

OPIUM AND NARCOTIC LAWs

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[PUBLIC—No. 221—60TH CONGRESS.]
[H. R. 27427.]

An Act To prohibit the importation and use of opium for other than medicinal purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That after the first day of April, nineteen hundred and nine, it shall be unlawful to import into the United States opium in any form or any preparation or derivative thereof: *Provided,* That opium and preparations and derivatives thereof, other than smoking opium or opium prepared for smoking, may be imported for medicinal purposes only, under regulations which the Secretary of the Treasury is hereby authorized to prescribe, and when so imported shall be subject to the duties which are now or may hereafter be imposed by law.

SEC. 2. That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any opium or any preparation or derivative thereof contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and the offender shall be fined in any sum not exceeding five thousand dollars nor less than fifty dollars, or by imprisonment for any time not exceeding two years, or both. Whenever, on trial for a violation of this section, the defendant is shown to have, or to have had, possession of such opium or preparation or derivative thereof, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the jury.

Approved, February 9, 1909.

(1)

Public Law 96-359, approved Sept. 26, 1980. Amends Controlled Substances Act (21 USC 873):
Section 503—CSA
Section 203—Psychotropic Substances Act 1978
Marihuana penalties

[PUBLIC—No. 46—63D CONGRESS.]

[H. R. 1966.]

An Act To amend an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," approved February ninth, nineteen hundred and nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," approved February ninth, nineteen hundred and nine, is hereby amended so as to read as follows:

"That after the first day of April, nineteen hundred and nine, it shall be unlawful to import into the United States opium in any form or any preparation or derivative thereof: *Provided*, That opium and preparations and derivatives thereof, other than smoking opium or opium prepared for smoking, may be imported for medicinal purposes only, under regulations which the Secretary of the Treasury is hereby authorized to prescribe, and when so imported shall be subject to the duties which are now or may hereafter be imposed by law.

"SEC. 2. That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any opium or any preparation or derivative thereof contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and the offender shall be fined in any sum not exceeding \$5,000 nor less than \$50 or by imprisonment for any time not exceeding two years, or both. Whenever, on trial for a violation of this section, the defendant is shown to have, or to have had, possession of such opium or preparation or derivative thereof, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the jury.

"SEC. 3. That on and after July first, nineteen hundred and thirteen, all smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported after the first day of April, nineteen hundred and nine, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

"SEC. 4. That any person subject to the jurisdiction of the United States who shall, either as principal or as accessory, receive or have in his possession, or conceal on board of or transport on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, shall not report the same to the principal officer thereof, shall be subject to the penalty provided in

section two of this Act. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury: *Provided, however*, That any master of a vessel or other water craft, or person in charge of a railroad car or other vehicle, shall not be liable under this section if he shall satisfy the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vessel, and any such article shall be forfeited and shall be destroyed.

"SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States, or into any territory under the control or jurisdiction thereof, for transportation to another country, nor shall such opium be transferred or transshipped from one vessel to another vessel within any waters of the United States for immediate exportation or any other purpose.

"SEC. 6. That hereafter it shall be unlawful for any person subject to the jurisdiction of the United States to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any opium or cocaine, or any salt, derivative, or preparation of opium or cocaine, to any other country: *Provided*, That opium or cocaine, and salts, derivatives, or preparations thereof, except smoking opium or opium prepared for smoking, the exportation of which is hereby absolutely prohibited, may be exported to countries regulating their entry under such regulations as are prescribed by such country for the importation thereof into such country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

"The Secretary of State shall request all foreign Governments to communicate through the diplomatic channels copies of laws and regulations promulgated in their respective countries which prohibit or regulate the importation of the aforesaid drugs, and when received advise the Secretary of the Treasury and the Secretary of Commerce thereof; whereupon the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce shall make and publish all proper regulations for carrying the provisions of this section into effect.

"SEC. 7. That any person who exports or causes to be exported any of the aforesaid drugs in violation of the preceding section shall be fined in any sum not exceeding \$5,000 nor less than \$50 or by imprisonment for any time not exceeding two years, or both. And one-half of any fine recovered from any person or persons convicted of an offense under any section of this Act may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this Act may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case: *Provided*, That no payment for giving information shall be made to any officer or employee of the United States.

"SEC. 8. That whenever opium or cocaine or any preparations or derivatives thereof shall be found upon any vessel arriving at any

port of the United States which is not shown upon the vessel's manifest, as is provided by sections twenty-eight hundred and six and twenty-eight hundred and seven of the Revised Statutes, such vessel shall be liable for the penalty and forfeiture prescribed in section twenty-eight hundred and nine of the Revised Statutes."

Approved, January 17, 1914.

[PUBLIC—No. 47--63D CONGRESS.]

