or research subject at the direction and in the presence of the practitioner,

whether such application be by injection, inhalation, ingestion, or any other means.

(3) The term "agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser; except that such term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual and lawful course of the carrier's or warehouseman's business.

(4) The term "Drug Enforcement Administration" means the Drug Enforcement Administration in the Department of Justice.

(5) The term "control" means to add a drug or other substance, or immediate precursor, to a schedule under part B of this subchapter, whether by transfer from another schedule or otherwise.

(6) The term "controlled substance" means a drug or other substance, or immediate precursor, included in schedule I, II, III, IV, or V of part B of this subchapter. The term does not include distilled spirits, wine, malt beverages, or tobacco, as those terms are defined or used in subtitle E of the Internal Revenue Code of 1954.

(7) The term "counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying

mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(8) The terms "deliver" or "delivery" mean the actual, constructive, or attempted transfer of a controlled substance, whether or not there exists an agency relationship.

(9) The term "depressant or stimulant substance" means—

(A) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid; or (ii) any derivative of barbituric acid which has been designated by the Secretary as habit forming under section 352(d) of this title; or

(B) a drug which contains any quantity of (i) amphetamine or any of its optical isomers; (ii) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous systems; or

(C) lysergic acid diethylamide; or

(D) any drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(10) The term "dispense" means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, including the prescribing and administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery. The term "dispenser" means a practitioner who so delivers a controlled substance to an ultimate user or research subject.

(11) The term "distribute" means to deliver (other than by administering or dispensing) a controlled substance. The term "distributor" means a person who so delivers a controlled substance.

(12) The term "drug" has the meaning given that term by section 321(g)(1) of this title.

(13) The term "felony" means any Federal or State offense classified by applicable Federal or State law as a felony.

(14) The term "manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of a drug or other substance in conformity with applicable State or local law by a practitioner as an incident to his adminis-

tration or dispensing of such drug or substance in the course of his professional practice. The term "manufacturer" means a person who manufactures a drug or other substance.

(15) The term "marihuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin. Such term does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(16) The term "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium, coca leaves, and opiates.

(B) A compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates.

(C) A substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clause (A) or (B).

Such term does not include decocainized coca leaves or extracts of coca leaves which extracts do not contain cocaine or ecgonine.

(17) The term "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(18) The term "opium poppy" means the plant of the species *Papaver somniferum* L., except the seed thereof.

(19) The term "poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(21) The term "production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(22) The term "immediate precursor" means a substance—

(A) which the Attorney General has found to be and by regulation designated as being the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(B) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and

(C) the control of which is necessary to prevent, curtail, or limit the manufacture of such controlled substance.

(23) The term "Secretary", unless the context otherwise indicates, means the Secretary of Health and Human Services.

(24) The term "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone.

(25) The term "ultimate user" means a person who has lawfully obtained, and who possesses, a controlled substance for his own use or for the use of a member of his household or for an animal owned by him or by a member of his household.

(26) The term "United States", when used in a geographic sense, means all places and waters, continental or insular, subject to the jurisdiction of the United States.

(27) The term "maintenance treatment" means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(28) The term "detoxification treatment" means the dispensing, for a period not in excess of twenty-one days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within such period.

(29) The term "Convention on Psychotropic Substances" means the Convention on Psychotropic Substances signed at Vienna, Austria, on February 21, 1971; and the term "Single Convention on Narcotic Drugs" means the Single Convention on Narcotic Drugs signed at New York, New York, on March 30, 1961.

(Pub. L. 91-513, title II, § 102, Oct. 27, 1970, 84 Stat. 1242; Pub. L. 93-281, § 2, May 14, 1974, 88 Stat. 124; Pub. L. 95-633, title I, § 102(b), Nov. 10, 1978, 92 Stat. 3772; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 96-132, § 16(a), Nov. 30, 1979, 93 Stat. 1049.)

#### AMENDMENTS

1979—Par. (4). Pub. L. 96-132 substituted provisions defining the term "Drug Enforcement Administration" for provisions defining the term "Bureau of Narcotics and Dangerous Drugs".

1978—Par. (29). Pub. L. 95-633 added par. (29).

1974—Pars. (27), (28). Pub. L. 93-281 added pars. (27) and (28).

#### CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in par. (23) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see sec-

tion 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 822, 951, 957, 967, 1115 of this title; title 18 sections 1952, 4251; title 19 section 1584; title 28 section 7607; title 28 section 2901; title 29 section 1111; title 42 sections 201, 3411; title 46 section 239a; title 49 App. section 787.

§ 803. Repealed. Pub. L. 95-137, § 1(b), Oct. 18, 1977, 91 Stat. 1169

Section, Pub. L. 91-513, title II, § 103, Oct. 27, 1970, 84 Stat. 1245, authorized the Bureau of Narcotics and Dangerous Drugs to add, during the fiscal year 1971, 300 agents, together with necessary supporting personnel, and provided for appropriations of \$6,000,000 to carry out such addition.

#### PART B—AUTHORITY TO CONTROL; STANDARDS AND SCHEDULES

§ 811. Authority and criteria for classification of substances

(a) Rules and regulations of Attorney General; hearing

The Attorney General shall apply the provisions of this subchapter to the controlled substances listed in the schedules established by section 812 of this title and to any other drug or other substance added to such schedules under this subchapter. Except as provided in subsections (d) and (e) of this section, the Attorney General may by rule—

(1) add to such a schedule or transfer between such schedules any drug or other substance if he—

(A) finds that such drug or other substance has a potential for abuse, and

(B) makes with respect to such drug or other substance the findings prescribed by subsection (b) of section 812 of this title for the schedule in which such drug is to be placed; or

(2) remove any drug or other substance from the schedules if he finds that the drug or other substance does not meet the requirements for inclusion in any schedule.

Rules of the Attorney General under this subsection shall be made on the record after opportunity for a hearing pursuant to the rulemaking procedures prescribed by subchapter II of chapter 5 of title 5. Proceedings for the issuance, amendment, or repeal of such rules may be initiated by the Attorney General (1) on his own motion, (2) at the request of the Secretary, or (3) on the petition of any interested party.

(b) Evaluation of drugs and other substances

The Attorney General shall, before initiating proceedings under subsection (a) of this section to control a drug or other substance or to remove a drug or other substance entirely from the schedules, and after gathering the necessary data, request from the Secretary a scientific and medical evaluation, and his recommendations, as to whether such drug or other substance should be so controlled or removed as a controlled substance. In making such evaluation and recommendations, the Secretary shall



consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) of this section and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall include recommendations with respect to the appropriate schedule, if any, under which such drug or other substance should be listed. The evaluation and the recommendations of the Secretary shall be made in writing and submitted to the Attorney General within a reasonable time. The recommendations of the Secretary to the Attorney General shall be binding on the Attorney General as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance not be controlled, the Attorney General shall not control the drug or other substance. If the Attorney General determines that these facts and all other relevant data constitute substantial evidence of potential for abuse such as to warrant control or substantial evidence that the drug or other substance should be removed entirely from the schedules, he shall initiate proceedings for control or removal, as the case may be, under subsection (a) of this section.

**(c) Factors determinative of control or removal from schedules**

In making any finding under subsection (a) of this section or under subsection (b) of section 812 of this title, the Attorney General shall consider the following factors with respect to each drug or other substance proposed to be controlled or removed from the schedules:

- (1) Its actual or relative potential for abuse.
- (2) Scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the drug or other substance.
- (4) Its history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) What, if any, risk there is to the public health.
- (7) Its psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.

**(d) International treaties, conventions, and protocols requiring control; procedures respecting changes in drug schedules of Convention on Psychotropic Substances**

(1) If control is required by United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, the Attorney General shall issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section.

(2)(A) Whenever the Secretary of State receives notification from the Secretary-General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Conven-

tion on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the Convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary of Health and Human Services who shall publish it in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the scientific and medical evaluations which he is to prepare respecting such drug or substance. The Secretary of Health and Human Services shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization respecting the drug or substance with respect to which a notice was transmitted under this subparagraph.

(B) Whenever the Secretary of State receives information that the Commission on Narcotic Drugs of the United Nations proposes to decide whether to add a drug or other substance to one of the schedules of the Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary of Health and Human Services of such information who shall publish a summary of such information in the Federal Register and provide opportunity to interested persons to submit to him comments respecting the recommendation which he is to furnish, pursuant to this subparagraph, respecting such proposal. The Secretary of Health and Human Services shall evaluate the proposal and furnish a recommendation to the Secretary of State which shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

(3) When the United States receives notification of a scheduling decision pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has been added or transferred to a schedule specified in the notification or receives notification (referred to in this subsection as a "schedule notice") that existing legal controls applicable under this subchapter to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health and Human Services after consultation with the Attorney General, shall first determine whether existing legal controls under this subchapter applicable to the drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act, meet the requirements of the schedule specified in the notification or schedule notice and shall take the following action:

(A) If such requirements are met by such existing controls but the Secretary of Health and Human Services nonetheless believes that more stringent controls should be applied to the drug or substance, the Secretary

shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance, pursuant to subsections (a) and (b) of this section, to apply to such controls.

(B) If such requirements are not met by such existing controls and the Secretary of Health and Human Services concurs in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance under the appropriate schedule pursuant to subsections (a) and (b) of this section.

(C) If such requirements are not met by such existing controls and the Secretary of Health and Human Services does not concur in the scheduling decision or schedule notice transmitted by the notification, the Secretary shall—

(i) if he deems that additional controls are necessary to protect the public health and safety, recommend to the Attorney General that he initiate proceedings for scheduling the drug or substance pursuant to subsections (a) and (b) of this section, to apply such additional controls;

(ii) request the Secretary of State to transmit a notice of qualified acceptance, within the period specified in the Convention, pursuant to paragraph 7 of article 2 of the Convention, to the Secretary-General of the United Nations;

(iii) request the Secretary of State to transmit a notice of qualified acceptance as prescribed in clause (ii) and request the Secretary of State to ask for a review by the Economic and Social Council of the United Nations, in accordance with paragraph 8 of article 2 of the Convention, of the scheduling decision; or

(iv) in the case of a schedule notice, request the Secretary of State to take appropriate action under the Convention to initiate proceedings to remove the drug or substance from the schedules under the Convention or to transfer the drug or substance to a schedule under the Convention different from the one specified in the schedule notice.

(4)(A) If the Attorney General determines, after consultation with the Secretary of Health and Human Services, that proceedings initiated under recommendations made under paragraph <sup>1</sup>(B) or (C)(i) of paragraph (3) will not be completed within the time period required by paragraph 7 of article 2 of the Convention, the Attorney General, after consultation with the Secretary and after providing interested persons opportunity to submit comments respecting the requirements of the temporary order to be issued under this sentence, shall issue a temporary order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention. As a part of such order,

the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. In the case of proceedings initiated under subparagraph (B) of paragraph (3), the Attorney General, concurrently with the issuance of such order, shall request the Secretary of State to transmit a notice of qualified acceptance to the Secretary-General of the United Nations pursuant to paragraph 7 of article 2 of the Convention. A temporary order issued under this subparagraph controlling a drug or other substance subject to proceedings initiated under subsections (a) and (b) of this section shall expire upon the effective date of the application to the drug or substance of the controls resulting from such proceedings.

(B) After a notice of qualified acceptance of a scheduling decision with respect to a drug or other substance is transmitted to the Secretary-General of the United Nations in accordance with clause (ii) or (iii) of paragraph (3)(C) or after a request has been made under clause (iv) of such paragraph with respect to a drug or substance described in a schedule notice, the Attorney General, after consultation with the Secretary of Health and Human Services and after providing interested persons opportunity to submit comments respecting the requirements of the order to be issued under this sentence, shall issue an order controlling the drug or substance under schedule IV or V, whichever is most appropriate to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention in the case of a drug or substance for which a notice of qualified acceptance was transmitted or whichever the Attorney General determines is appropriate in the case of a drug or substance described in a schedule notice. As a part of such order, the Attorney General shall, after consultation with the Secretary, except such drug or substance from the application of any provision of part C of this subchapter which he finds is not required to carry out the United States obligations under paragraph 7 of article 2 of the Convention. If, as a result of a review under paragraph 8 of article 2 of the Convention of the scheduling decision with respect to which a notice of qualified acceptance was transmitted in accordance with clause (ii) or (iii) of paragraph (3)(C)—

(i) the decision is reversed, and

(ii) the drug or substance subject to such decision is not required to be controlled under schedule IV or V to carry out the minimum United States obligations under paragraph 7 of article 2 of the Convention,

the order issued under this subparagraph with respect to such drug or substance shall expire upon receipt by the United States of the review decision. If, as a result of action taken pursuant to action initiated under a request transmitted under clause (iv) of paragraph (3)(C), the drug or substance with respect to which such action was taken is not required to be controlled under schedule IV or V, the order issued under this

<sup>1</sup>So in original. Probably should be "subparagraph".

paragraph with respect to such drug or substance shall expire upon receipt by the United States of a notice of the action taken with respect to such drug or substance under the Convention.

(C) An order issued under subparagraph (A) or (B) may be issued without regard to the findings required by subsection (a) of this section or by section 812(b) of this title and without regard to the procedures prescribed by subsection (a) or (b) of this section.

(5) Nothing in the amendments made by the Psychotropic Substances Act of 1978 or the regulations or orders promulgated thereunder shall be construed to preclude requests by the Secretary of Health and Human Services or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention, for review of scheduling decisions under such Convention, based on new or additional information.

(e) Immediate precursors

The Attorney General may, without regard to the findings required by subsection (a) of this section or section 812(b) of this title and without regard to the procedures prescribed by subsections (a) and (b) of this section, place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule with a higher numerical designation. If the Attorney General designates a substance as an immediate precursor and places it in a schedule, other substances shall not be placed in a schedule solely because they are its precursors.

(f) Abuse potential

If, at the time a new-drug application is submitted to the Secretary for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Secretary to the Attorney General.

(g) Non-narcotic substances sold over the counter without a prescription; dextromethorphan

(1) The Attorney General shall by regulation exclude any non-narcotic substance from a schedule if such substance may, under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], be lawfully sold over the counter without a prescription.

(2) Dextromethorphan shall not be deemed to be included in any schedule by reason of enactment of this subchapter unless controlled after October 27, 1970 pursuant to the foregoing provisions of this section.

(Pub. L. 91-513, title II, § 201, Oct. 27, 1970, 84 Stat. 1245; Pub. L. 95-633, title I, § 102(a), Nov. 10, 1978, 92 Stat. 3769; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (c)(8), (d)(3), (4)(A), (B), and (g)(2), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph

of Short Title note set out under section 801 of this title and Tables.

