

Controlled Substances Import and Export Act

TITLE 21 - FOOD AND DRUGS

CHAPTER 13 - DRUG ABUSE PREVENTION AND CONTROL

SUBCHAPTER II - IMPORT AND EXPORT

Section 1000 [951 note] Short Title

This title may be cited as the "Controlled Substances Import and Export Act."

§ 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 note 2 of the Harmonized Tariff Schedule 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.

§ 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, poppy straw, concentrate of poppy straw, 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,
 - (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, or

- (C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses, 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, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule 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.

§ 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 substances 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 for consumption for medical, scientific, or other legitimate purposes;
- (2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and
- (3) in the case of a nonnarcotic controlled substance in schedule IV or V which 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.

§ 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.

§ 955. Possession on board 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.

§ 955a to 955d. Transferred.

§ 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.

§ 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 list I chemical, or
- (2) export from the United States any controlled substance or list I chemical, 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 or list I chemical:
 - (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 or list I chemical 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) (FOOTNOTE 1) 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 or list I chemicals for purposes of importation and exportation.

(FOOTNOTE 1) Section 802(25) of this title, referred to in subsec. (b)(1)(C), was redesignated section 802(26) of this title by Pub. L. 98-473, title II, Sec. 507(a), Oct. 12, 1984, 98 Stat. 2071, and was further redesignated section 802(27) of this title by Pub. L. 99-570, title I, Sec. 1003(b)(2), Oct. 27, 1986, 100 Stat. 3207-6.

§ 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 this section shall not entitle a registrant to import or export controlled substances other than 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; applicants to import or export list I chemicals**

- (1) 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.
- (2)
 - (A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 802(39)(A)(iv) of this title.
 - (B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 823(h) of this title.

- **(d) Denial of application**

- (1) The Attorney General may deny an application for registration under subsection (a) of this section if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a) of this section) and with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.
 - (2) The Attorney General may deny an application for registration under subsection (c) of this section, or revoke or suspend a registration under subsection (a) or (c) of this section, if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c) of this section) or with the United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971.
 - (3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, or list I chemical or chemicals, with respect to which grounds for revocation or suspension exist.
 - (4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the 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, or his designee, 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 subsection 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.
 - (5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension 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.
 - (6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances or list I chemicals 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 seized or placed under seal. No disposition may be made of any controlled substances or list I chemicals 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 or list I chemicals. 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 list I chemicals (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances or list I chemicals in accordance with section 881(e) of this title.
- **(e) 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, sections 822(f), 825, 827, and 830 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.

- **(f) 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 or list I chemicals under this section.

- **(g) Scope of authorized activity**

Persons registered by the Attorney General under this section to import or export controlled substances or list I chemicals 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.

- **(h) 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 or list I chemicals.

- **(i) 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.

§ 959. Possession, manufacture, or distribution of controlled substance.

- **(a) Manufacture or distribution for purpose 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 into waters within a distance of 12 miles of the coast of the United States; or
- (2) knowing that such substance will be unlawfully imported into the United States or into waters within a distance of 12 miles of the coast of the United States.

- **(b) Possession, manufacture, or distribution by person on board aircraft**

It shall be unlawful for any United States citizen on board any aircraft, or any person on board an aircraft owned by a United States citizen or registered in the United States, to -

- (1) manufacture or distribute a controlled substance; or
- (2) possess a controlled substance with intent to distribute.

- **(c) Acts committed outside territorial jurisdiction of United States; venue**

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.

§ 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, possesses with intent to distribute, 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 of subsection (a) of this section involving -
 - (A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;
 - (B) 5 kilograms or more of a mixture or substance containing a detectable amount of -
 - (i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;
 - (iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);
 - (C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;
 - (D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
 - (E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

- (F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- (1- (2-phenylethyl) -4-piperidiny1) propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-pheny propanamide;
 - (G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or
 - (H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.
- (FOOTNOTE 1)

the person committing such violation shall be sentenced to a term of imprisonment of not less than 10 years and not more than life and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than 20 years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 20 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$8,000,000 if the defendant is an individual or \$20,000,000 if the defendant is other than an individual, or both. Any sentence under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

- (2) In the case of a violation of subsection (a) of this section involving -
 - (A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;
 - (B) 500 grams or more of a mixture or substance containing a detectable amount of -
 - (i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (ii) cocaine, its salts, optical and geometric isomers, and salts or isomers;
 - (iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - (iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

- (C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;
- (D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
- (E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);
- (F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- (1- (2-phenylethyl) -4-piperidiny1) propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-pheny propanamide;
- (G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana; or
- (H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.(FOOTNOTE 2)

the person committing such violation shall be sentenced to a term of imprisonment of not less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposed under this paragraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.

- (3) In the case of a violation under subsection (a) of this section involving a controlled substance in schedule I or II, the person committing such violation shall, except as

provided in paragraphs (1), (2), and (4), be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years and not more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this paragraph which provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

- (4) In the case of a violation under subsection (a) of this section with respect to less than 50 kilograms of marihuana, except in the case of 100 or more marihuana plants regardless of weight, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall be imprisoned not more than five years, or be fined not to exceed the greater of that authorized in accordance with the provisions of title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If a sentence under this paragraph provides for imprisonment, the sentence shall, in addition to such term of imprisonment, include
 - (A) a term of supervised release of not less than two years if such controlled substance is in schedule I, II, III, or
 - (B) a term of supervised release of not less than one year if such controlled substance is in schedule IV.