[H. R. 1967.]

An Act Regulating the manufacture of smoking opium within the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an internal-revenue tax of \$300 per pound shall be levied and collected upon all opium manufactured in the United States for smoking purposes; and no person shall engage in such manufacture who is not a citizen of the United States and who has not given the bond required by the Commissioner of Internal Revenue. Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium within the meaning of this Act.

SEC. 2. That every manufacturer of such opium shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than \$100,000; and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

SEC. 3. That all opium prepared for smoking manufactured in the United States shall be duly stamped in such a permanent manner as to denote the payment of the internal-revenue tax thereon.

SEC. 4. That the provisions of existing laws covering the engraving, issue, sale, accountability, effacement, cancellation, and the destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by the preceding section.

SEC. 5. That a penalty of not less than \$10,000 or imprisonment for not less than five years, or both, in the discretion of the court, shall be imposed for each and every violation of the preceding sections of this Act relating to opium by any person or persons; and all opium prepared for smoking wherever found within the United States without the stamps required by this Act shall be forfeited and destroyed.

SEC. 6. The provisions of the Act of October first, eighteen hundred and ninety (Twenty-sixth Statutes, page fifteen hundred and sixty-seven), in so far as they relate to the manufacture of smoking opium, are hereby repealed.

Approved, January 17, 1914.

[PUBLIC—No. 223 - 63D CONGRESS.]

[H. R. 6282.]

An Act To provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the first day of March, nineteen hundred and fifteen, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away opium or coca leaves or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business, and place or places where such business is to be carried on: *Provided,* That the office, or if none, then the residence of any person shall be considered for the purposes of this Act to be his place of business. At the time of such registry and on or before the first day of July, annually thereafter, every person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs shall pay to the said collector a special tax at the rate of \$1 per annum: *Provided,* That no employee of any person who produces, imports, manufactures, compounds, deals in, dispenses, sells, distributes, or gives away any of the aforesaid drugs, acting within the scope of his employment, shall be required to register or to pay the special tax provided by this section: *Provided further,* That the person who employs him shall have registered and paid the special tax as required by this section: *Provided further,* That officers of the United States Government who are lawfully engaged in making purchases of the above-named drugs for the various departments of the Army and Navy, the Public Health Service, and for Government hospitals and prisons, and officers of any State government, or of any county or municipality therein, who are lawfully engaged in making purchases of the above-named drugs for State, county, or municipal hospitals or prisons, and officials of any Territory or insular possession or the District of Columbia or of the United States who are lawfully engaged in making purchases of the above-named drugs for hospitals or prisons therein shall not be required to register and pay the special tax as herein required.

It shall be unlawful for any person required to register under the terms of this Act to produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away any of the aforesaid drugs without having registered and paid the special tax provided for in this section.

That the word "person" as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, so far as applicable, including the provisions of section thirty-two hundred and forty of the Revised Statutes of the United States are hereby extended to the special tax herein imposed.

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect.

SEC. 2. That it shall be unlawful for any person to sell, barter, exchange, or give away any of the aforesaid drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue. Every person who shall accept any such order, and in pursuance thereof shall sell, barter, exchange, or give away any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section five of this Act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs 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 in blank for that purpose by the Commissioner of Internal Revenue, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials, hereinbefore mentioned. Nothing contained in this section shall apply—

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this Act in the course of his professional practice only: *Provided,* That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this Act.

(b) To the sale, dispensing, or distribution of any of the aforesaid drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under this Act: *Provided, however,* That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further,* That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

(c) To the sale, exportation, shipment, or delivery of any of the aforesaid drugs by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States Government or of any State, territorial, district, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, territorial district, county, or municipal or insular hospitals or prisons.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors of internal revenue for sale by them to those persons who shall have registered and paid the special tax as required by section one of this Act in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by section one of this Act in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but shall not exceed the sum of \$1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

The provisions of this Act shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Porto Rico and the Philippine Islands the administration of this Act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those governments, and all revenues collected hereunder in Porto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this Act in said islands. The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of this Act by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations.

SEC. 3. That any person who shall be registered in any internal-revenue district under the provisions of section one of this Act shall, whenever required so to do by the collector of the district, render to

the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal-revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons, and the date when received.