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (d)(3) and (g)(1), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules IV and V, referred to in subsec. (d)(4)(A), (B), are set out in section 812(c) of this title.

The Psychotropic Substances Act of 1978, referred to in subsec. (d)(5), is Pub. L. 95-633, Nov. 10, 1978, 92 Stat. 3768, which enacted sections 801a, 830, and 852 of this title, amended sections 352, 802, 811, 812, 823, 827, 841 to 843, 872, 881, 952, 953, and 965 of this title and section 242a of Title 42, The Public Health and Welfare, repealed section 830 of this title effective Jan. 1, 1981, and enacted provisions set out as notes under sections 801, 801a, 812, and 830 of this title. For complete classification of the Act to the Code, see Short Title of 1978 Amendment note set out under section 801 of this title and Tables.

AMENDMENTS

1978—Subsec. (d), Pub. L. 95-633 designated existing provisions as par. (1) and added pars. (2) to (5).

CHANGE OF NAME

"Secretary of Health and Human Services" was substituted for "Secretary of Health, Education, and Welfare" in subsec. (d)(2), (3), (4)(A), (B), (5) pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 812, 872, 1115 of this title.

§ 812. Schedules of controlled substances

(a) Establishment

There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970, and shall be updated and republished on an annual basis thereafter.

(b) Placement on schedules; findings required

Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

(1) SCHEDULE I.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no currently accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

(2) SCHEDULE II.—

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

(3) SCHEDULE III.—

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

(4) SCHEDULE IV.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

(5) SCHEDULE V.—

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

(c) Initial schedules of controlled substances

Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name, or brand name designated:

SCHEDULE I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol.
- (4) Alphameprodine.
- (5) Alphamethadol.

- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Dextrorphan.
- (14) Diampromide.
- (15) Diethylthiambutene.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxeridine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacymorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Propheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salt of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphinol.
- (12) Methyl-desorphine.
- (13) Methylhydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myorphine.
- (18) Nicocodine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic

substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine.
- (2) 5-methoxy-3,4-methylenedioxy amphetamine.
- (3) 3,4,5-trimethoxy amphetamine.
- (4) Bufotenine.
- (5) Diethyltryptamine.
- (6) Dimethyltryptamine.
- (7) 4-methyl-2,5-dimethoxyamphetamine.
- (8) Ibogaine.
- (9) Lysergic acid diethylamide.
- (10) Marihuana.
- (11) Mescaline.
- (12) Peyote.
- (13) N-ethyl-3-piperidyl benzilate.
- (14) N-methyl-3-piperidyl benzilate.
- (15) Psilocybin.
- (16) Psilocyn.
- (17) Tetrahydrocannabinols.

#### SCHEDULE II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine.
- (2) Anileridine.
- (3) Bezitramide.
- (4) Dihydrocodeine.
- (5) Diphenoxylate.
- (6) Fentanyl.
- (7) Isomethadone.
- (8) Levomethorphan.
- (9) Levorphanol.
- (10) Metazocine.
- (11) Methadone.
- (12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.

(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

- (14) Pethidine.
- (15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- (16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
- (17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- (18) Phenazocine.
- (19) Piminodine.
- (20) Racemethorphan.
- (21) Racemorphan.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

#### SCHEDULE III

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.
- (3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.
- (4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

- (1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.
- (2) Chorexadol.
- (3) Glutehimide.
- (4) Lysergic acid.
- (5) Lysergic acid amide.
- (6) Methyprylon.
- (7) Phencyclidine.
- (8) Sulfondiethylmethane.
- (9) Sulfonethylmethane.
- (10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- (1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
- (2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

#### SCHEDULE IV

- (1) Barbital.
- (2) Chloral betaine.
- (3) Chloral hydrate.
- (4) Ethchlorvynol.
- (5) Ethinamate.
- (6) Methohexital.
- (7) Meprobamate.
- (8) Methylphenobarbital.
- (9) Paraldehyde.
- (10) Petrichloral.
- (11) Phenobarbital.

#### SCHEDULE V

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
  - (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
  - (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
  - (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
  - (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (d) Stimulants or depressants containing active medicinal ingredients; exception

The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all

or any part of this subchapter if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a depressant or stimulant effect on the central nervous system, and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances.

(Pub. L. 91-513, title II, § 202, Oct. 27, 1970, 84 Stat. 1247; Pub. L. 95-633, title I, § 103, Nov. 10, 1978, 92 Stat. 3772.)

#### AMENDMENTS

1978—Subsec. (d). Pub. L. 95-633 added cl. (3).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States (July 15, 1980), see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

#### PLACEMENT OF PIPRADROL AND SPA IN SCHEDULE IV TO CARRY OUT OBLIGATION UNDER CONVENTION ON PSYCHOTROPIC SUBSTANCES

Section 102(c) of Pub. L. 95-633 provided that: "For the purpose of carrying out the minimum United States obligations under paragraph 7 of article 2 of the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, with respect to pipradrol and SPA (also known as (-)-1-dimethylamino-1,2-diphenylethane), the Attorney General shall by order, made without regard to sections 201 and 202 of the Controlled Substances Act (this section and section 811 of this title), place such drugs in schedule IV of such Act [see subsec. (c) of this section]."

Provision of section 102(c) of Pub. L. 95-633, set out above, effective on the date the Convention on Psychotropic Substances enters into force in the United States (July 15, 1980), see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 811, 1115 of this title; title 19 sections 2462, 2484.

#### PART C—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

##### PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 811 of this title.

#### § 821. Rules and regulations

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances.

(Pub. L. 91-513, title II, § 301, Oct. 27, 1970, 84 Stat. 1253.)

#### § 822. Persons required to register

##### (a) Annual registration

Every person who manufactures, distributes, or dispenses any controlled substance or who

proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

**(b) Authorized activities**

Persons registered by the Attorney General under this subchapter to manufacture, distribute, or dispense controlled substances are authorized to possess, manufacture, distribute, or dispense such substances (including any such activity in the conduct of research) to the extent authorized by their registration and in conformity with the other provisions of this subchapter.

**(c) Exceptions**

The following persons shall not be required to register and may lawfully possess any controlled substance under this subchapter:

- (1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if such agent or employee is acting in the usual course of his business or employment.
- (2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of the controlled substance is in the usual course of his business or employment.
- (3) An ultimate user who possesses such substance for a purpose specified in section 802(25) of this title.

**(d) Waiver**

The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

**(e) Separate registration**

A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

**(f) Inspection**

The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

(Pub. L. 91-513, title II, § 302, Oct. 27, 1970, 84 Stat. 1253.)

**REFERENCES IN TEXT**

This subchapter, referred to in subsecs. (b) and (c), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

**PROVISIONAL REGISTRATION**

Section 703 of Pub. L. 91-513 provided that:

"(a)(1) Any person who—

"(A) is engaged in manufacturing, distributing, or dispensing any controlled substance on the day before the effective date of section 302 [this section], and

"(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section

360 of this title] or under section 4722 of the Internal Revenue Code of 1954 [section 4722 of Title 26], shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 303 [section 823 of this title] for the manufacture, distribution, or dispensing (as the case may be) of controlled substances.

"(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 [section 360 of this title] or under such section 4722 [section 4722 of Title 26] (as the case may be) shall be his registration number for purposes of section 303 of this title [section 823 of this title].

"(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

"(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

"(1) the date on which such person has registered with the Attorney General under section 303 [section 823 of this title] or has had his registration denied under such section, or

"(2) such date as may be prescribed by the Attorney General for registration of manufacturers, distributors, or dispensers, as the case may be, whichever occurs first."

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 827, 828, 860, 958, 965 of this title.

**§ 823. Registration requirements**

**(a) Manufacturers of controlled substances in schedule I or II**

The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture of controlled substances, and the existence in

the establishment of effective control against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

**(b) Distributors of controlled substances in schedule I or II**

The Attorney General shall register an applicant to distribute a controlled substance in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective control against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

**(c) Limits of authorized activities**

Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to (1) manufacture or distribute controlled substances in schedule I or II other than those specified in the registration, or (2) manufacture any quantity of those controlled substances in excess of the quota assigned pursuant to section 826 of this title.

**(d) Manufacturers of controlled substances in schedule III, IV, or V**

The Attorney General shall register an applicant to manufacture controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule III, IV, or V compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

**(e) Distributors of controlled substances in schedule III, IV, or V**

The Attorney General shall register an applicant to distribute controlled substances in schedule III, IV, or V, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

**(f) Research; pharmacies; research applications; construction of Article 7 of the Convention on Psychotropic Substances**

Practitioners shall be registered to dispense or conduct research with controlled substances in schedule II, III, IV, or V if they are authorized to dispense or conduct research under the law of the State in which they practice. Separate registration under this part for practitioners engaging in research with nonnarcotic controlled substances in schedule II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Pharmacies (as distinguished from pharmacists) when engaged in commercial activities, shall be registered to dispense controlled substances in schedule II, III, IV, or V if they are authorized to dispense under the law of the State in which they regularly conduct business. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 824(a) of this title. Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this subchapter.



**(g) Practitioners dispensing narcotic drugs for narcotic treatment; annual registration; separate registration; qualifications**

Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment (or both)

(1) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;

(2) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (A) security of stocks of narcotic drugs for such treatment, and (B) the maintenance of records (in accordance with section 827 of this title) on such drugs; and

(3) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(Pub. L. 91-513, title II, § 303, Oct. 27, 1970, 84 Stat. 1253; Pub. L. 93-281, § 3, May 14, 1974, 88 Stat. 124; Pub. L. 95-633, title I, § 109, Nov. 10, 1978, 92 Stat. 3773.)

**REFERENCES IN TEXT**

Schedules I, II, III, IV, and V, referred to in subsecs. (a) to (f), are set out in section 812(c) of this title.

**AMENDMENTS**

1978—Subsec. (f). Pub. L. 95-633 added provision relating to the construction of the Convention on Psychotropic Substances.

1974—Subsec. (g). Pub. L. 93-281 added subsec. (g).

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

**PROVISIONAL REGISTRATION**

For provisional registration of persons engaged in manufacturing, distributing, or dispensing of controlled substances on the day before the effective date of section 822 of this title who are registered on such date under section 360 of this title or section 4722 of Title 26, Internal Revenue Code, see section 703 of Pub. L. 91-513, set out as a note under section 822 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 824, 827, 828, 880, 952, 958, 965 of this title.

**§ 824. Denial, revocation, or suspension of registration**

**(a) Grounds**

A registration pursuant to section 823 of this title to manufacture, distribute, or dispense a controlled substance may be suspended or re-

voked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this subchapter or subchapter II of this chapter;

(2) has been convicted of a felony under this subchapter or subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance defined in this subchapter as a controlled substance; or

(3) has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled substances.

A registration pursuant to section 823(g) of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(g) of this title.

**(b) Limits of revocation or suspension**

The Attorney General may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.

**(c) Service of show cause order; proceedings**

Before taking action pursuant to this section, or pursuant to a denial of registration under section 823 of this title, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5 of title 5. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this subchapter or any other law of the United States.

**(d) Suspension of registration in cases of imminent danger**

The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. A failure to comply with a standard referred to in section 823(g) of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. A suspension under this subsection shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

**(e) Suspension and revocation of quotas**

The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 826 of this title.

**(f) Disposition of controlled substances**

In the event the Attorney General suspends or revokes a registration granted under section 823 of this title, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of sale deposited in court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 881(e) of this title.

(Pub. L. 91-513, title II, § 304, Oct. 27, 1970, 84 Stat. 1255; Pub. L. 93-281, § 4, May 14, 1974, 88 Stat. 125.)

**AMENDMENTS**

1974—Subsec. (a). Pub. L. 93-281, § 4(a), provided for revocation or suspension of a registration pursuant to section 823(g) of this title for failure of a registrant to comply with standards referred to in such section 823(g).

Subsec. (d). Pub. L. 93-281, § 4(b), substituted in third sentence "A suspension under this subsection" for "Such suspension".

**PROVISIONAL REGISTRATION**

Applicability of this section to provisional registrations, see section 703 of Pub. L. 91-513, set out as a note under section 822 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 823, 842, 958 of this title.

**§ 825. Labeling and packaging****(a) Symbol**

It shall be unlawful to distribute a controlled substance in a commercial container unless such container, when and as required by regulations of the Attorney General, bears a label (as defined in section 321(k) of this title) containing an identifying symbol for such substance in accordance with such regulations. A different symbol shall be required for each schedule of controlled substances.

**(b) Unlawful distribution without identifying symbol**

It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 321(m) of this title) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a) of this section.

**(c) Warning on label**

The Secretary shall prescribe regulations under section 353(b) of this title which shall provide that the label of a drug listed in schedule II, III, or IV shall, when dispensed to or for a patient, contain a clear, concise warning that it is a crime to transfer the drug to any person other than the patient.

**(d) Containers to be securely sealed**

It shall be unlawful to distribute controlled substances in schedule I or II, and narcotic drugs in schedule III or IV, unless the bottle or other container, stopper, covering, or wrapper thereof is securely sealed as required by regulations of the Attorney General.

(Pub. L. 91-513, title II, § 305, Oct. 27, 1970, 84 Stat. 1256.)

**REFERENCES IN TEXT**

Schedules I, II, III, and IV, referred to in subsecs. (c) and (d), are set out in section 812(c) of this title.

**EFFECTIVE DATE**

Section effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, but with the Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91-513, set out as an Effective Date note under section 801 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 842, 958 of this title.

**§ 826. Production quotas for controlled substances****(a) Establishment of total annual needs**

The Attorney General shall determine the total quantity and establish production quotas for each basic class of controlled substance in schedules I and II to be manufactured each calendar year to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. Production quotas shall be established in terms of quantities of each basic class of controlled substance and not in terms of individual pharmaceutical dosage forms prepared from or containing such a controlled substance.

**(b) Individual production quotas; revised quotas**

The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a) of this section. The quota of each registered manufacturer for each basic class of controlled substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

**(c) Manufacturing quotas for registered manufacturers**

On or before October 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the basic classes of controlled substances in schedules I and II that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

**(d) Quotas for registrants who have not manufactured controlled substance during one or more preceding years**

The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a basic class of controlled substance in schedule I or II for any registrant who has not manufactured that basic class of controlled substance during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, he shall consider such factors specified in subsection (c) of this section as may be relevant.

**(e) Quota increases**

At any time during the year any registrant who has applied for or received a manufacturing quota for a basic class of controlled substance in schedule I or II may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

**(f) Incidental production exception**

Notwithstanding any other provisions of this subchapter, no registration or quota may be required for the manufacture of such quantities of controlled substances in schedules I and II as incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled substance with respect to which its manufacturer is duly registered under this subchapter. The Attorney General may, by

regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances.