(FOOTNOTE 1) So in original. The period probably should be a semicolon.

(FOOTNOTE 2) So in original. The period probably should be a semicolon.

(c) Repealed. Pub. L. 98-473, title II, Sec. 225, formerly Sec. 225(a), Oct. 12, 1984, 98 Stat. 2030, as amended by Pub. L. 99-570, title I, Sec. 1005(c), Oct. 27, 1986, 100 Stat. 3207-6

- **(d) Penalty for importation or exportation**

A person who knowingly or intentionally -

- (1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this subchapter or subchapter I of this chapter;
- (2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;
- (3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this subchapter or subchapter I of this chapter;
- (4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;
- (5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 971 of this title applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 971(e)(2) or (3) of this title by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or
- (6) imports or exports a listed chemical in violation of section 957 or 971 of this title, shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.

§ 961. Prohibited acts B -- Penalties.

Any person who violates section 954 of this title or fails to notify the Attorney General of an importation or exportation under section 971 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.

§ 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 term of supervised release 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 such person for a felony drug offense 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.

§ 963. Attempt and conspiracy.

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

§ 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.

§ 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.

§ 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.

§ 970. Criminal forfeitures.

Section 853 of this title, relating to criminal forfeitures, shall apply in every respect to a violation of this subchapter punishable by imprisonment for more than one year.

§ 971. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals.

- **(a) Notification prior to transaction**

Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

- **(b) Regular customers or importers**

- (1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) of this section does not apply to a transaction between a regulated person and a regular customer or to an importation by a regular importer. At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.
- (2) The regulations under this subsection shall provide that the initial notification under subsection (a) of this section with respect to a customer of a regulated person or to an importer shall, upon the expiration of the 15-day period, qualify the customer as a regular customer or the importer as a regular importer, unless the Attorney General otherwise notifies the regulated person in writing.

- **(c) Suspension of importation or exportation; disqualification of regular customers or importers; hearing**

- (1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) of this section does not apply by reason of subsection (b) of this section) or may disqualify any regular customer or regular importer on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction.
- (2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5. The hearing shall be held on an expedited basis and not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.

- **(d) Broker or trader for international transaction in listed chemical**

A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this subchapter and subchapter I of this chapter.

- **(e) Application of notification requirement to exports of listed chemical; waiver**

- (1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) of this section apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular

customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

- (2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion control. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.
- (3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

PART B - AMENDMENTS AND REPEALS, TRANSITIONAL AND EFFECTIVE DATE PROVISIONS

SEC 1101. REPEALS

- (a) The following provisions of law are repealed:
 - (1) The Act of February 23, 1887 (21 USC 191-193).
 - (2) The Narcotic Drugs Import and Export Act (21 USC 171, 173, 174-184, 185).
 - (3) The Act of March 28, 1928 (31 USC 529a).
 - (4) Sections 2(b), 6, 7, and 8 of the Act of June 14, 1930 (21 USC 162(b), 173a, 197, 198).
 - (5) The Act of July 3, 1930 (21 USC 199).
 - (6) Section 6 of the Act of March 28, 1928 (31 USC 529g).
 - (7) The Opium Poppy Control Act of 1942 (21 USC 188-188n).
 - (8) Section 15 of the Act of August 1, 1956 (48 USC 1421m).
 - (9) The Act of July 11, 1941 (21 USC 184a).
 - (10) The Narcotics Manufacturing Act of 1960 (21 USC 501-517).
- (b)
 - (1)
 - (A) Chapter 68 of title 18 of the United States Code (relating to narcotics) is repealed.
 - (B) The item relating to such chapter 68 in the analysis of part I of such title 18 is repealed.
 - (2)
 - (A) Section 3616 of title 18 of the United States Code (relating to use of confiscated motor vehicles) is repealed.
 - (B) The item relating to such section 3616 in the analysis of chapter 229 of such title 18 is repealed.

- (3)
 - (A) Subchapter A of chapter 39 of the Internal Revenue Code of 1954 (relating to narcotic drugs and marihuana) is repealed.
 - (B) The table of subchapters of such chapter 39 is amended by striking out

"SUBCHAPTER A. NArcotic drugs and marihuana."
- (4)
 - (A) Sections 7237 (relating to violation of laws relating to narcotic drugs and to marihuana) and 7238 (relating to violations of laws relating to opium for smoking) of the Internal Revenue Code of 1954 is repealed.
 - (B) The table of sections of part II Subchapter A of chapter 75 of the Internal Revenue Code of 1954 is amended by striking out the items relating such sections 7237 and 7238.
- (5)
 - (A) Section 7491 of the Internal Revenue Code of 1954 (relating to burden of proof of exemptions in case of marihuana offense) is repealed.
 - (B) The table of sections for subchapter E of chapter 76 of the Internal Revenue Code of 1954 is amended by striking out the item relating to such section 7491.