SEC. 4. That it shall be unlawful for any person who shall not have registered and paid the special tax as required by section one of this Act to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: *Provided*, That nothing contained in this section shall apply to common carriers engaged in transporting the aforesaid drugs, or to any employee acting within the scope of his employment, of any person who shall have registered and paid the special tax as required by section one of this Act, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, or veterinarian required to register under the terms of this Act, who has been employed to prescribe for the particular patient receiving such drug, or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

SEC. 5. That the duplicate-order forms and the prescriptions required to be preserved under the provisions of section two of this Act, and the statements or returns filed in the office of the collector of the district, under the provisions of section three of this Act, shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector of internal revenue is hereby authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of \$1 for each one hundred words or fraction thereof in the copy or copies so requested. Any person who shall disclose the information contained in the said statements or returns or in the said duplicate-order forms, except as herein expressly provided, and except for the purpose of enforcing the provisions of this Act, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs, shall, on conviction, be fined or imprisoned as provided by section nine of this Act. And collectors of internal revenue are hereby authorized to furnish upon

written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special-tax payers under the provisions of this Act, upon payment of a fee of \$1 for each one hundred names or fraction thereof in the copy so requested.

SEC. 6. That the provisions of this Act shall not be construed to apply to the sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts, or any synthetic substitute for them: *Provided*, That such remedies and preparations are sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act. The provisions of this Act shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

SEC. 7. That all laws relating to the assessment, collection, remission, and refund of internal-revenue taxes, including section thirty-two hundred and twenty-nine of the Revised Statutes of the United States, so far as applicable to and not inconsistent with the provisions of this Act, are hereby extended and made applicable to the special taxes imposed by this Act.

SEC. 8. That it shall be unlawful for any person not registered under the provisions of this Act, and who has not paid the special tax provided for by this Act, to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this section, and also of a violation of the provisions of section one of this Act: *Provided*, That this section shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this Act, having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this Act; or to any United States, State, county, municipal, District, Territorial, or insular officer or official who has possession of any said drugs, by reason of his official duties, or to a warehouseman holding possession for a person registered and who has paid the taxes under this Act; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negate any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act; and the burden of proof of any such exemption shall be upon the defendant.

SEC. 9. That any person who violates or fails to comply with any of the requirements of this Act shall, on conviction, be fined not more than \$2,000 or be imprisoned not more than five years, or both, in the discretion of the court.

SEC. 10. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint such agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this Act.

SEC. 11. That the sum of \$150,000, or so much thereof as may be necessary, be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this Act.

SEC. 12. That nothing contained in this Act shall be construed to impair, alter, amend, or repeal any of the provisions of the Act of Congress approved June thirtieth, nineteen hundred and six, entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and any amendment thereof, or of the Act approved February ninth, nineteen hundred and nine, entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," and any amendment thereof.

Approved, December 17, 1914.

[Extract Public 254—Sixty-fifth Congress—Revenue Act.]

Approved 6.55 p. m. February 24, 1919.

SEC. 1006. That section 1 of the Act of Congress approved December 17, 1914, is hereby amended to read as follows:

"SECTION 1. That on or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

"Every person who on January 1, 1919, is engaged in any of the activities above enumerated; or who between such date and the passage of this Act first engages in any of such activities, shall within 30 days after the passage of this Act make like registration, and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

"Every person who first engages in any of such activities after the passage of this Act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30th;

"Importers, manufacturers, producers, or compounders, \$24 per annum; wholesale dealers, \$12 per annum; retail dealers, \$6 per annum; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay \$3 per annum.

"Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

"Every person who sells or offers for sale any of said drugs in the original stamped packages; as hereinafter provided, shall be deemed a wholesale dealer.

"Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered for the purpose of this Act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: *Provided further*, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

"It shall be unlawful for any person required to register under the provisions of this Act to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this section.

"That the word 'person' as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, as far as necessary, are hereby extended and made applicable to this section.

"That there shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce, such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

"The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

"It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be prima facie evidence of liability to such special tax: *Provided*, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this Act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing, or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this Act of the drugs so dispensed, administered, distributed, or given away.

"And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws are, in so far

as necessary, hereby extended and made to apply to stamps provided by this section.

"That all unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeitures of unstamped articles are hereby extended to and made to apply to the articles taxed under this Act and the persons upon whom these taxes are imposed.

"Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

"The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect."

SEC. 1007. That section 6 of such Act of December 17, 1914, is hereby amended to read as follows:

"Sec. 6. That the provisions of this Act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct. Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 of this Act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this Act and, if he is not paying a tax under this Act, he shall pay a special tax of \$1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this Act. The provisions of this Act as amended shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine."

SEC. 1008. That all opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may now be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the Act of October 1, 1890, as amended by the Acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the Act of December 17, 1914, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned Acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said Acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes.

SEC. 1009. That the Act approved October 22, 1914, entitled "An Act to increase the internal revenue, and for other purposes," and the joint resolution approved December 17, 1915, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," are hereby repealed, except that the provisions of such Act shall remain in force for the assessment and collection of all special taxes imposed by sections 3 and 4 thereof, or by such sections as extended by such joint resolution, for any year or part thereof ending prior to January 1, 1917, and of all other taxes imposed by such Act, or by such Act as so extended, accrued prior to September 8, 1916, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes.