(Pub. L. 91-513, title II, § 306, Oct. 27, 1970, 84 Stat. 1257; Pub. L. 94-273, § 3(16), Apr. 21, 1976, 90 Stat. 377.)

**REFERENCES IN TEXT**

Schedules I and II, referred to in text, are set out in section 812(c) of this title.

**AMENDMENTS**

1976—Subsec. (c). Pub. L. 94-273 substituted "October" for "July".

**EFFECTIVE DATE**

Section effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, but with the Attorney General authorized to postpone such effective date for such period as he might determine to be necessary for the efficient administration of this subchapter, see section 704(c) of Pub. L. 91-513, set out as an Effective Date note under section 801 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 823, 824, 842 of this title.

**§ 827. Records and reports of registrants****(a) Inventory**

Except as provided in subsection (c) of this section—

(1) every registrant under this subchapter shall, on May 1, 1971, or as soon thereafter as such registrant first engages in the manufacture, distribution, or dispensing of controlled substances, and every second year thereafter, make a complete and accurate record of all stocks thereof on hand, except that the regulations prescribed under this section shall permit each such biennial inventory (following the initial inventory required by this paragraph) to be prepared on such registrant's regular general physical inventory date (if any) which is nearest to and does not vary by more than six months from the biennial date that would otherwise apply;

(2) on the effective date of each regulation of the Attorney General controlling a substance that immediately prior to such date was not a controlled substance, each registrant under this subchapter manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after May 1, 1971, every registrant under this subchapter manufacturing, distributing, or dispensing a controlled substance or substances shall maintain, on a current basis, a complete and accurate record of each such substance manufactured, received, sold, delivered, or otherwise disposed of by him, except that this paragraph shall not require the maintenance of a perpetual inventory.

**(b) Availability of records**

Every inventory or other record required under this section (1) shall be in accordance with, and contain such relevant information as

may be required by, regulations of the Attorney General, (2) shall (A) be maintained separately from all other records of the registrant, or (B) alternatively, in the case of nonnarcotic controlled substances, be in such form that information required by the Attorney General is readily retrievable from the ordinary business records of the registrant, and (3) shall be kept and be available, for at least two years, for inspection and copying by officers or employees of the United States authorized by the Attorney General.

**(c) Nonapplicability**

The foregoing provisions of this section shall not apply—

(1)(A) with respect to any narcotic controlled substance in schedule II, III, IV, or V, to the prescribing or administering of such substance by a practitioner in the lawful course of his professional practice unless such substance was prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual; or

(B) with respect to nonnarcotic controlled substances in schedule II, III, IV, or V, to any practitioner who dispenses such substances to his patients, unless the practitioner is regularly engaged in charging his patients, either separately or together with charges for other professional services, for substances so dispensed;

(2)(A) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 355(i) or 360b(j) of this title;

(B) to the use of controlled substances, at establishments registered under this subchapter which keep records with respect to such substances, in preclinical research or in teaching; or

(3) to the extent of any exemption granted to any person, with respect to all or part of such provisions, by the Attorney General by or pursuant to regulation on the basis of a finding that the application of such provisions (or part thereof) to such person is not necessary for carrying out the purposes of this subchapter.

Nothing in the Convention on Psychotropic Substances shall be construed as superseding or otherwise affecting the provisions of paragraph (1)(B), (2), or (3) of this subsection.

**(d) Periodic reports to Attorney General**

Every manufacturer registered under section 823 of this title shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General of every sale, delivery or other disposal by him of any controlled substance, and each distributor shall make such reports with respect to narcotic controlled substances, identifying by the registration number assigned under this subchapter the person or establishment (unless exempt from registration under section 822(d) of this title) to whom such sale, delivery, or other disposal was made.

**(e) Reporting and recordkeeping requirements of drug conventions**

In addition to the reporting and recordkeeping requirements under any other provision of this subchapter, each manufacturer registered under section 823 of this title shall, with respect to narcotic and nonnarcotic controlled substances manufactured by it, make such reports to the Attorney General, and maintain such records, as the Attorney General may require to enable the United States to meet its obligations under articles 19 and 20 of the Single Convention on Narcotic Drugs and article 16 of the Convention on Psychotropic Substances. The Attorney General shall administer the requirements of this subsection in such a manner as to avoid the unnecessary imposition of duplicative requirements under this subchapter on manufacturers subject to the requirements of this subsection.

**(f) Investigational uses of drugs; procedures**

Regulations under sections 355(i) and 360(j) of this title, relating to investigational use of drugs, shall include such procedures as the Secretary, after consultation with the Attorney General, determines are necessary to insure the security and accountability of controlled substances used in research to which such regulations apply.

(Pub. L. 91-513, title II, § 307, Oct. 27, 1970, 84 Stat. 1258; Pub. L. 93-281, § 5, May 14, 1974, 88 Stat. 125; Pub. L. 95-633, title I, §§ 104, 110, Nov. 10, 1978, 92 Stat. 3772, 3773.)

**REFERENCES IN TEXT**

Schedules II, III, IV, and V, referred to in subsec. (c), are set out in section 812(c) of this title.

**AMENDMENTS**

1978—Subsec. (c). Pub. L. 95-633, § 110, added provision following par. (3) relating to the construction of the Convention on Psychotropic Substances.

Subsec. (e). Pub. L. 95-633 added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 95-633 redesignated former subsec. (e) as (f).

1974—Subsec. (c)(1)(A). Pub. L. 93-281 substituted "any narcotic controlled substance" for "narcotic controlled substances" and made section applicable to any narcotic controlled substance prescribed or administered in the course of maintenance treatment or detoxification treatment of an individual.

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 823, 829, 902, 958 of this title.

**§ 828. Order forms**

**(a) Unlawful distribution of controlled substances**

It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is dis-

tributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section.

**(b) Nonapplicability of provisions**

Nothing in subsection (a) of this section shall apply to—

(1) the exportation of such substances from the United States in conformity with subchapter II of this chapter;

(2) the delivery of such a substance to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution by the owner of the substance to a third person, this paragraph shall not relieve the distributor from compliance with subsection (a) of this section.

**(e) Preservation and availability**

(1) Every person who in pursuance of an order required under subsection (a) of this section distributes a controlled substance shall preserve such order for a period of two years, and shall make such order available for inspection and copying by officers and employees of the United States duly authorized for that purpose by the Attorney General, and by officers or employees of States or their political subdivisions who are charged with the enforcement of State or local laws regulating the production, or regulating the distribution or dispensing, of controlled substances and who are authorized under such laws to inspect such orders.

(2) Every person who gives an order required under subsection (a) of this section shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued by the Attorney General in blank in accordance with subsection (d) of this section and regulations prescribed by him pursuant to this section, and shall, if such order is accepted, preserve such duplicate for a period of two years and make it available for inspection and copying by the officers and employees mentioned in paragraph (1) of this subsection.

**(d) Issuance**

(1) The Attorney General shall issue forms pursuant to subsections (a) and (c)(2) of this section only to persons validly registered under section 823 of this title (or exempted from registration under section 822(d) of this title). Whenever any such form is issued to a person, the Attorney General shall, before delivery thereof, insert therein the name of such person, and it shall be unlawful for any other person (A) to use such form for the purpose of obtaining controlled substances or (B) to furnish such form to any person with intent thereby to procure the distribution of such substances.

(2) The Attorney General may charge reasonable fees for the issuance of such forms in such amounts as he may prescribe for the purpose of covering the cost to the United States of issuing such forms, and other necessary activities in connection therewith.

**(e) Unlawful acts**

It shall be unlawful for any person to obtain by means of order forms issued under this section controlled substances for any purpose other than their use, distribution, dispensing, or administration in the conduct of a lawful business in such substances or in the course of his professional practice or research.

(Pub. L. 91-513, title II, § 308, Oct. 27, 1970, 84 Stat. 1259.)

**REFERENCES IN TEXT**

Schedules I and II, referred to in subsec. (a), are set out in section 812(c) of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 843 of this title.

**§ 829. Prescriptions**

**(a) Schedule II substances**

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act [21 U.S.C. 353(b)]. Prescriptions shall be retained in conformity with the requirements of section 827 of this title. No prescription for a controlled substance in schedule II may be refilled.

**(b) Schedule III and IV substances**

Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.], may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act [21 U.S.C. 353(b)]. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

**(c) Schedule V substances**

No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

**(d) Non-prescription drugs with abuse potential**

Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.] should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

(Pub. L. 91-513, title II, § 309, Oct. 27, 1970, 84 Stat. 1260.)

## REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsecs. (a), (b), and (d), is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

Schedules II, III, IV, and V, referred to in subsecs. (a) to (c), are set out in section 812(c) of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 842, 902 of this title.

## § 830. Piperidine reporting

## (a) Required information; identification of recipient or purchaser; exceptions

(1) Except as provided under paragraph (3), any person who distributes, sells, or imports any piperidine shall report to the Attorney General such information, in such form and manner, and within such time period or periods (of not less than seven days), concerning the distribution, sale, or importation as the Attorney General may require by regulation, and the person shall preserve a copy of each such report for 2 years. The Attorney General may include in the information required to be reported the following:

(A) The quantity, form, and manner in which, and date on which, the piperidine was distributed, sold, or imported.

(B)(i) In the case of the distribution or sale of piperidine to an individual, the name, address, and age of the individual and the type of identification presented to confirm the identity of the individual.

(ii) In the case of the distribution or sale of piperidine to an entity other than an individual, the name and address of the entity and the name, address, and title of the individual ordering or receiving the piperidine and the type of identification presented to confirm the identity of the individual and of the entity.

(2) Except as provided under paragraph (3), no person may distribute or sell piperidine unless the recipient or purchaser presents to the distributor or seller identification of such type, to confirm the identity of the recipient or purchaser (and any entity which the recipient or purchaser represents), as the Attorney General establishes by regulation.

(3) Under such conditions and to such extent as the Attorney General establishes, paragraphs (1) and (2) shall not apply to—

(A) the distribution of piperidine between agents or employees within a single facility (as defined by the Attorney General), if such agents or employees are acting in the lawful and usual course of their business or employment;

(B) the delivery of piperidine to or by a common or contract carrier for carriage in the lawful and usual course of its business, or to or by a warehouseman for storage in the lawful and usual course of its business; but where such carriage or storage is in connection with the distribution, sale, or importation of the piperidine to a third person, this subparagraph shall not relieve the distribu-

tor, seller, or importer from compliance with paragraph (1) or (2); or

(C) any distribution, sale, or importation of piperidine with respect to which the Attorney General determines that the report required by paragraph (1) or the presentation of identification required by paragraph (2) is not necessary for the enforcement of this subchapter.

## (b) Confidential information

Any information which is reported to or otherwise obtained by the Department of Justice under this section and which is exempt from disclosure pursuant to subsection (a) of section 552 of title 5, by reason of subsection (b)(4) thereof shall be considered confidential and shall not be disclosed, except that such information may be disclosed to officers or employees of the United States concerned with carrying out this subchapter or subchapter II of this chapter or when relevant in any proceeding for the enforcement of this subchapter or subchapter II of this chapter.

## (c) Definitions

For purposes of this section, section 841(d) of this title, and section 842(a)(9) of this title:

(1) The term "import" has the meaning given such term in section 951(a)(1) of this title.

(2) The term "phencyclidine" means 1-(1-phenylcyclohexyl) piperidine, its salts, or any immediate precursor, homolog, analog, or derivative (or salt thereof) of 1-(1-phenylcyclohexyl) piperidine that is included in schedule I or II of part B of this subchapter.

(3) The term "piperidine" includes its salts and acyl derivatives.

(Pub. L. 91-513, title II, § 310, as added Pub. L. 95-633, title II, § 202(a), Nov. 10, 1978, 92 Stat. 3774.)

## REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(3)(C), (b), (c)(2), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Subchapter II of this chapter; referred to in subsec. (b), was in the original "title III", meaning title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

Schedule I and II, referred to in subsec. (c)(2), are set out in section 812(c) of this title.

## EFFECTIVE DATE; TIME TO SUBMIT PIPERIDINE REPORT; REQUIRED INFORMATION

Section 203(a) of Pub. L. 95-633 provided that:

"(1) Except as provided under paragraph (2), the amendments made by this title (enacting this section and amending sections 841 to 843 of this title) shall take effect on the date of the enactment of this Act [Nov. 10, 1978].

"(2) Any person required to submit a report under section 310(a)(1) of the Controlled Substances Act [subsec. (a)(1) of this section] respecting a distribution, sale, or importation of piperidine during the 90

days after the date of the enactment of this Act [Nov. 10, 1978] may submit such report any time up to 97 days after such date of enactment.

"(3) Until otherwise provided by the Attorney General by regulation, the information required to be reported by a person under section 310(a)(1) of the Controlled Substances Act (as added by section 202(a)(2) of this title) [subsec. (a)(1) of this section] with respect to the person's distribution, sale, or importation of piperidine shall—

"(A) be the information described in subparagraphs (A) and (B) of such section, and

"(B) except as provided in paragraph (2) of this subsection, be reported not later than seven days after the date of such distribution, sale, or importation."

#### REPEALS

Pub. L. 96-359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95-633, which had provided for the repeal of this section effective Jan. 1, 1981.

#### REGULATIONS FOR PIPERIDINE REPORTING

Section 203(b) of Pub. L. 95-633 required the Attorney General to publish proposed interim regulations for piperidine reporting under section 830(a) of this title not later than 30 days after enactment, and final interim regulations not later than 75 days after enactment, such final interim regulations to be effective on and after the ninety-first day after enactment.

#### REPORT TO PRESIDENT AND CONGRESS ON EFFECTIVENESS OF TITLE II OF PUB. L. 95-633

Section 203(c) of Pub. L. 95-633 required the Attorney General to analyze and evaluate the impact and effectiveness of the amendments made by title II of Pub. L. 95-633, and report to the President and Congress not later than Mar. 1, 1980.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 841, 842, 843 of this title.

#### PART D—OFFENSES AND PENALTIES

##### § 841. Prohibited acts A

###### (a) Unlawful acts

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

###### (b) Penalties

Except as otherwise provided in section 845 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a controlled substance in schedule I or II which is a narcotic drug, such person shall be sentenced to a term of imprisonment of not more than 15 years, a fine of not more than \$25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sen-

tenced to a term of imprisonment of not more than 30 years, a fine of not more than \$50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment.

(B) In the case of a controlled substance in schedule I or II which is not a narcotic drug or in the case of any controlled substance in schedule III, such person shall, except as provided in paragraphs (4), (5), and (6) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than \$15,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than \$30,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 3 years, a fine of not more than \$10,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 6 years, a fine of not more than \$20,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than \$5,000, or both. If any person commits such a violation after one or more convictions of him for an offense punishable under this paragraph, or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be

sentenced to a term of imprisonment of not more than 2 years, a fine of not more than \$10,000, or both.