Sec 1102. [4901(a)]. Conforming Amendments

- (a) Section 4901(a) of the Internal Revenue Code of 1954 is amended by striking out the comma immediately before "4461" and inserting in lieu thereof "or", and by striking out ",4721 (narcotic drugs), or 4751 (marihuana)".
- (b) Section 4905(b)(1) of the Internal Revenue Code of 1954 (relating to registration) is amended by striking out ", narcotics, marihuana," and ", 4722, 4753,".
- (c) Section 6808 of the Internal Revenue Code of 1954 (relating to special provisions relating to stamps) is amended by striking out paragraph (8).
- (d) Section 7012 of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out subsections (a) and (b).
- (e) Section 7103 of the Internal Revenue Code of 1954 (relating to bonds required with respect to certain products) is amended by striking out subparagraph (D).
- (f) Section 7326 of the Internal Revenue Code of 1954 (relating to disposal or forfeited or abandoned property in special cases) is amended by striking out subsection (b).
- (g)
 - (1) Section 7607 of the Internal Revenue Code of 1954 (relating to additional authority for Bureau of Narcotics and Bureau of Customs) is amended -
 - (A) by striking out "The Commissioner, Deputy Commissioner, Assistant to the Commissioner, and agents of the Bureau of Narcotics of the Department of the Treasury, and officers" and inserting in lieu thereof "officers".
 - (B) by striking out in paragraph (2) "narcotic drugs (as defined in section 4731) or marihuana (as defined in section 4761)" and inserting in lieu thereof "narcotic drugs (as defined in section 102(16) of the Controlled Substances Act) or marihuana (as defined in section 102(15) of the Controlled Substances Act)"; and
 - (C) by striking out "Bureau of Narcotics and" in the section heading.

- (2) The item relating to section 7607 in the table of contents of subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out "Bureau of Narcotics and".
- **(h)** Section 7609(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).
- **(i)** Section 7641 of the Internal Revenue Code of 1954 (relating to supervision of operations of certain manufacturers) is amended by striking out "opium suitable for smoking purposes,".
- **(j)** Section 7651 of the Internal Revenue Code of 1954 (relating to administration and collection of taxes in possessions) is amended by striking out "and in sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana)".
- **(k)** Section 7655(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).
- **(l)** Section 2901(a) of title 28 of the United States Code is amended by striking out "as defined by section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined by section 102(16) of the Controlled Substances Act".
- **(m)** The last sentence of the second paragraph of section 584 of the Act of June 17, 1930 (19 U.S.C. 1584), is amended to read as follows: "As used in this paragraph, the terms 'opiate' and 'marihuana' shall have the same meaning given those terms by sections 102(17) and 102(15), respectively, of the Controlled Substances Act."
- **(n)**
 - (1) The first section of the Act of August 7, 1939 (31 U.S.C. 529a), is repealed.
 - (2) Section 3 of such Act (31 U.S.C. 529d) is amended by striking out "or the Commissioner of Narcotics, as the case may be,".
 - (3) Section 4 of such Act (31 U.S.C. 529e) is amended by striking out "or narcotics" each place it appears.
 - (4) Section 5 of such Act (31 U.S.C. 529f) is amended by striking out "or narcotics" in the first sentence.
- **(o)** Section 308(c)(2) of the Act of August 27, 1935 (40 U.S.C. 304m) is amended by striking out "Narcotic Drug Import and Export Act" and inserting in lieu thereof "Controlled Substances Act".
- **(p)** Paragraph (a) of section 301 of the Narcotic Addict Rehabilitation Act of 1966 (42 U.S.C. 3411) is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act."
- **(q)**¹
- **(r)** Paragraph (d) of section 7 of the Act of August 9, 1939 (49 U.S.C. 787) is amended to read as follows:
 - "(d) The term 'narcotic drug' shall have the meaning given that term by section 102(16) of the Controlled Substances Act and shall also include marihuana as defined by section 102(15) of such Act;".
- **(s)** Paragraph (a) of section 4251 of title 18, United States Code, is amended by striking out "as defined in section 4731 of the Internal Revenue Code of 1954, as amended," and inserting in lieu thereof "as defined in section 102(16) of the Controlled Substances Act".
- **(t)** The first section of the Act of August 11, 1955 (21 U.S.C. 198a), is amended to read as follows: "That 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 of the United

States Code (relating to smuggling goods into the United States) with respect to any controlled substance (as defined in section 102 of the Controlled Substances Act), 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."

¹ So in law. Section (q) is omitted.

Sec 1103. [171 note] Pending Proceedings

- (a) Prosecutions for any violation of law occurring prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.
- (b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 1101 shall not be affected by the repeals or amendments made by such section or section 1102, or abated by reason thereof.

Sec 1104. [957 note] Provisional Registration

- (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
 - (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 1986 (formerly I.R.C. 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.

SEC 1105. [951 note] Effective Dates and Other Transitional Provisions

- (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 1986 (formerly I.R.C. 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 1986 (formerly I.R.C. 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).
- (d) 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.