[PUBLIC—No. 227—67TH CONGRESS.]

[H. R. 2193.]

An Act To amend the Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," approved February 9, 1909, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 1 and 2 of the Act entitled "An Act to prohibit the importation and the use of opium for other than medicinal purposes," approved February 9, 1909, as amended, are amended to read as follows:

"That when used in this Act—

"(a) The term 'narcotic drug' means opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine;

"(b) The term 'United States,' when used in a geographical sense, includes the several States and Territories, and the District of Columbia;

"(c) The term 'board' means the Federal Narcotics Control Board established by section 2 of this Act; and

"(d) The term 'person' means individual, partnership, corporation, or association.

"SEC. 2. (a) That there is hereby established a board to be known as the 'Federal Narcotics Control Board' and to be composed of the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce. Except as otherwise provided in this Act or by other law, the administration of this Act is vested in the Department of the Treasury.

"(b) That it is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the board finds to be necessary to provide for medical and legitimate uses only, may be imported and brought into the United States or such territory under such regulations as the board shall prescribe. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

"(c) That if any person fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or assists in so doing, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, such person shall upon conviction be fined not more than \$5,000 and imprisoned for not more than ten years.

"(d) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2), if any other narcotic drug, be seized and forfeited

to the United States Government, without regard to its value, in the manner provided by sections 3075 and 3076 of the Revised Statutes, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the board and in its discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.

"(e) Any alien who at any time after his entry is convicted under subdivision (c) shall, upon the termination of the imprisonment imposed by the court upon such conviction and upon warrant issued by the Secretary of Labor, be taken into custody and deported in accordance with the provisions of sections 19 and 20 of the Act of February 5, 1917, entitled 'An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States,' or provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections.

"(f) Whenever on trial for a violation of subdivision (c) the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant explains the possession to the satisfaction of the jury.

"(g) The master of any vessel or other water craft, or a person in charge of a railroad car or other vehicle, shall not be liable under subdivision (c), if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, water craft, railroad car, or other vehicle; but the narcotic drug shall be seized, forfeited, and disposed of as provided in subdivision (d)."

SEC. 2. That sections 5 and 6 of such Act of February 9, 1909, as amended, are amended to read as follows:

"SEC. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States or into any territory under its control or jurisdiction for transportation to another country, or be transferred or transhipped from one vessel to another vessel within any waters of the United States for immediate exportation or for any other purpose; and except with the approval of the board, no other narcotic drug may be so admitted, transferred, or transhipped.

"SEC. 6. (a) That it shall be unlawful for any person subject to the jurisdiction of the United States Government to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any narcotic drug to any other country: *Provided*, That narcotic drugs (except smoking opium and opium prepared for smoking, the exportation of which is hereby absolutely prohibited) may be exported to a country only which has ratified and become a party to the convention and final protocol between the United States Government and other powers for the suppression of the abuses of opium and other drugs, commonly known as the International Opium Convention of 1912, and then only if (1) such country has instituted and maintains, in conformity with that convention, a system, which the board deems adequate, of permits or

licenses for the control of imports of such narcotic drugs; (2) the narcotic drug is consigned to an authorized permittee; and (3) there is furnished to the board proof deemed adequate by it, that the narcotic drug is to be applied exclusively to medical and legitimate uses within the country to which exported, that it will not be reexported from such country, and that there is an actual shortage of and a demand for the narcotic drug for medical and legitimate uses within such country.

"(b) The Secretary of State shall request all foreign Governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, advise the board thereof.

"(c) The board shall make and publish all proper regulations to carry into effect the authority vested in it by this Act."

SEC. 3. That section 8 of such Act of February 9, 1909, as amended, is amended to read as follows:

"SEC. 8. (a) That a narcotic drug that is found upon a vessel arriving at a port of the United States or territory under its control or jurisdiction and is not shown upon the vessel's manifest, or that is landed from any such vessel without a permit first obtained from the collector of customs for that purpose, shall be seized, forfeited, and disposed of in the manner provided in subdivision (d) of section 2, and the master of the vessel shall be liable (1) if the narcotic drug is smoking opium, to a penalty of \$25 an ounce, and (2) if any other narcotic drug, to a penalty equal to the value of the narcotic drug.