(4) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in subsections (a) and (b) of section 844 of this title.

(5) Notwithstanding paragraph (1)(B) of this subsection, any person who violates subsection (a) of this section by manufacturing, distributing, dispensing, or possessing with intent to manufacture, distribute, or dispense, except as authorized by this subchapter, phencyclidine (as defined in section 830(c)(2) of this title) shall be sentenced to a term of imprisonment of not more than 10 years, a fine of not more than \$25,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under paragraph (1) of this paragraph, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than \$50,000, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment.

(6) In the case of a violation of subsection (a) of this section involving a quantity of marihuana exceeding 1,000 pounds, such person shall be sentenced to a term of imprisonment of not more than 15 years, and in addition, may be fined not more than \$125,000. If any person commits such a violation after one or more prior convictions of such person for an offense punishable under paragraph (1) of this paragraph, or for a felony under any other provision of this subchapter, subchapter II of this chapter, or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, and in addition, may be fined not more than \$250,000.

#### (c) Special parole term

A special parole term imposed under this section or section 845 of this title may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in this section or section 845 of this title shall be in addition to, and not in lieu of, any other parole provided for by law.

#### (d) Piperidine offenses and penalty

Any person who knowingly or intentionally—  
(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this subchapter, or

(2) possesses any piperidine knowing, or having reasonable cause to believe, that the piperidine will be used to manufacture phencyclidine except as authorized by this subchapter,

shall be sentenced to a term of imprisonment of not more than 5 years, a fine of not more than \$15,000, or both.

(Pub. L. 91-513, title II, § 401, Oct. 27, 1970, 84 Stat. 1260; Pub. L. 95-633, title II, § 201, Nov. 10, 1978, 92 Stat. 3774; Pub. L. 96-359, § 8(c), Sept. 26, 1980, 94 Stat. 1194.)

#### REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a), (b)(1)-(3), (5), (6), and (d), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

Schedules I, II, III, and IV, referred to in subsec. (b), are set out in section 812(c) of this title.

Subchapter II of this chapter, referred to in subsec. (b)(5), (6), was in the original "title III", meaning title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

#### AMENDMENTS

1980—Subsec. (b)(1)(B). Pub. L. 96-359, § 8(c)(1), added reference to par. (6) of this subsection.

Subsec. (b)(6). Pub. L. 96-359, § 8(c)(2), added par. (6).

1978—Subsec. (b)(1)(B). Pub. L. 95-633, § 201(1), inserted ", except as provided in paragraphs (4) and (5) of this subsection," following "such person shall".

Subsec. (b)(5). Pub. L. 95-633, § 201(2), added par. (5).

Subsec. (d). Pub. L. 95-633, § 201(3), added subsec. (d).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95-633 set out as an Effective Date note under section 830 of this title.

#### REPEALS

Pub. L. 96-359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95-633, which had provided for the repeal of subsec. (d) of this section effective Jan. 1, 1981.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 830, 845 of this title.

#### § 842. Prohibited acts B

##### (a) Unlawful acts

It shall be unlawful for any person—

(1) who is subject to the requirements of part C to distribute or dispense a controlled substance in violation of section 829 of this title;



(2) who is a registrant to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person or to manufacture a controlled substance not authorized by his registration;

(3) who is a registrant to distribute a controlled substance in violation of section 825 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 825 of this title;

(5) to refuse or fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under this subchapter or subchapter II of this chapter;

(6) to refuse any entry into any premises or inspection authorized by this subchapter or subchapter II of this chapter;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 824(f) or 881 of this title or to remove or dispose of substances so placed under seal;

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this subchapter or subchapter II of this chapter, any information acquired in the course of an inspection authorized by this subchapter concerning any method or process which as a trade secret is entitled to protection; or

(9) to distribute or sell piperidine in violation of regulations established under section 830(a)(2) of this title, respecting presentation of identification.

#### (b) Manufacture

It shall be unlawful for any person who is a registrant to manufacture a controlled substance in schedule I or II which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 826 of this title; or

(2) in excess of a quota assigned to him pursuant to section 826 of this title.

#### (c) Penalties

(1) Except as provided in paragraph (2), any person who violates this section shall, with respect to any such violation, be subject to a civil penalty of not more than \$25,000. The district courts of the United States (or, where there is no such court in the case of any territory or possession of the United States, then the court in such territory or possession having the jurisdiction of a district court of the United States in cases arising under the Constitution and laws of the United States) shall have jurisdiction in accordance with section 1355 of title 28 to enforce this paragraph.

(2)(A) If a violation of this section is prosecuted by an information or indictment which alleges that the violation was committed knowingly and the trier of fact specifically finds that the violation was so committed, such person shall, except as otherwise provided in subparagraph (B) of this paragraph, be sentenced to imprisonment of not more than one year or a fine of not more than \$25,000, or both.

(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years, a fine of \$50,000, or both.

(C) Subparagraphs (A) and (B) shall not apply to a violation of subsection (a)(5) of this section with respect to a refusal or failure to make a report required under section 830(a) of this title (relating to piperidine reporting).

(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

(Pub. L. 91-513, title II, § 402, Oct. 27, 1970, 84 Stat. 1262; Pub. L. 95-633, title II, § 202(b)(1), (2), Nov. 10, 1978, 92 Stat. 3776.)

#### REFERENCES IN TEXT

Schedules I and II, referred to in subsec. (b), are set out in section 812(c) of this title.

#### AMENDMENTS

1978—Subsec. (a)(9). Pub. L. 95-633, § 202(b)(1), added par. (9).

Subsec. (c)(2)(C). Pub. L. 95-633, § 202(b)(2), added subpar. (C).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective Nov. 10, 1978, see section 203(a) of Pub. L. 95-633 set out as an Effective Date note under section 830 of this title.

#### REPEALS

Pub. L. 96-359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95-633, which had provided for the repeal of subsecs. (a)(9) and (c)(2)(C) of this section effective Jan. 1, 1981.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 830, 961 of this title.

#### § 843. Prohibited acts C

##### (a) Unlawful acts

It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order or an order form as required by section 828 of this title;

(2) to use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this subchapter or subchapter II of this chapter, or (B) to present false or fraudulent identification where the person is receiving or purchasing piperidine and the person is required to present identification under section 830(a) of this title; or

(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance.

**(b) Communication facility**

It shall be unlawful for any person knowingly or intentionally to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting a felony under any provision of this subchapter or subchapter II of this chapter. Each separate use of a communication facility shall be a separate offense under this subsection. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

**(c) Penalties**

Any person who violates this section shall be sentenced to a term of imprisonment of not more than 4 years, a fine of not more than \$30,000, or both; except that if any person commits such a violation after one or more prior convictions of him for violation of this section, or for a felony under any other provision of this subchapter or subchapter II of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 8 years, a fine of not more than \$60,000, or both.

(Pub. L. 91-513, title II, § 403, Oct. 27, 1970, 84 Stat. 1263; Pub. L. 95-633, title II, § 202(b)(3), Nov. 10, 1978, 92 Stat. 3776.)

**REFERENCES IN TEXT**

Schedules I and II, referred to in subsec. (a)(1), are set out in section 812(c) of this title.

**AMENDMENTS**

1978—Subsec. (a)(4). Pub. L. 95-633, § 202(b)(3), designated existing provisions as subpar. (A) and added subpar. (B).

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-633 effective Nov. 10, 1978, except as otherwise provided, see section 203(a) of Pub. L. 95-633 set out as an Effective Date note under section 830 of this title.

**REPEALS**

Pub. L. 96-359, § 8(b), Sept. 26, 1980, 94 Stat. 1194, repealed section 203(d) of Pub. L. 95-633, which had

provided for the repeal of subsec. (a)(4)(B) of this section effective Jan. 1, 1981.

**§ 844. Simple possession**

**(a) Unlawful acts; penalties**

It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than \$5,000, or both, except that if he commits such offense after a prior conviction or convictions under this subsection have become final, he shall be sentenced to a term of imprisonment of not more than 2 years, a fine of not more than \$10,000 or both.

**(b) Conditional discharge and expunging of records for first offense**

(1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this subchapter or subchapter II of this chapter, or any other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, is found guilty of a violation of subsection (a) of this section after trial or upon a plea of guilty, the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable conditions as it may require and for such period, not to exceed one year, as the court may prescribe. Upon violation of a condition of the probation, the court may enter an adjudication of guilt and proceed as otherwise provided. The court may, in its discretion, dismiss the proceedings against such person and discharge him from probation before the expiration of the maximum period prescribed for such person's probation. If during the period of his probation such person does not violate any of the conditions of the probation, then upon expiration of such period the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this subsection shall be without court adjudication of guilt, but a nonpublic record thereof shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection. Such discharge or dismissal shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the penalties prescribed under this part for second or subsequent convictions) or for any other purpose. Discharge and dismissal under this section may occur only once with respect to any person.

(2) Upon the dismissal of such person and discharge of the proceedings against him under paragraph (1) of this subsection, such person, if he was not over twenty-one years of age at the

time of the offense, may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained by the Department of Justice under paragraph (1)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that such person was dismissed and the proceedings against him discharged and that he was not over twenty-one years of age at the time of the offense, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or indictment or information. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest, or indictment or information, or trial in response to any inquiry made of him for any purpose.

(Pub. L. 91-513, title II, § 404, Oct. 27, 1970, 84 Stat. 1264.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 841, 885 of this title.

#### § 845. Distribution to persons under age twenty-one

##### (a) First offense

Any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b) of this section) punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 841(b) of this title, and (2) at least twice any special parole term authorized by section 841(b) of this title, for a first offense involving the same controlled substance and schedule.

##### (b) Second or subsequent offense

Any person at least eighteen years of age who violates section 841(a)(1) of this title by distributing a controlled substance to a person under twenty-one years of age after a prior conviction or convictions under subsection (a) of this section (or under section 333(b) of this title as in effect prior to May 1, 1971) have become final, is punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 841(b) of this title, and (2) at least three times any special parole term authorized by section 841(b) of this title, for a second or subsequent offense involving the same controlled substance and schedule.

(Pub. L. 91-513, title II, § 405, Oct. 27, 1970, 84 Stat. 1265.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

#### § 846. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter is punishable by imprisonment or fine or both which may not exceed the maximum punish-

ment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 91-513, title II, § 406, Oct. 27, 1970, 84 Stat. 1265.)

#### § 847. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub. L. 91-513, title II, § 407, Oct. 27, 1970, 84 Stat. 1265.)

#### § 848. Continuing criminal enterprise

##### (a) Penalties; forfeitures

(1) Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 10 years and which may be up to life imprisonment, to a fine of not more than \$100,000, and to the forfeiture prescribed in paragraph (2); except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine of not more than \$200,000, and to the forfeiture prescribed in paragraph (2).

(2) Any person who is convicted under paragraph (1) of engaging in a continuing criminal enterprise shall forfeit to the United States—

(A) the profits obtained by him in such enterprise, and

(B) any of his interest in, claim against, or property or contractual rights of any kind affording a source of influence over, such enterprise.

##### (b) "Continuing criminal enterprise" defined

For purposes of subsection (a) of this section, a person is engaged in a continuing criminal enterprise if—

(1) he violates any provision of this subchapter or subchapter II of this chapter the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of this subchapter or subchapter II of this chapter—

(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

(B) from which such person obtains substantial income or resources.

##### (c) Suspension of sentence and probation prohibited

In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and section 4202 of title 18 and the Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), shall not apply.

**(d) Jurisdiction of courts**

The district courts of the United States (including courts in the territories or possessions of the United States having jurisdiction under subsection (a) of this section) shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as they shall deem proper.

(Pub. L. 91-513, title II, § 408, Oct. 27, 1970, 84 Stat. 1265.)

**REFERENCES IN TEXT**

Section 4202 of title 18, referred to in subsec. (c), which related to eligibility of prisoners for parole at the time of enactment of this section, was repealed and a new section 4202 enacted as part of the repeal and enactment of a new chapter 311 (§ 4201 et seq.) of Title 18, Crimes and Criminal Procedure, by Pub. L. 94-233, § 2, Mar. 15, 1976, 90 Stat. 219. For provisions relating to the eligibility of prisoners for parole, see section 4205 of Title 18.

The Act of July 15, 1932 (D.C. Code, secs. 24-203—24-207), referred to in subsec. (c), is act July 15, 1932, ch. 492, 47 Stat. 696, as amended, which appears in sections 24-203 to 24-209 of Title 24, Prisoners and Their Treatment, and section 22-2001 of Title 22, Criminal Offenses, of the District of Columbia Code.

**§ 849. Dangerous special drug offender sentencing****(a) Notice to court by United States Attorney**

Whenever a United States attorney charged with the prosecution of a defendant in a court of the United States for an alleged felonious violation of any provision of this subchapter or subchapter II of this chapter committed when the defendant was over the age of twenty-one years has reasons to believe that the defendant is a dangerous special drug offender such United States attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that the defendant is a dangerous special drug offender who upon conviction of such felonious violation is subject to the imposition of a sentence under subsection (b) of this section, and (2) setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special drug offender. In no case shall the fact that the defendant is alleged to be a dangerous special drug offender be an issue upon the trial of such felonious violation, be disclosed to the jury, or be disclosed before any plea of guilty or nolo contendere or verdict or finding of guilty to the presiding judge without the consent of the parties. If the court finds that the filing of the notice as a public record may prejudice fair consideration of a pending criminal matter, it may order the notice sealed and the notice shall not be subject to subpoena or public inspection during the pendency of such criminal matter, except on order of the court, but shall be subject to inspection by the defendant alleged to be a dangerous special drug offender and his counsel.

**(b) Hearing; inspection of presentence report; counsel; process; examination of witnesses; penalty; sentence**

Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such felonious violation, a hearing shall be held, before sentence is imposed, by the court sitting without a jury. The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. The court shall permit the United States and counsel for the defendant, or the defendant if he is not represented by counsel, to inspect the presentence report sufficiently prior to the hearing as to afford a reasonable opportunity for verification. In extraordinary cases, the court may withhold material not relevant to a proper sentence, a.agnostic opinion which might seriously disrupt a program of rehabilitation, any source of information obtained on a promise of confidentiality, and material previously disclosed in open court. A court withholding all or part of a presentence report shall inform the parties of its action and place in the record the reasons therefor. The court may require parties inspecting all or part of a presentence report to give notice of any part thereof intended to be controverted. In connection with the hearing, the defendant and the United States shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or commitment. If it appears by a preponderance of the information, including information submitted during the trial of such felonious violation and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special drug offender, the court shall sentence the defendant to imprisonment for an appropriate term not to exceed twenty-five years and not disproportionate in severity to the maximum term otherwise authorized by law for such felonious violation. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such felonious violation. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

**(c) Sentences for life or for a term exceeding twenty-five years**

This section shall not prevent the imposition and execution of a sentence of imprisonment for life or for a term exceeding twenty-five years upon any person convicted of an offense so punishable.

**(d) Mandatory minimum penalties**

Notwithstanding any other provision of this section, the court shall not sentence a dangerous special drug offender to less than any mandatory minimum penalty prescribed by law for such felonious violation. This section shall not

be construed as creating any mandatory minimum penalty.

(e) "Special drug offender" defined

A defendant is a special drug offender for purposes of this section if—

(1) the defendant has previously been convicted in courts of the United States or a State or any political subdivision thereof for two or more offenses involving dealing in controlled substances, committed on occasions different from one another and different from such felonious violation, and punishable in such courts by death or imprisonment in excess of one year, for one or more of such convictions the defendant has been imprisoned prior to the commission of such felonious violation, and less than five years have elapsed between the commission of such felonious violation and either the defendant's release, or parole or otherwise, from imprisonment for one such conviction or his commission of the last such previous offense or another offense involving dealing in controlled substances and punishable by death or imprisonment in excess of one year under applicable laws of the United States or a State or any political subdivision thereof; or

(2) the defendant committed such felonious violation as part of a pattern of dealing in controlled substances which was criminal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise; or

(3) such felonious violation was, or the defendant committed such felonious violation in furtherance of, a conspiracy with three or more other persons to engage in a pattern of dealing in controlled substances which was criminal under applicable laws of any jurisdiction, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or dealing, or give or receive a bribe or use force in connection with such dealing.

A conviction shown on direct or collateral review or at the hearing to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (1) of this subsection. In support of findings under paragraph (2) of this subsection, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such dealing. For purposes of paragraph (2) of this subsection, a substantial source of income means a source of income which for any period of one year or more exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, without reference to exceptions, under section 206(a)(1) of title 29 for an employee engaged in commerce or in the production of goods for commerce, and which for the same period exceeds fifty percent of the defendant's declared adjusted gross income under section 62 of title 26. For purposes of paragraph (2) of this subsection, special skill or expertise in such dealing includes unusual knowledge, judgment or ability, including manual dexter-

ity, facilitating the initiation, organizing, planning, financing, direction, management, supervision, execution or concealment of such dealing, the enlistment of accomplices in such dealing, the escape from detection or apprehension for such dealing, or the disposition of the fruits or proceeds of such dealing. For purposes of paragraphs (2) and (3) of this subsection, such dealing forms a pattern if it embraces criminal acts that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events.

(f) Dangerous defendants

A defendant is dangerous for purposes of this section if a period of confinement longer than that provided for such felonious violation is required for the protection of the public from further criminal conduct by the defendant.

(g) Appeal

The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition of the original sentence.

(h) Review of sentence

With respect to the imposition, correction, or reduction of a sentence after proceedings under this section, a review of the sentence on the record of the sentencing court may be taken by the defendant or the United States to a court of appeals. Any review of the sentence taken by the United States shall be taken at least five days before expiration of the time for taking a review of the sentence or appeal of the conviction by the defendant and shall be diligently prosecuted. The sentencing court may, with or without motion and notice, extend the time for taking a review of the sentence for a period not to exceed thirty days from the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review of the sentence by the United States after the time has expired. A court extending the time for taking a review of the sentence by the United States shall extend the time for taking a review of the sentence or appeal of the conviction by the defendant for the same period. The taking of a review of the sentence by the United States shall be deemed the taking of a review of the sentence and an appeal of the conviction by the defendant. Review of the sentence shall include review of whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused. The court of appeals on review of the sentence may, after considering the record, including the entire presentence report, information submitted during the trial of such felonious violation and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be made more severe only on review of the sentence taken by the United

States and after hearing. Failure of the United States to take a review of the imposition of the sentence shall, upon review taken by the United States of the correction or reduction of the sentence, foreclose imposition of a sentence more severe than that previously imposed. Any withdrawal or dismissal of review of the sentence taken by the United States shall foreclose imposition of a sentence more severe than that reviewed but shall not otherwise foreclose the review of the sentence or the appeal of the conviction. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence. Any review of the sentence taken by the United States may be dismissed on a showing of the abuse of the right of the United States to take such review.

(Pub. L. 91-513, title II, § 409, Oct. 27, 1970, 84 Stat. 1266.)

#### § 850. Information for sentencing

Except as otherwise provided in this subchapter or section 242a(a) of title 42, no limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence under this subchapter or subchapter II of this chapter.

(Pub. L. 91-513, title II, § 410, Oct. 27, 1970, 84 Stat. 1269.)

#### § 851. Proceedings to establish prior convictions

##### (a) Information filed by United States Attorney

(1) No person who stands convicted of an offense under this part shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

##### (b) Affirmation or denial of previous conviction

If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall

inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

##### (c) Denial; written response; hearing

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1) of this section. The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

##### (d) Imposition of sentence

(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

##### (e) Statute of limitations

No person who stands convicted of an offense under this part may challenge the validity of any prior conviction alleged under this section which occurred more than five years before the date of the information alleging such prior conviction.

(Pub. L. 91-513, title II, § 411, Oct. 27, 1970, 84 Stat. 1269.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 962 of this title.

**§ 852. Application of treaties and other international agreements**

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit the provision of treatment, education, or rehabilitation as alternatives to conviction or criminal penalty for offenses involving any drug or other substance subject to control under any such treaty or agreement.

(Pub. L. 91-513, title II, § 412, as added Pub. L. 95-633, title I, § 107(a), Nov. 10, 1978, 92 Stat. 3773.)

**EFFECTIVE DATE**

Section effective on the date the Convention on Psychotropic Substances enters into force in the United States (July 15, 1980), see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

**PART E—ADMINISTRATIVE AND ENFORCEMENT PROVISIONS**

**PART REFERRED TO IN OTHER SECTIONS**

This part is referred to in section 965 of this title.

**§ 871. Attorney General**

**(a) Delegation of functions**

The Attorney General may delegate any of his functions under this subchapter to any officer or employee of the Department of Justice.

**(h) Rules and regulations**

The Attorney General may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this subchapter.

**(c) Acceptance of devices, bequests, gifts, and donations**

The Attorney General may accept in the name of the Department of Justice any form of device, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of controlled substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

(Pub. L. 91-513, title II, § 501, Oct. 27, 1970, 84 Stat. 1270.)

**REFERENCES IN TEXT**

This subchapter, referred to in subsecs. (a) and (b), was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

**§ 872. Education and research programs of Attorney General**

**(a) Authorization**

The Attorney General is authorized to carry out educational and research programs directly related to enforcement of the laws under his jurisdiction concerning drugs or other substances which are or may be subject to control under this subchapter. Such programs may include—

(1) educational and training programs on drug abuse and controlled substances law enforcement for local, State, and Federal personnel;

(2) studies or special projects designed to compare the deterrent effects of various enforcement strategies on drug use and abuse;

(3) studies or special projects designed to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this subchapter, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances;

(4) studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country;

(5) studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels; and

(6) studies or special projects to develop information necessary to carry out his functions under section 811 of this title.

**(b) Contracts**

The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 5 of title 41.

**(c) Identification of research populations; authorization to withhold**

The Attorney General may authorize persons engaged in research to withhold the names and other identifying characteristics of persons who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

**(d) Affect of treaties and other international agreements on confidentiality**

Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local law or regulation.

**(e) Use of controlled substances in research**

The Attorney General, on his own motion or at the request of the Secretary, may authorize the possession, distribution, and dispensing of controlled substances by persons engaged in research. Persons who obtain this authorization

shall be exempt from State or Federal prosecution for possession, distribution, and dispensing of controlled substances to the extent authorized by the Attorney General.

(Pub. L. 91-513, title II, § 502, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 95-633, title I, § 108(a), Nov. 10, 1978, 92 Stat. 3773.)

#### AMENDMENTS

1978—Subsec. (d). Pub. L. 95-633 added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 95-633 redesignated former subsec. (d) as (e).

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States (July 15, 1980), see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

### § 873. Cooperative arrangements

(a) Cooperation of Attorney General with local, State, and Federal agencies

The Attorney General shall cooperate with local, State, and Federal agencies concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on controlled substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Department of Justice a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of controlled substance abusers and other controlled substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes; and

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(b) Requests by Attorney General for assistance from Federal agencies or instrumentalities

When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out his functions under this subchapter; except that no such agency or instrumentality shall be required to furnish the name of, or other identifying information about, a patient or research subject whose identity it has undertaken to keep confidential.

(c) Descriptive and analytic reports by Attorney General to State agencies of distribution patterns of schedule II substances having highest rates of abuse

The Attorney General shall annually (1) select the controlled substances (or controlled

substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.

(Pub. L. 91-513, title II, § 503, Oct. 27, 1970, 84 Stat. 1271; Pub. L. 96-359, § 8(a) Sept. 26, 1980, 94 Stat. 1194.)

#### REFERENCES IN TEXT

Schedule II, referred to in subsec. (c), is set out in section 812(c) of this title.

#### AMENDMENTS

1980—Subsec. (c). Pub. L. 96-359 added subsec. (c).

### § 874. Advisory committees

The Attorney General may from time to time appoint committees to advise him with respect to preventing and controlling the abuse of controlled substances. Members of the committees may be entitled to receive compensation at the rate of \$100 for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the committees, members of the committees shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(Pub. L. 91-513, title II, § 504, Oct. 27, 1970, 84 Stat. 1272.)

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of two year period following Jan. 5, 1973, and advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of two year period beginning on the date of their establishment, unless in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two year period, or in the case of a committee established by Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

### § 875. Administrative hearings

(a) Power of Attorney General

In carrying out his functions under this subchapter, the Attorney General may hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States.

(b) Procedures applicable

Except as otherwise provided in this subchapter, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5 of title 5.

(Pub. L. 91-513, title II, § 505, Oct. 27, 1970, 84 Stat. 1272.)



## § 876. Subpenas

## (a) Authorization of use by Attorney General

In any investigation relating to his functions under this subchapter with respect to controlled substances, the Attorney General may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing; except that a witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

## (b) Service

A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered a true copy thereof by the person serving it shall be proof of service.

## (c) Enforcement

In the case of contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

(Pub. L. 91-513, title II, § 506, Oct. 27, 1970, 84 Stat. 1272.)

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 880 of this title.

## § 877. Judicial review

All final determinations, findings, and conclusions of the Attorney General under this subchapter shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney

General may obtain review of the decision in the United States Court of Appeals for the District of Columbia or for the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

(Pub. L. 91-513, title II, § 507, Oct. 27, 1970, 84 Stat. 1273.)

## § 878. Powers of enforcement personnel

Any officer or employee of the Drug Enforcement Administration designated by the Attorney General may—

- (1) carry firearms;
- (2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of the United States;
- (3) make arrests without warrant (A) for any offense against the United States committed in his presence, or (B) for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony;
- (4) make seizures of property pursuant to the provisions of this subchapter; and
- (5) perform such other law enforcement duties as the Attorney General may designate.

(Pub. L. 91-513, title II, § 508, Oct. 27, 1970, 84 Stat. 1273; Pub. L. 96-132, § 16(b), Nov. 30, 1979, 93 Stat. 1049.)

## AMENDMENTS

1979—Pub. L. 96-132 substituted "Drug Enforcement Administration" for "Bureau of Narcotics and Dangerous Drugs".

## § 879. Search warrants

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the judge or United States magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(Pub. L. 91-513, title II, § 509, Oct. 27, 1970, 84 Stat. 1274; Pub. L. 93-481, § 3, Oct. 26, 1974, 88 Stat. 1455.)

## AMENDMENTS

1974—Subsec. (a). Pub. L. 93-481 struck out designation "(a)" preceding "A search warrant".

Subsec. (b). Pub. L. 93-481 struck out subsec. (b), which permitted officers authorized to execute search warrants to break open and enter premises under certain circumstances and which required that such officers identify themselves and give reasons and authority for their entry after such entry.

## § 880. Administrative inspections and warrants

## (a) "Controlled premises" defined

As used in this section, the term "controlled premises" means—

(1) places where original or other records or documents required under this subchapter are kept or required to be kept, and

(2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 823 of this title (or exempted from registration under section 822(d) of this title) may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances.

**(b) Grant of authority; scope of inspections**

(1) For the purpose of inspecting, copying, and verifying the correctness of records, reports, or other documents required to be kept or made under this subchapter and otherwise facilitating the carrying out of his functions under this subchapter, the Attorney General is authorized, in accordance with this section, to enter controlled premises and to conduct administrative inspections thereof, and of the things specified in this section, relevant to those functions.

(2) Such entries and inspections shall be carried out through officers or employees (hereinafter referred to as "inspectors") designated by the Attorney General. Any such inspector, upon stating his purpose and presenting to the owner, operator, or agent in charge of such premises (A) appropriate credentials and (B) a written notice of his inspection authority (which notice in the case of an inspection requiring, or in fact supported by, an administrative inspection warrant shall consist of such warrant), shall have the right to enter such premises and conduct such inspection at reasonable times.

(3) Except as may otherwise be indicated in an applicable inspection warrant, the inspector shall have the right—

(A) to inspect and copy records, reports, and other documents required to be kept or made under this subchapter;

(B) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished drugs and other substances or materials, containers, and labeling found therein, and, except as provided in paragraph (5) of this subsection, all other things therein (including records, files, papers, processes, controls, and facilities) appropriate for verification of the records, reports, and documents referred to in clause (A) or otherwise bearing on the provisions of this subchapter; and

(C) to inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(A) financial data;

(B) sales data other than shipment data; or

(C) pricing data.

**(c) Situations not requiring warrants**

A warrant under this section shall not be required for the inspection of books and records pursuant to an administrative subpoena issued in

accordance with section 876 of this title, nor for entries and administrative inspections (including seizures of property)—

(1) with the consent of the owner, operator, or agent in charge of the controlled premises;

(2) in situations presenting imminent danger to health or safety;

(3) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(4) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or

(5) in any other situations where a warrant is not constitutionally required.

**(d) Administrative inspection warrants; issuance; execution; probable cause**

Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this subchapter or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this subchapter or regulations thereunder sufficient to justify administrative inspections of the area, premises, building, or conveyance, or contents thereof, in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the items or types of property to be seized, if any. The warrant shall be directed to a person authorized under subsection (b)(2) of this section to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the United States of a need therefor, the

judge or magistrate allows additional time in the warrant. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(Pub. L. 91-513, title II, § 510, Oct. 27, 1970, 84 Stat. 1274.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 965 of this title.