"(b) Such penalty shall constitute a lien upon the vessel which may be enforced by proceedings by libel in rem. Clearance of the vessel from a port of the United States may be withheld until the penalty is paid, or until there is deposited with the collector of customs at the port, a bond in a penal sum double the amount of the penalty, with sureties approved by the collector, and conditioned on the payment of the penalty (or so much thereof as is not remitted by the Secretary of the Treasury) and of all costs and other expenses to the Government in proceedings for the recovery of the penalty; in case the master's application for remission of the penalty is denied in whole or in part by the Secretary of the Treasury.

"(c) The provisions of law for the mitigation and remission of penalties and forfeitures incurred for violations of the customs laws, shall apply to penalties incurred for a violation of the provisions of this section."

SEC. 4. That such Act of February 9, 1909, as amended, is amended by adding at the end thereof a new section to read as follows:

"SEC. 9. That this Act may be cited as the 'Narcotic Drugs Import and Export Act.'"

Approved, May 26, 1922.

(EXTRACT FROM)

[PUBLIC—No. 318—67TH CONGRESS.]

[H. R. 7456.]

An Act To provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes.

SEC. 584. FALSITY OR LACK OF MANIFEST.—Any master of any vessel and any person in charge of any vehicle bound to the United States who does not produce the manifest to the officer demanding the same shall be liable to a penalty of \$500, and if any merchandise, including sea stores, is found on board of or after unloading from such vessel or vehicle which is not included or described in said manifest or does not agree therewith, the master of such vessel or the person in charge of such vehicle shall be liable to a penalty equal to the value of the merchandise so found or unladen, and any such merchandise belonging or consigned to the master or other officer or to any of the crew of such vessel, or to the owner or person in charge of such vehicle, shall be subject to forfeiture, and if any merchandise described in such manifest is not found on board the vessel or vehicle the master or other person in charge shall be subject to a penalty of \$500: *Provided*, That if the collector shall be satisfied that the manifest was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistake and that no part of the merchandise not found on board was unshipped or discharged except as specified in the report of the master, said penalties shall not be incurred.

If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or the person in charge of such vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. Such penalty shall constitute a lien upon any such vessel which may be enforced by a libel in rem. Clearance of any such vessel may be withheld until such penalty is paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law.

(19)

[PUBLIC RESOLUTION—No. 96—67TH CONGRESS.]

[H. J. Res. 453.]

Joint Resolution Requesting the President to urge upon the governments of certain nations the immediate necessity of limiting the production of habit-forming narcotic drugs and the raw materials from which they are made to the amount actually required for strictly medicinal and scientific purposes.

Whereas the unlawful use in the United States of America of opium (the coagulated juice of *Papaver somniferum*) and its derivatives (morphia, codeine, heroin), and cocaine (obtained from coca leaves—*Erythroxyllum coca*) and other preparations made from these plants or their by-products, with attendant irreparable injury to health and morality and resultant death from continued use, is increasing and spreading; and

Whereas the special committee of investigation of traffic in narcotic drugs appointed by the Secretary of the Treasury, in its report dated April 15, 1919, having considered the secrecy connected with the unlawful sale and use of these drugs, and the other difficulties in obtaining information which would give the exact number of addicts in the United States, says: "The committee is of the opinion that the total number of addicts in this country probably exceeds one million at the present time," and further says that "the range of ages of addicts was reported as twelve to seventy-five years. The large majority of addicts of all ages was reported as using morphine or opium or its preparations.

* * * Most of the heroin addicts are comparatively young, a portion of them being boys and girls under the age of twenty. This is also true of cocaine addicts," and as this report is in harmony with the opinion of many who have carefully investigated the subject; and

Whereas the annual production of opium is approximately one thousand five hundred tons, of which approximately one hundred tons, according to the best available information, is sufficient for the world's medicinal and scientific needs, and the growth of coca leaves is likewise greatly in excess of what is required for the same needs, and thus vast quantities of each are available for the manufacture of habit-forming narcotic drugs for illicit sale and consumption; and

Whereas opium is obtained in paying quantities from poppies cultivated in small areas of India, Persia, and Turkey, where the soil and climate are peculiarly adapted to the production of poppies containing opium rich in morphia, codeine, and other narcotic derivatives; and

Whereas in Persia and Turkey the growth of the poppy and the production of opium therefrom, resulting in large revenues to those respective governments, is controllable by virtue of their sovereign power to limit the exportation thereof and to restrict

production to the quantity actually required for strictly medicinal and scientific purposes; and

Whereas the British Government in India, which derives large revenues from the growth of the poppy and the production of opium therefrom, has full power to limit production to the amount actually required for strictly medicinal and scientific purposes; and

Whereas the production of coca leaves (*Erythroxyllum coca*) is limited to certain areas of Peru and Bolivia and the Netherlands possession of Java, and their production is controllable by virtue of the sovereign power of those Governments to limit the exportation thereof and to restrict production to the quantities actually required for strictly medicinal and scientific purposes; and