### § 881. Forfeitures

#### (a) Subject property

The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1) or (2).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2), except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter; and

(B) no conveyance shall be forfeited under the provisions of this section by

reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

#### (b) Seizure pursuant to Supplemental Rules for Certain Admiralty and Maritime Claims

Any property subject to forfeiture to the United States under this subchapter may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this subchapter;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property has been used or is intended to be used in violation of this subchapter.

In the event of seizure pursuant to paragraph (3) or (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

#### (c) Custody of Attorney General

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and

remove it to an appropriate location for disposition in accordance with law.

**(d) Other laws and proceedings applicable**

The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

**(e) Disposition of forfeited property**

Whenever property is forfeited under this subchapter the Attorney General may—

- (1) retain the property for official use;
- (2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public;
- (3) require that the General Services Administration take custody of the property and remove it for disposition in accordance with law; or
- (4) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General).

The proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such moneys and proceeds remaining after payment of such expenses.

**(f) Forfeiture of schedule I substances**

All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this subchapter shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

**(g) Plants**

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which

are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(Pub. L. 91-513, title II, § 511, Oct. 27, 1970, 84 Stat. 1276; Pub. L. 95-633, title III, § 301(a), Nov. 10, 1978, 92 Stat. 3777; Pub. L. 96-132, § 14, Nov. 30, 1979, 93 Stat. 1048.)

**REFERENCES IN TEXT**

The customs laws, referred to in subsec. (d), are classified generally to Title 19, Customs Duties.

Schedules I and II, referred to in subsecs. (f) and (g), are set out in section 812(c) of this title.

**AMENDMENTS**

1979—Subsec. (d). Pub. L. 96-132 substituted "The provisions" for "All provisions" and struck out "and the award of compensation to informers in respect of such forfeitures" following "compromise of claims".

1978—Subsec. (a)(6). Pub. L. 95-633, § 301(1), added par. (6).

Subsec. (e). Pub. L. 95-633, § 301(a)(2), (3), struck out of cl. (2) provisions relating to use of proceeds of sale and added last sentence relating to the forwarding by the Attorney General of money and proceeds remaining after payment of expenses.

**TRANSFER OF FUNCTIONS**

The Bureau of Narcotics and Dangerous Drugs, including the office of Director thereof, in the Department of Justice was abolished by Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 51 Stat. 1091, set out in the Appendix to Title 5, Government Organization and Employees. Reorg. Plan No. 2 of 1973 also created in the Department of Justice a single, comprehensive agency for the enforcement of drug laws to be known as the Drug Enforcement Administration, empowered the Attorney General to authorize the performance by officers, employees, and agencies of the Department of functions transferred to him, and directed the Attorney General to coordinate all drug law enforcement functions to assure maximum cooperation between the Drug Enforcement Administration, the Federal Bureau of Investigation, and the other units of the Department of Justice involved in drug law enforcement.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 824, 842, 955d, 965 of this title.

**§ 882. Injunctions**

**(a) Jurisdiction**

The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this subchapter.

**(b) Jury trial**

In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

(Pub. L. 91-513, title II, § 512, Oct. 27, 1970, 84 Stat. 1278.)

**REFERENCES IN TEXT**

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

**§ 883. Enforcement proceedings**

Before any violation of this subchapter is reported by the Administrator of the Drug Enforcement Administration to any United States attorney for institution of a criminal proceeding, the Administrator may require that the person against whom such proceeding is contemplated is given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

(Pub. L. 91-513, title II, § 513, Oct. 27, 1970, 84 Stat. 1278; Pub. L. 96-132, § 16(c), Nov. 30, 1979, 93 Stat. 1049.)

**AMENDMENTS**

1979—Pub. L. 96-132 substituted "Administrator of the Drug Enforcement Administration" for "Director of the Bureau of Narcotics and Dangerous Drugs" and "Administrator may" for "Director may".

**§ 884. Immunity and privilege****(a) Refusal to testify**

Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before a court or grand jury of the United States, involving a violation of this subchapter, and the person presiding over the proceeding communicates to the witness an order issued under this section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. But no testimony or other information compelled under the order issued under subsection (b) of this section or any information obtained by the exploitation of such testimony or other information, may be used against the witness in any criminal case, including any criminal case brought in a court of a State, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

**(b) Order of United States district court**

In the case of any individual who has been or may be called to testify or provide other information at any proceeding before a court or grand jury of the United States, the United States district court for the judicial district in which the proceeding is or may be held shall issue, upon the request of the United States attorney for such district, an order requiring such individual to give any testimony or provide any other information which he refuses to give or provide on the basis of his privilege against self-incrimination.

**(c) Request by United States attorney**

A United States attorney may, with the approval of the Attorney General or the Deputy Attorney General, or any Assistant Attorney General designated by the Attorney General, request an order under subsection (b) of this section when in his judgment—

(1) the testimony or other information from such individual may be necessary to the public interest; and

(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Pub. L. 91-513, title II, § 514, Oct. 27, 1970, 84 Stat. 1278.)

**§ 885. Burden of proof; liabilities****(a) Exemptions and exceptions; presumption in simple possession offenses**

(1) It shall not be necessary for the United States to negative any exemption or exception set forth in this subchapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this subchapter, and the burden of going forward with the evidence with respect to any such exemption or exception shall be upon the person claiming its benefit.

(2) In the case of a person charged under section 844(a) of this title with the possession of a controlled substance, any label identifying such substance for purposes of section 353(b)(2) of this title shall be admissible in evidence and shall be prima facie evidence that such substance was obtained pursuant to a valid prescription from a practitioner while acting in the course of his professional practice.

**(b) Registration and order forms**

In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this subchapter, he shall be presumed not to be the holder of such registration or form, and the burden of going forward with the evidence with respect to such registration or form shall be upon him.

**(c) Use of vehicles, vessels, and aircraft**

The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule 1 was used in accordance with the provisions of this subchapter shall be on the persons engaged in such use.

**(d) Immunity of Federal, State, local and other officials**

Except as provided in section 2234 and 2235 of title 18, no civil or criminal liability shall be imposed by virtue of this subchapter upon any duly authorized Federal officer lawfully engaged in the enforcement of this subchapter, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be lawfully engaged in the enforcement of any law or municipal ordinance relating to controlled substances.

(Pub. L. 91-513, title II, § 515, Oct. 27, 1970, 84 Stat. 1279.)

#### REFERENCES IN TEXT

Schedule I, referred to in subsec. (c), is referred to in section 812(c) of this title.

#### § 886. Payments and advances

##### (a) Payment to informers

The Attorney General is authorized to pay any person, from funds appropriated for the Drug Enforcement Administration, for information concerning a violation of this subchapter, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

##### (b) Reimbursement for purchase of controlled substances

Moneys expended from appropriations of the Drug Enforcement Administration for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Administration.

##### (c) Advance of funds for enforcement purposes

The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this subchapter.

(Pub. L. 91-513, title II, § 516, Oct. 27, 1970, 84 Stat. 1279; Pub. L. 96-132, § 16(b), Nov. 30, 1979, 93 Stat. 1049.)

#### CODIFICATION

In subsec. (b), "Administration" was substituted for "Bureau" as the probable intent of Congress in view of amendment by Pub. L. 96-132, which substituted references to the Drug Enforcement Administration for references to the Bureau of Narcotics and Dangerous Drugs wherever appearing in text.

#### AMENDMENTS

1979—Subsec. (a). Pub. L. 96-132 substituted "Drug Enforcement Administration" for "Bureau of Narcotics and Dangerous Drugs".

Subsec. (b). Pub. L. 96-132 substituted "Drug Enforcement Administration" for "Bureau of Narcotics and Dangerous Drugs".

### PART F—GENERAL PROVISIONS

#### CODIFICATION

The letter designation for this Part F was, in the original, Part G. The original Part F of title II of Pub. L. 91-513, consisting of section 601 thereof, is set out as a note under section 801 of this title. The original Part G of title II of Pub. L. 91-513 consisted of sections 701 to 709. Sections 701 to 705 amended and repealed sections in this title and in Title 18, Crimes and Criminal Procedure, and Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 321, 801, and 822 of this title. See Tables for classifications of said sections 701 to 705. Sections 706 to 709 of Pub. L. 91-513 are set out as sections 901 to 904 of this title and, for purposes of codification, comprise this Part F.

#### § 901. Severability of provisions

If a provision of this chapter is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this chapter is held invalid in one or more of its applica-

tions, the provision shall remain in effect in all its valid applications that are severable.

(Pub. L. 91-513, title II, § 706, Oct. 27, 1970, 84 Stat. 1284.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was, in the original, "this Act", meaning Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

#### § 902. Savings provisions

Nothing in this chapter, except this part and, to the extent of any inconsistency, sections 827(e) and 829 of this title, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. § 301 et seq.].

(Pub. L. 91-513, title II, § 707, Oct. 27, 1970, 84 Stat. 1284.)

#### REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in text, is act June 25, 1938, ch. 675, 52 Stat. 1040, as amended, which is classified generally to chapter 9 (§ 301 et seq.) of this title. For complete classification of this Act to the Code, see section 301 of this title and Tables.

#### § 903. Application of State law

No provision of this subchapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless there is a positive conflict between that provision of this subchapter and that State law so that the two cannot consistently stand together.

(Pub. L. 91-513, title II, § 708, Oct. 27, 1970, 84 Stat. 1284.)

#### REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this title", meaning title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, and is popularly known as the "Controlled Substances Act". For complete classification of title II to the Code, see second paragraph of Short Title note set out under section 801 of this title and Tables.

#### § 904. Payment of tort claims

Notwithstanding section 2680(k) of title 28, the Attorney General, in carrying out the functions of the Department of Justice under this subchapter, is authorized to pay tort claims in the manner authorized by section 2672 of title 28, when such claims arise in a foreign country in connection with the operations of the Drug Enforcement Administration abroad.

(Pub. L. 91-513, title II, § 709, Oct. 27, 1970, 84 Stat. 1284; Pub. L. 93-481, § 1, Oct. 26, 1974, 88 Stat. 1455; Pub. L. 95-137, § 1(a), Oct. 18, 1977, 91 Stat. 1169; Pub. L. 96-132, §§ 13, 15, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 97-414, § 9(g)(1), Jan. 4, 1983, 96 Stat. 2064.)

## AMENDMENTS

1983—Pub. L. 97-414 struck out subssecs. (a) and (b), which had provided, respectively, that (a) there were authorized to be appropriated \$105,000,000 for the fiscal year ending June 30, 1975, \$175,000,000 for the fiscal year ending June 30, 1976, \$200,000,000 for the fiscal year ending September 30, 1977, \$188,000,000 for the fiscal year ending September 30, 1978, \$215,000,000 for the fiscal year ending September 30, 1979, and \$198,336,000 for the fiscal year ending September 30, 1980, for the expenses of the Department of Justice in carrying out its functions under this subchapter, and that (b) no funds appropriated under any other provision of this chapter could be used for the expenses of the Department of Justice for which funds were authorized to be appropriated by former subsection (a) of this section, and removed the subsection designator (c) before "Notwithstanding".

1979—Subsec. (a). Pub. L. 96-132, § 15, added provisions authorizing appropriations of \$198,336,000 for the fiscal year ending Sept. 30, 1980.

Subsec. (c). Pub. L. 96-132, § 13, added subsec. (c).

1977—Subsec. (a). Pub. L. 95-137 substituted "September 30, 1977, \$188,000,000 for the fiscal year ending September 30, 1978, and \$215,000,000 for the fiscal year ending September 30, 1979," for "June 30, 1977," and struck out "(other than its expenses incurred in connection with carrying out section 803(a) of this title)".

1974—Subsec. (a). Pub. L. 93-481 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, substituted authorization of appropriations for fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, for authorization of appropriations for fiscal years ending June 30, 1972, June 30, 1973, and June 30, 1974.

Subsec. (b). Pub. L. 93-481 added subsec. (b).

## SUBCHAPTER II—IMPORT AND EXPORT

## CODIFICATION

This subchapter is comprised of Part A of title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285. Part B of title III contains amendatory, repealing, and transitional provisions generally classified elsewhere.

## SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 381, 824, 828, 830, 841, 842, 843, 844, 848, 849, 850, 881 of this title; title 10 section 374; title 42 section 242.

## § 951. Definitions

(a) For purposes of this subchapter—

(1) The term "import" means, with respect to any article, any bringing in or introduction of such article into any area (whether or not such bringing in or introduction constitutes an importation within the meaning of the tariff laws of the United States).

(2) The term "customs territory of the United States" has the meaning assigned to such term by general headnote 2 to the Tariff Schedules of the United States.

(b) Each term defined in section 802 of this title shall have the same meaning for purposes of this subchapter as such term has for purposes of subchapter I of this chapter.

(Pub. L. 91-513, title III, § 1001, Oct. 27, 1970, 84 Stat. 1285.)

## REFERENCES IN TEXT

General headnote 2 to the Tariff Schedules of the United States, referred to in subsec. (a)(2), is set out under section 1202 of Title 19, Customs Duties.

This subchapter, referred to in subssecs. (a) and (b), was in the original "this title" meaning title III of

Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

## EFFECTIVE DATE

Section 1105(a)-(c) of title III of Pub. L. 91-513 provided that:

"(a) Except as otherwise provided in this section, this title [see Short Title note below] shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment [Oct. 27, 1970].

"(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104 [see Short Title note below and sections 171 note, 951, 956, 957 note, 965, and 966 of this title], and this section shall become effective upon enactment [Oct. 27, 1970].

"(c)(1) If the Attorney General, pursuant to the authority of section 704(c) of title II [set out as a note under section 801 of this title], postpones the effective date of section 306 (relating to manufacturing quotas) [section 826 of this title] for any period beyond the date specified in section 704(a) [set out as a note under section 801 of this title], and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title] by paragraph (10) of section 1101(a) of this title is hereby postponed for the same period, except that the postponement made by this paragraph shall not apply to the repeal of sections 4, 5, 13, 15, and 16 of that Act [which were classified to sections 182, 503, 511, and 513 of this title and sections 4702, 4731, and 4731 note of Title 26, Internal Revenue Code].

"(2) Effective for any period of postponement, by paragraph (1) of this subsection, of the repeal of provisions of the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], that Act shall be applied subject to the following modifications:

"(A) The term 'narcotic drug' shall mean a narcotic drug as defined in section 102(16) of title II [section 802(16) of this title], and all references, in the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 [section 4731 of Title 26] are amended to refer to a narcotic drug as defined by such section 102(16) [section 802(16) of this title].

"(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title II, [set out as a note under section 822 of this title], the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title], and of a registration under section 4722 of the Internal Revenue Code of 1954 [section 4722 of Title 26] as a prerequisite to issuance of such a license, shall be superseded by a requirement of actual registration (as distinguished from provisional registration) as a manufacturer of that class of drug under section 303(a) of title II [section 823(a) of this title].

"(C) On and after the effective date of the repeal of such section 4722 [section 4722 of title 26] by section 1101(b)(3) of this title, but prior to the date specified in subparagraph (B) of this paragraph, the requirement of registration under such section 4722 [section 4722 of title 26] as a prerequisite of a manufacturer's license under the Narcotics Manufacturing Act of 1960 [sections 501 to 517 of this title] shall be superseded by a requirement of either (i) actual registration as a manufacturer under section 303 of title II [section 823 of this title] or (ii) provisional registration (by virtue of a preexisting registration under such section 4722) under section 703 of title II [set out as a note under section 822 of this title]."

## SHORT TITLE

Section 1000 of title III of Pub. L. 91-513 provided that: "This title [enacting this subchapter, amending sections 162 and 967 of this title, section 4251 of Title 18, Crimes and Criminal Procedure, section 1584 of Title 19, Customs Duties, sections 4901, 4905, 6808, 7012, 7103, 7326, 7607, 7609, 7641, 7651, and 7655 of Title 26, Internal Revenue Code, section 2901 of Title 28, Judiciary and Judicial Procedure, sections 529d, 529e, and 529f of former Title 31, Money and Finance, section 304m of Title 40, Public Buildings, Property, and Works, section 3411 of Title 42, The Public Health and Welfare, section 239a of Title 46, Shipping, and section 787 of Title 49, Appendix, Transportation, repealing sections 171 to 174, 176 to 185, 188 to 188n, 191 to 193, 197, 198, 199, and 501 to 517 of this title, sections 1401 to 1407, and 3616 of Title 18, sections 4701 to 4707, 4711 to 4716, 4721 to 4726, 4731 to 4736, 4741 to 4746, 4751 to 4757, 4761, 4762, 4771 to 4776, 7237, 7238, and 7491 of Title 26, sections 529a and 529g of former Title 31, section 1421m of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under this section and sections 171 and 957 of this title] may be cited as the 'Controlled Substances Import and Export Act.'"

## RULES AND REGULATIONS

Section 1105(d) of Pub. L. 91-513 provided: "Any orders, rules and regulations which have been promulgated under any law affected by this title [see Short Title note above] and which are in effect on the day preceding enactment of this title [Oct. 27, 1970] shall continue in effect until modified, superseded, or repealed."

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 830 of this title.

## § 952. Importation of controlled substances

(a) Controlled substances in schedule I or II and narcotic drugs in schedule III, IV, or V; exceptions

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any controlled substance in schedule I or II of subchapter I of this chapter, or any narcotic drug in schedule III, IV, or V of subchapter I of this chapter, except that—

(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and

(2) such amounts of any controlled substance in schedule I or II or any narcotic drug in schedule III, IV, or V that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States—

(A) during an emergency in which domestic supplies of such substance or drug are found by the Attorney General to be inadequate, or

(B) in any case in which the Attorney General finds that competition among domestic manufacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 823 of this title,

may be so imported under such regulations as the Attorney General shall prescribe. No crude

opium may be so imported for the purpose of manufacturing heroin or smoking opium.

(b) Nonnarcotic controlled substances in schedule III, IV, or V

It shall be unlawful to import into the customs territory of the United States from any place outside thereof (but within the United States), or to import into the United States from any place outside thereof, any nonnarcotic controlled substance in schedule III, IV, or V, unless such nonnarcotic controlled substance—

(1) is imported for medical, scientific, or other legitimate uses, and

(2) is imported pursuant to such notification or declaration requirements as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.

(c) Coca leaves

In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a) of this section, the Attorney General may permit the importation of additional amounts of coca leaves. All cocaine and ecgonine (and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made) contained in such additional amounts of coca leaves imported under this subsection shall be destroyed under the supervision of an authorized representative of the Attorney General.

(Pub. L. 91-513, title III, § 1002, Oct. 27, 1970, 84 Stat. 1285; Pub. L. 95-633, title I, § 105, Nov. 10, 1978, 92 Stat. 3772.)

## REFERENCES IN TEXT

Schedules I, II, III, IV, and V, referred to in subsecs. (a) and (b), are set out in section 812(c) of this title.

## AMENDMENTS

1978—Subsec. (b)(2). Pub. L. 95-633 added provision relating to the exception for nonnarcotic controlled substances listed in schedule I or II of the Convention on Psychotropic Substances.

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 956, 958, 960 of this title.

## § 953. Exportation of controlled substances

(a) Narcotic drugs in schedule I, II, III, or IV

It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless—

(1) it is exported to a country which is a party to—



(A) the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

(B) the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention on July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948; or

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

(2) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(3) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import, and a permit or license to import such drug has been issued by the country of import;

(4) substantial evidence is furnished to the Attorney General by the exporter that (A) the narcotic drug is to be applied exclusively to medical or scientific uses within the country of import, and (B) there is an actual need for the narcotic drug for medical or scientific uses within such country; and

(5) a permit to export the narcotic drug in each instance has been issued by the Attorney General.

**(b) Exception for exportation for special scientific purposes**

Notwithstanding subsection (a) of this section, the Attorney General may authorize any narcotic drug (including crude opium and coca leaves) in schedule I, II, III, or IV to be exported from the United States to a country which is a party to any of the international instruments mentioned in subsection (a) of this section if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

**(c) Nonnarcotic controlled substances in schedule I or II**

It shall be unlawful to export from the United States any nonnarcotic controlled substance in schedule I or II unless—

(1) it is exported to a country which has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that (A) the controlled substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, (B) it will not be exported from such country, and (C) there is an actual need for the controlled substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled substance in each instance has been issued by the Attorney General.

**(d) Exception for exportation for special scientific purposes**

Notwithstanding subsection (c) of this section, the Attorney General may authorize any nonnarcotic controlled substance in schedule I or II to be exported from the United States if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

**(e) Nonnarcotic controlled substances in schedule III or IV; controlled substances in schedule V**

It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substance in schedule V unless—

(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination;

(2) a special controlled substance invoice, in triplicate, accompanies the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping;

(3) two additional copies of the invoice are forwarded to the Attorney General before the controlled substance is exported from the United States; and

(4) in any case when a nonnarcotic controlled substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of the invoice required by paragraphs (2) and (3) of this subsection.

(Pub. L. 91-513, title III, § 1003, Oct. 27, 1970, 84 Stat. 1286; Pub. L. 95-633, title I, § 106, Nov. 10, 1978, 92 Stat. 3772.)

**REFERENCES IN TEXT**

Schedules I, II, III, IV and V, referred to in text, are set out in section 812(c) of this title.

**AMENDMENTS**

1978—Subsec. (e)(4). Pub. L. 95-633 added par. (4).

**EFFECTIVE DATE OF 1978 AMENDMENT**

Amendment by Pub. L. 95-633 effective on the date the Convention on Psychotropic Substances enters into force in the United States [July 15, 1980], see section 112 of Pub. L. 95-633, set out as an Effective Date note under section 801a of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 956, 960 of this title.

**§ 954. Transshipment and in-transit shipment of controlled substances**

Notwithstanding sections 952, 953, and 957 of this title—

(1) A controlled substance in schedule I may—

(A) be imported into the United States for transshipment to another country, or

(B) be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation,

if and only if it is so imported, transferred, or transshipped (i) for scientific, medical, or other legitimate purposes in the country of destination, and (ii) with the prior written approval of the Attorney General (which shall be granted or denied within 21 days of the request).

(2) A controlled substance in schedule II, III, or IV may be so imported, transferred, or transshipped if and only if advance notice is given to the Attorney General in accordance with regulations of the Attorney General.

(Pub. L. 91-513, title III, § 1004, Oct. 27, 1970, 84 Stat. 1287.)

## REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in text, are set out in section 812(c) of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 956, 961 of this title.

**§ 955. Possession on hoard vessels, etc., arriving in or departing from United States**

It shall be unlawful for any person to bring or possess on board any vessel or aircraft, or on board any vehicle of a carrier, arriving in or departing from the United States or the customs territory of the United States, a controlled substance in schedule I or II or a narcotic drug in schedule III or IV, unless such substance or drug is a part of the cargo entered in the manifest or part of the official supplies of the vessel, aircraft, or vehicle.

(Pub. L. 91-513, title III, § 1005, Oct. 27, 1970, 84 Stat. 1287.)

## REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in text, are set out in section 812(c) of this title.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 956, 960 of this title.

**§ 955a. Manufacture, distribution, or possession with intent to manufacture or distribute controlled substances on board vessels**

(a) Vessels of United States or vessels subject to jurisdiction of United States on high seas

It is unlawful for any person on board a vessel of the United States, or on board a vessel

subject to the jurisdiction of the United States on the high seas, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(h) Citizens of United States

It is unlawful for a citizen of the United States on board any vessel to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(c) Vessels within customs waters of United States

It is unlawful for any person on board any vessel within the customs waters of the United States to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(d) Intent or knowledge of unlawful importation into United States

It is unlawful for any person to possess, manufacture, or distribute a controlled substance—

(1) intending that it be unlawfully imported into the United States; or

(2) knowing that it will be unlawfully imported into the United States.

(e) Exceptions; burden of proof

Subsections (a), (b), and (c) of this section do not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of his duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States, or negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

(f) Jurisdiction and venue

Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court for the District of Columbia.

(g) Penalties

(1) Any person who commits an offense defined in subsection (a), (b), (c) or (d) of this section shall be punished in accordance with the penalties set forth in section 960 of this title.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under sections 955a to 955d of this title shall be punished in accordance with the penalties set forth in section 962 of this title if such offense is a second or subsequent offense as defined in section 962(b) of this title.

**(h) Extension beyond territorial jurisdiction of United States**

This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

(Pub. L. 96-350, § 1, Sept. 15, 1980, 94 Stat. 1159.)

**CODIFICATION**

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 955b, 955c, 955d of this title.

**§ 955b. Definitions**

As used in sections 955a to 955d of this title—

(a) "Customs waters" means those waters as defined in section 1401(j) of title 19.

(b) "High seas" means all waters beyond the territorial seas of the United States and beyond the territorial seas of any foreign nation.

(c) "Vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended [46 U.S.C. 1451 et seq.], or owned in whole or in part by the United States or a citizen of the United States, or a corporation created under the laws of the United States, or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accordance with article 5 of the Convention on the High Seas, 1958.

(d) "Vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the Convention on the High Seas, 1958.

(e) "Comprehensive Act" means the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 801-966). All terms used in sections 955a to 955d of this title that are defined in the Comprehensive Act have the meanings assigned to them by that Act.

(Pub. L. 96-350, § 2, Sept. 15, 1980, 94 Stat. 1160.)

**REFERENCES IN TEXT**

The Federal Boat Safety Act of 1971, as amended, referred to in subsec. (c), is Pub. L. 92-75, Aug. 10, 1971, 85 Stat. 213, as amended, which is classified principally to chapter 33 (§ 1451 et seq.) of Title 46, Shipping. For complete classification of this Act to the Code, see Short Title note set out under section 1451 of Title 46 and Tables.

The Convention on the High Seas, 1958, referred to in subssecs. (c) and (d), is not classified to the Code.

The Comprehensive Drug Abuse Control and Prevention Act of 1970, referred to in subsec. (e), probably means the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended, which is classified principally to this chapter [§ 801 et seq.]. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

**CODIFICATION**

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

**§ 955c. Attempt or conspiracy**

Any person who attempts or conspires to commit any offense defined in sections 955a to 955d of this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 96-350, § 3, Sept. 15, 1980, 94 Stat. 1160.)

**CODIFICATION**

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

**§ 955d. Seizure or forfeiture of property**

Any property described in section 881(a) of this title that is used or intended for use to commit, or to facilitate the commission of, an offense under sections 955a to 955d of this title shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 881 of this title.

(Pub. L. 96-350, § 4, Sept. 15, 1980, 94 Stat. 1160.)

**CODIFICATION**

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 955a, 955b, 955c of this title.

**§ 956. Exemption authority****(a) Individual possessing controlled substance**

The Attorney General may by regulation exempt from sections 952(a) and (b), 953, 954, and 955 of this title any individual who has a controlled substance (except a substance in schedule I) in his possession for his personal medical use, or for administration to an animal accompanying him, if he lawfully obtained such substance and he makes such declaration (or gives such other notification) as the Attorney General may by regulation require.

**(b) Compound, mixture, or preparation**

The Attorney General may by regulation except any compound, mixture, or preparation containing any depressant or stimulant substance listed in paragraph (a) or (b) of schedule III or in schedule IV or V from the application of all or any part of this subchapter if (1) the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant or stimulant effect on the central nervous system, and (2) such ingredients are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances

which do have a depressant or stimulant effect on the central nervous system.

(Pub. L. 91-513, title III, § 1006, Oct. 27, 1970, 84 Stat. 1288.)

#### REFERENCES IN TEXT

Schedules I, III, IV, and V, referred to in text, are set out in section 812(c) of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 957 of this title.

#### § 957. Persons required to register

##### (a) Coverage

No person may—

(1) import into the customs territory of the United States from any place outside thereof (but within the United States), or import into the United States from any place outside thereof, any controlled substance, or

(2) export from the United States any controlled substance in schedule I, II, III, or IV,

unless there is in effect with respect to such person a registration issued by the Attorney General under section 958 of this title, or unless such person is exempt from registration under subsection (b) of this section.

##### (b) Exemptions

(1) The following persons shall not be required to register under the provisions of this section and may lawfully possess a controlled substance:

(A) An agent or an employee of any importer or exporter registered under section 958 of this title if such agent or employee is acting in the usual course of his business or employment.

(B) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of his business or employment.

(C) An ultimate user who possesses such substance for a purpose specified in section 802(25) of this title and in conformity with an exemption granted under section 956(a) of this title.

(2) The Attorney General may, by regulation, waive the requirement for registration of certain importers and exporters if he finds it consistent with the public health and safety; and may authorize any such importer or exporter to possess controlled substances for purposes of importation and exportation.

(Pub. L. 91-513, title III, § 1007, Oct. 27, 1970, 84 Stat. 1288.)

#### REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in subsection (a)(2), are set out in section 812(c) of this title.

#### PROVISIONAL REGISTRATION

Section 1104 of Pub. L. 91-513 provided that:

“(a)(1) Any person—

“(A) who is engaged in importing or exporting any controlled substance on the day before the effective date of section 1007 [May 1, 1971],

“(B) who notifies the Attorney General that he is so engaged, and

“(C) who is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act [section 360 of this title] or under section 4722 of the Internal Revenue Code of 1954 [section 4722 of title 26],

shall, with respect to each establishment for which such registration is in effect under any such section, be deemed to have a provisional registration under section 1008 [section 958 of this title] for the import or export (as the case may be) of controlled substances.