Whereas the antinarcotic laws of a majority of the larger nations of the world provide severe penalties for dispensing habit-forming narcotic drugs without a record of the amount thereof dispensed, thus providing reliable data from which a reasonably accurate calculation can be made of the amount of these drugs needed for strictly medicinal and scientific purposes; and

Whereas on January 23, 1912, as the result of the meeting of the International Opium Commission at Shanghai, China, in 1909, and the conference at The Hague in 1912, a treaty was made between the United States of America and other powers which was intended to suppress the illicit traffic in habit-forming narcotic drugs, and notwithstanding that upward of seven years have passed since its ratification, the treaty and the laws in pursuance thereof subsequently adopted by the contracting powers have utterly failed to suppress such illicit traffic, by reason of the fact that the treaty attempted to regulate the transportation and sale of these drugs without adequate restriction upon production, the source or root of the evil; and

Whereas failure of such treaty and the laws adopted in pursuance thereof to provide adequate restrictions upon production has resulted in extensive and flagrant violations of the laws by reason of the fact that the great commercial value of these drugs, the large financial gains derived from handling them, and the smallness of their bulk, which renders detection in transportation and sale exceedingly difficult, have induced and encouraged the unscrupulous to divert enormous quantities into the channels of illicit international traffic, thereby rendering partially, if not wholly, ineffective the treaty and the laws adopted in pursuance thereof; and

Whereas in June, 1921, the opium advisory committee of the council of the League of Nations adopted a resolution urging the restriction of the cultivation of the poppy and the production of opium therefrom to "strictly medicinal and scientific" purposes, which resolution was approved by the council of the league but when said resolution was presented for final approval to the assembly of the league, which is composed of a representative from each nation which is a member thereof, it was amended by striking out the words "strictly medicinal and scientific" and substituting the word "legitimate" in lieu thereof; and

Whereas the substitution of the general word "legitimate" for the specific words "medicinal and scientific" permits the continuance

of the sale of enormous quantities of opium and its derivatives in many sections of the Orient by the opium producers of India, Turkey, and Persia, where it is "legitimate" to sell and transport these drugs in unrestricted quantities regardless of their ultimate use by the purchaser; and

Whereas the continuance of the sale and transportation of such drugs, without restriction on their use, results in the diversion of large quantities thereof into the channels of illegal international traffic and in the unlawful importation into the United States, and the sale here for unlawful purposes, of preparations made therefrom such as morphia, heroin, and cocaine; and

Whereas the United States of America, in dealing with the traffic in habit-forming narcotic drugs within its own territory and possessions, notably in the Philippine Islands, and in cooperating sympathetically with the efforts of the Government of China in dealing with its opium problem, has always been committed, without regard to revenue, to a program for the complete suppression and prohibition of the production of and traffic in them, except for strictly medicinal and scientific purposes: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the imperative duty of the United States Government to safeguard its people from the persistent ravages of habit-forming narcotic drugs.

Sec. 2. That the effective control of these drugs can be obtained only by limiting the production thereof to the quantity required for strictly medicinal and scientific purposes, thus eradicating the source or root of the present conditions, which are solely due to production many times greater than is necessary for such purposes.

Sec. 3. That in the hope of accomplishing this end, the President be, and he hereby is, requested to urge upon the Governments of Great Britain, Persia, and Turkey the immediate necessity of limiting the growth of the poppy (*Papaver somniferum*) and the production of opium and its derivatives exclusively to the amount actually required for strictly medicinal and scientific purposes.

Sec. 4. That the President be, and he hereby is, requested to urge upon the Governments of Peru, Bolivia, and the Netherlands the immediate necessity of limiting the production of coca leaves (*Erythroxylum coca*) and their derivatives to the quantity exclusively required for strictly medicinal and scientific purposes.

Sec. 5. That the President be, and he hereby is, requested to report to Congress on the first Monday in December, 1923, the result of his action.

Approved, March 2, 1923.

[PUBLIC RESOLUTION—No. 20—68TH CONGRESS.]

[H. J. Res. 195.]

Joint Resolution Authorizing an appropriation for the participation of the United States in two international conferences for the control of the traffic in habit-forming narcotic drugs.