“(2) During the period his provisional registration is in effect under this section, the registration number assigned such person under such section 510 or under such section 4722 (as the case may be) shall be his registration number for purposes of part A of this title [this subchapter].

“(b) The provisions of section 304 [section 824 of this title], relating to suspension and revocation of registration, shall apply to a provisional registration under this section.

“(c) Unless sooner suspended or revoked under subsection (b), a provisional registration of a person under subsection (a)(1) of this section shall be in effect until—

“(1) the date on which such person has registered with the Attorney General under section 1008 [section 958 of this title] or has had his registration denied under such section, or

“(2) such date as may be prescribed by the Attorney General for registration of importers or exporters, as the case may be,

whichever occurs first.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 954, 960, 965 of this title.

#### § 958. Registration requirements

(a) Applicants to import or export controlled substances in schedule I or II

The Attorney General shall register an applicant to import or export a controlled substance in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 823(a) of this title shall be considered.

(b) Activity limited to specified substances

Registration granted under subsection (a) of this section shall not entitle a registrant to import or export controlled substances in schedule I or II other than those specified in the registration.

(c) Applicants to import controlled substances in schedule III, IV, or V or to export controlled substances in schedule III or IV

The Attorney General shall register an applicant to import a controlled substance in schedule III, IV, or V or to export a controlled substance in schedule III or IV, unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in paragraphs (1) through (6) of section 823(d) of this title shall be considered.

**(d) Registration period**

No registration shall be issued under this subchapter for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, section 822(f), 824, 825, and 827 of this title shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 823 of this title.

**(e) Rules and regulations**

The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration of importers and exporters of controlled substances under this section.

**(f) Scope of authorized activity**

Persons registered by the Attorney General under this section to import or export controlled substances may import or export (and for the purpose of so importing or exporting, may possess) such substances to the extent authorized by their registration and in conformity with the other provisions of this subchapter and subchapter I of this chapter.

**(g) Separate registrations for each principal place of business**

A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances.

**(h) Emergency situations**

Except in emergency situations as described in section 952(a)(2)(A) of this title, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 952(a) of this title authorizing the importation of such a substance, the Attorney General shall give manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

(Pub. L. 91-513, title III, § 1008, Oct. 27, 1970, 84 Stat. 1289.)

**REFERENCES IN TEXT**

Schedules I, II, III, IV, and V, referred to in subsecs. (a) to (c), are set out in section 812(c) of this title.

This subchapter, referred to in subsec. (f), was in the original "this title", meaning title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 957, 965 of this title.

**§ 959. Manufacture or distribution for purposes of unlawful importation**

It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II—

(1) intending that such substance will be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This section is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

(Pub. L. 91-513, title III, § 1009, Oct. 27, 1970, 84 Stat. 1289.)

**REFERENCES IN TEXT**

Schedules I and II, referred to in text, are set out in section 812(c) of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 960 of this title.

**§ 960. Prohibited acts A****(a) Unlawful acts**

Any person who—

(1) contrary to section 952, 953, or 957 of this title, knowingly or intentionally imports or exports a controlled substance,

(2) contrary to section 955 of this title, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or

(3) contrary to section 959 of this title, manufactures or distributes a controlled substance,

shall be punished as provided in subsection (b) of this section.

**(b) Penalties**

(1) In the case of a violation under subsection (a) of this section with respect to a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than \$25,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than three years in addition to such term of imprisonment.

(2) In the case of a violation under subsection (a) of this section with respect to a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall be imprisoned not more than five years, or be fined not more than \$15,000, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in addition to such term of imprisonment, include (A) a special parole term of not less than two years if such controlled substance is in schedule I, II, III, or (B) a special parole term of not less than one year if such controlled substance is in schedule IV.

**(c) Special parole term**

A special parole term imposed under this section or section 962 of this title may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been re-

voked may be required to serve all or part of the remainder of the new term of imprisonment. The special term provided for in this section and in section 962 of this title is in addition to, and not in lieu of, any other parole provided for by law.

(Pub. L. 91-513, title III, § 1010, Oct. 27, 1970, 84 Stat. 1290.)

#### REFERENCES IN TEXT

Schedules I, II, III, and IV, referred to in subsec. (b), are set out in section 812(c) of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 955a, 962 of this title.

#### § 961. Prohibited acts B

Any person who violates section 954 of this title shall be subject to the following penalties:

(1) Except as provided in paragraph (2), any such person shall, with respect to any such violation, be subject to a civil penalty of not more than \$25,000. Sections 842(c)(1) and (c)(3) of this title shall apply to any civil penalty assessed under this paragraph.

(2) If such a violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally and the trier of fact specifically finds that the violation was so committed, such person shall be sentenced to imprisonment for not more than one year or a fine of not more than \$25,000 or both.

(Pub. L. 91-513, title III, § 1011, Oct. 27, 1970, 84 Stat. 1290.)

#### § 962. Second or subsequent offenses

##### (a) Term of imprisonment and fine

Any person convicted of any offense under this subchapter is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise authorized, or by both. If the conviction is for an offense punishable under section 960(b) of this title, and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

##### (b) Determination of status

For purposes of this section, a person shall be considered convicted of a second or subsequent offense if, prior to the commission of such offense, one or more prior convictions of him for a felony under any provision of this subchapter or subchapter I of this chapter or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final.

##### (c) Procedures applicable

Section 851 of this title shall apply with respect to any proceeding to sentence a person under this section.

(Pub. L. 91-513, title III, § 1012, Oct. 27, 1970, 84 Stat. 1291.)

#### REFERENCES IN TEXT

This subchapter, referred to in subsec. (b), was in the original "this title", meaning title III of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1285, as amended. Part A of title III comprises this subchapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 955a, 960 of this title.

#### § 963. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(Pub. L. 91-513, title III, § 1013, Oct. 27, 1970, 84 Stat. 1291.)

#### § 964. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub. L. 91-513, title III, § 1014, Oct. 27, 1970, 84 Stat. 1291.)

#### § 965. Applicability of part E of subchapter I

Part E of subchapter I of this chapter shall apply with respect to functions of the Attorney General (and of officers and employees of the Bureau of Narcotics and Dangerous Drugs) under this subchapter, to administrative and judicial proceedings under this subchapter, and to violations of this subchapter, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under subchapter I of this chapter, to such proceedings under subchapter I of this chapter, and to violations of subchapter I of this chapter. For purposes of the application of this section to section 880 or 881 of this title, any reference in such section 880 or 881 of this title to "this subchapter" shall be deemed to be a reference to this subchapter, any reference to section 823 of this title shall be deemed to be a reference to section 958 of this title, and any reference to section 822(d) of this title shall be deemed to be a reference to section 957(b)(2) of this title.

(Pub. L. 91-513, title III, § 1015, Oct. 27, 1970, 84 Stat. 1291; Pub. L. 95-633, title III, § 301(b), Nov. 10, 1978, 92 Stat. 3778.)

#### AMENDMENTS

1978—Pub. L. 95-633 inserted "or 881" following "880" wherever appearing.

#### TRANSFER OF FUNCTIONS

For abolition of the Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, and creation of a single comprehensive agency for the enforcement of drug laws by Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, see

Transfer of Functions note set out under section 881 of this title.

#### § 966. Authority of Secretary of the Treasury

Nothing in this chapter shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

(Pub. L. 91-513, title III, § 1016, Oct. 27, 1970, 84 Stat. 1291.)

#### REFERENCES IN TEXT

This chapter, referred to in text, was, in the original, "this Act", meaning Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1236, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables.

The customs laws, referred to in text, are classified generally to Title 19, Customs Duties.

#### § 967. Smuggling of controlled substances; investigations; oaths; subpoenas; witnesses; evidence; production of records; territorial limits; fees and mileage of witnesses

For the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title), the Secretary of the Treasury may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of records (including books, papers, documents and tangible things which constitute or contain evidence) relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place within the customs territory of the United States, except that a witness shall not be required to appear at any hearing distant more than 100 miles from the place where he was served with subpoena. Witnesses summoned by the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Oaths and affirmations may be made at any place subject to the jurisdiction of the United States.

(Aug. 11, 1955, ch. 800, § 1, 69 Stat. 684; Oct. 27, 1970, Pub. L. 91-513, title III, § 1102(t), 84 Stat. 1294.)

#### CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1034 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198a of this title.

#### AMENDMENTS

1970—Pub. L. 91-513 substituted "section 545 of title 18 (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 802 of this title)" for "the laws of the United States relating to narcotic drugs and marijuana" and substituted the customs territory of the United States for any State or any territory or other place subject to the jurisdiction of the United States in the defined area from within which the attendance of

witnesses and the production of records may be required, and struck out provisions making the discretion of the Secretary of the Treasury the determinative factor as to what is relevant or material to the investigation.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-513 effective on the first day of the seventh calendar month that begins after Oct. 26, 1970, see 1105(a) of Pub. L. 91-513, set out as an Effective Date note under section 051 of this title.

#### SAVINGS PROVISIONS

Prosecutions for any violation of law occurring, and civil seizures or forfeitures and injunctive proceedings commenced, prior to the effective date of amendment of this section by section 1102 of Pub. L. 91-513 not to be affected or abated by reason thereof, see section 1103 of Pub. L. 91-513, set out as a Savings Provisions note under sections 171 to 174 of this title.

#### § 968. Service of subpoena; proof of service

A subpoena of the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

(Aug. 11, 1955, ch. 800, § 2, 69 Stat. 685.)

#### CODIFICATION

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1035 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198b of this title.

#### § 969. Contempt proceedings

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or wherever he may be found.

(Aug. 11, 1955, ch. 800, § 3, 69 Stat. 685.)

**CODIFICATION**

Section was not enacted as part of the Comprehensive Drug Abuse Prevention and Control Act of 1970 which comprises this chapter.

Section was formerly classified to section 1036 of Title 31 prior to the general revision and enactment of Title 31, Money and Finance, by Pub. L. 97-258, § 1, Sept. 13, 1982, 96 Stat. 877.

Section was also formerly classified to section 198c of this title.

**CHAPTER 14—ALCOHOL AND DRUG ABUSE EDUCATIONAL PROGRAMS AND ACTIVITIES**

§§ 1001 to 1007. Repealed. Pub. L. 97-35, title V, § 587(a)(3), Aug. 13, 1981, 95 Stat. 480

Section 1001, Pub. L. 91-527, § 2, Dec. 3, 1970, 84 Stat. 1385; Pub. L. 93-422, § 2(b), Sept. 21, 1974, 88 Stat. 1154; Pub. L. 95-336, § 2, Aug. 4, 1978, 92 Stat. 451, set forth Congressional declaration of purpose for Alcohol and Drug Abuse Education Act.

Section 1002, Pub. L. 91-527, § 3, Dec. 3, 1970, 84 Stat. 1386; Pub. L. 93-422, § 2(c), Sept. 21, 1974, 88 Stat. 1155; Pub. L. 95-336, §§ 3, 4, Aug. 4, 1978, 92 Stat. 451, 452; S. Res. 30, Mar. 7, 1979; Pub. L. 96-88, title III, § 301(a)(1), (2)(Q), (b)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, set forth grant and contract authority, etc., for projects and programs.

Section 1003, Pub. L. 91-527, § 4, Dec. 3, 1970, 84 Stat. 1387; Pub. L. 93-422, § 2(d), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 96-88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to record-keeping requirements, and access to and inspection of records.

Section 1004, Pub. L. 91-527, § 5, Dec. 3, 1970, 84 Stat. 1388; Pub. L. 93-422, § 2(e), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 96-88, title V, § 508(i), Oct. 17, 1979, 93 Stat. 693, related to technical assistance to local agencies, etc.

Section 1005, Pub. L. 91-527, § 6, Dec. 3, 1970, 84 Stat. 1386, related to nature of payments.

Section 1006, Pub. L. 91-527, § 7, Dec. 3, 1970, 84 Stat. 1388, related to utilization of services and facilities of Federal agencies and public and private agencies and institutions.

Section 1007, Pub. L. 91-527, § 8, Dec. 3, 1970, 84 Stat. 1388; Pub. L. 93-422, § 2(f), Sept. 21, 1974, 88 Stat. 1157; Pub. L. 95-336, § 5, Aug. 4, 1978, 92 Stat. 453; Pub. L. 96-88, title III, § 301(a)(1), (2)(Q), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, defined "Secretary" and "State".

**EFFECTIVE DATE OF REPEAL**

Repeal effective Oct. 1, 1982, see section 587(a) of Pub. L. 97-35, set out as section 3863(a) of Title 20, Education.

**LIMITATION ON AUTHORIZATION OF APPROPRIATIONS TO CARRY OUT THIS CHAPTER FOR FISCAL YEAR 1982**

Section 507 of Pub. L. 97-35, authorized \$3,000,000 for fiscal year 1982 to carry out provisions of this chapter.

**CHAPTER 15—EGG PRODUCTS INSPECTION**

Sec.

- 1031. Congressional statement of findings.
- 1032. Congressional declaration of policy.
- 1033. Definitions.
- 1034. Inspection of egg products.

- (a) Processing operations and establishments subject to coverage; rules and regulations.

Sec.

- (b) Authority of Secretary to retain, segregate, and reinspect eggs and egg products.
  - (c) Condemnation of adulterated products; destruction or reprocessing; procedure upon appeal from determination of adulteration.
  - (d) Inspection of business premises, facilities, inventory, operations, and records of egg handlers; inspection of records and inventory of others required to keep records; authority of Secretary of Health and Human Services to inspect food manufacturing establishments, institutions, and restaurants; access to places of business.
- 1035. Sanitary operating practices in official plants.
    - (a) Premises, facilities, and equipment.
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  - 1036. Pasteurization and labeling of egg products at official plants.
    - (a) Contents of label.
    - (b) False or misleading or use of nonapproved labeling or containers; determination by Secretary; procedures applicable; appeal.
  - 1037. Prohibited acts.
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  - 1039. Eggs and egg products not intended for use as human food; inspection; denaturing or otherwise identifying.
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  - 1045. Limitation on entry of eggs and egg products and other materials into official plants.
  - 1046. Imports.
    - (a) Authorization for importation of restricted eggs; prerequisites for importation of egg products; treatment as domestic articles subject to this chapter; marking and labeling exemption for personal consumption.
    - (b) Terms and conditions for destruction.
    - (c) Payment of storage, cartage, and labor charges by owner or consignee; liens.
    - (d) Prohibition.