Whereas President Roosevelt on October 14, 1907, called an International Commission which met in Shanghai, China, in 1909 to make an investigation of the abuses growing out of the opium traffic and to suggest a means for their prevention, and thus the United States, as pointed out by President Wilson in his message to Congress on April 21, 1913, "initiated the world-wide movement toward" the abolition of the traffic in habit-forming narcotic drugs; and

Whereas the International Conference at The Hague proposed by President Taft on September 1, 1909, to give international effect and sanction to the resolutions of the Shanghai Opium Commission, resulted in the adoption of The Hague Opium Convention of 1912 by the powers assembled, which is in full force and effect between the nations which have ratified it; and

Whereas the original convention delegated certain administrative functions to the Netherlands Government (thereby constituting the said Government an agent for the execution of the treaty), and said Government called two conferences in 1913 and 1914 to consider problems growing out of the execution of the convention; and

Whereas certain of the powers parties thereto have vested in the League of Nations the agency or duty of executing the convention by treaty, dated June 28, 1923, article 23, of which provides as follows: "Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the league * * * will intrust the league with the general supervision over the execution of agreements with regard to * * * the traffic in opiums and other dangerous drugs * * *;" and

Whereas the United States, for the reasons that it is only by international cooperation that the suppression of the world-wide traffic in habit-forming narcotic drugs can be accomplished, and that this Government is bound by The Hague Opium Convention equally with other governments to work toward this end, accepted an invitation from said agency to cooperate with it in the execution of said treaty; and

Whereas as the result of conferences in January, May, and September of 1923, between the representatives of the United States and governments represented by the League of Nations, the latter governments agreed that the United States construction of The Hague Opium Convention, as provided in Public Resolution Numbered 96, Sixty-seventh Congress, approved March 2, 1923, rep-

resented the objects which the treaty was intended to accomplish, and that any other construction would render the treaty ineffective and of no practical value, and accordingly it was decided:

"1. If the purpose of The Hague Opium Convention is to be achieved according to its spirit and true intent; it must be recognized that the use of opium products for other than medical and scientific purposes is an abuse and not legitimate.

"2. In order to prevent the abuse of these products it is necessary to exercise the control of the production of raw opium in such a manner that there will be no surplus available for nonmedical and nonscientific purposes"; and

Whereas it was further decided at said conferences that two international conferences should be called in the latter part of the year 1924 to agree upon a plan to enforce said treaty in accordance with said construction and interpretation bearing in mind that the gradual suppression of the traffic in and use of prepared opium as provided in Chapter II of the convention is not yet accomplished, reservations to that effect having been noted by certain powers (Great Britain, France, Germany, Netherlands, Japan, British India, and Siam, in regard to prepared opium): Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the appropriation of such sum as may be necessary, not to exceed \$40,000, for the participation of the United States in one or both of these conferences, or any postponement thereof, to be expended under the direction of the Secretary of State, is hereby authorized: Provided, That the representatives of the United States shall sign no agreement which does not fulfill the conditions necessary for the suppression of the habit-forming narcotic drug traffic as set forth in the preamble.

Approved, May 15, 1924.

[PUBLIC—No. 274—68TH CONGRESS.]

[H. R. 7079.]

An Act Prohibiting the importation of crude opium for the purpose of manufacturing heroin.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subdivision (b) of section 2 of the Act entitled "An Act to prohibit the importation and the use of opium for other than medicinal purposes," approved February 9, 1909, as amended, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and the following: "but no crude opium may be imported or brought in for the purpose of manufacturing heroin."

Approved, June 7, 1924.

(25)

[PUBLIC—No. 564—69TH CONGRESS]

[S. 4537]

An Act To amend the Narcotic Act of Congress, approved December 17, 1914, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Narcotic Act of Congress, approved December 17, 1914, as amended, be further amended as follows:

SEC. 2. After the last sentence of section 2 add the following: "The President is further authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States lawfully entitled to sell, deal in, dispense, prescribe, and distribute the aforesaid drugs, to obtain said drugs from persons registered under this Act within the continental United States for legitimate medical purposes, without regard to the order forms described in this section."

Approved, January 22, 1927.

(26)

[PUBLIC—No. 198—70TH CONGRESS]

[H. R. 10083]

An Act To provide for advances of funds by special disbursing agents in connection with the enforcement of Acts relating to narcotic drugs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Prohibition, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by special disbursing agents in connection with the enforcement of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or cocoa leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended by the Revenue Act of 1918, and the Act entitled "An Act to amend an Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes,' approved February 9, 1909," as amended by the Act of May 26, 1922, known as "The Narcotic Drugs Import and Export Act."

Such advances in connection with the enforcement of the Acts hereinabove stated relating to narcotic drugs may be made, notwithstanding the provisions of section 3648 of the Revised Statutes of the United States (section 529, title 31, United States Code), from the appropriations available for the enforcement of such Acts and Acts amendatory thereof or supplementary thereto.

Approved, March 28, 1928.

(27)

(EXTRACT FROM PUBLIC—No. 562—70TH CONGRESS)

SEC. 432. TAX ON NARCOTICS.

The fourth paragraph of section 1 of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," approved December 17, 1914, as amended, is amended to read as follows, effective July 1, 1928:

"Importers, manufacturers, producers, or compounders, \$24 a year; wholesale dealers, \$12 a year; retail dealers, \$3 a year; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay \$1 each year or fraction thereof during which they engage in any of such activities."

Approved, May 29, 1928.

(28)

[PUBLIC—No. 672—70TH CONGRESS]

[H. R. 13645]

An Act To establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act—

(a) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the innumerable alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms.

(b) The term "addict" means any person who habitually uses any habit-forming narcotic drug as defined in this Act so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

Sec. 2. That the Attorney General, the Secretary of the Treasury, and the Secretary of War be, and are hereby, authorized and directed to select sites for two institutions for the confinement and treatment of persons who have been or shall be convicted of offenses against the United States, including persons convicted by general courts-martial and consular courts, and who are addicted to the use of habit-forming narcotic drugs, and for the confinement and treatment of addicts who voluntarily submit themselves for treatment.

Sec. 3. That upon selection of appropriate sites the Secretary of the Treasury shall submit to Congress estimates of the cost of purchasing same, together with estimates of the expense necessary to construct the proper buildings thereon. The Secretary of the Treasury at the same time, and annually thereafter, shall submit estimates in detail for all expenses of maintaining the said United States narcotic farms, including salaries of all necessary officers and employees.

Sec. 4. That the Secretary of the Treasury is hereby authorized to cause the plans, drawings, designs, specifications, and estimates for the remodeling or construction of the necessary buildings to be prepared in the office of the Supervising Architect, Treasury Department, and the work of remodeling or constructing the said buildings to be supervised by the field force of said office: *Provided*, That the proper appropriations for the support and maintenance of the office of the Supervising Architect be reimbursed for the cost of preparing such plans, drawings, designs, specifications, and estimates for the aforesaid work and the supervision of the remodeling and construction of said buildings.

(29)

SEC. 5. That the control and management of the United States narcotic farms shall be vested in the Secretary of the Treasury, who shall have power to appoint competent superintendents, assistant superintendents, physicians, pharmacists, psychologists, nurses, and all other officers and employees necessary for the safe-keeping, care, protection, treatment, and discipline of the inmates. There is hereby created in the office of the Surgeon General of the Bureau of the Public Health Service, in the Department of the Treasury, a division to be known as the Narcotics Division, which shall be in charge of a physician trained in the treatment and care of narcotic addicts, and which division shall have charge of the management, discipline, and methods of treatment of said United States narcotic farms under the rules and regulations promulgated by the Secretary of the Treasury.

SEC. 6. That the care, discipline, and treatment of the persons admitted to or confined in a United States narcotic farm shall be designed to rehabilitate them, restore them to health, and where necessary train them to be self-supporting and self-reliant. For this purpose the Secretary of the Treasury shall have authority to promulgate all necessary rules and regulations for the government of the officers and inmates of said United States narcotic farms. The Surgeon General of the Bureau of the Public Health Service shall also give the authorized representatives of each State the benefit of his experience in the administration of said United States narcotic farms and the treatment of persons confined therein through the publication and dissemination of information on methods of treatment and research in this field, together with individual and group case histories, to the end that each State may be encouraged to provide similar facilities for the care and treatment of narcotic addicts within their own jurisdiction.

SEC. 7. That the authority vested with the power to designate the place of confinement of a prisoner is hereby authorized and directed to transfer to the United States narcotic farms, as accommodations become available, all addicts, as herein defined, who are now or shall hereafter be sentenced to confinement in or be confined in any penal, correctional, disciplinary, or reformatory institution of the United States, including those addicts convicted of offenses against the United States who are confined in State and Territorial prisons, penitentiaries, and reformatories: *Provided*, That no addict shall be transferred to a United States narcotic farm who, in the opinion of the officer authorized to direct the transfer, is not a proper subject for confinement in such an institution either because of the nature of the crime he has committed, or his apparent incorrigibility. The authority vested with the power to designate the place of confinement of a prisoner is authorized to transfer from a United States narcotic farm to the institution from which he was received, or to such other institution as may be designated by the proper authority, any addict whose presence at a United States narcotic farm is detrimental to the well-being of the institution, or who does not continue to be a narcotic addict under the terms of this Act. All transfers to or from a narcotic farm shall be made by the officer in charge of such farm, and the actual and necessary expenses incident to such transfers shall be paid from the appropriation for the maintenance of such farm.

SEC. 8. That it shall be the duty of each prosecuting officer, when sentence is pronounced, to report to the authority vested with the power to designate the place of confinement the name of each convicted person believed by him to be an addict, as herein defined, his reasons for such belief, and all pertinent facts bearing on such addiction, together with the nature of the offense.

SEC. 9. That the inmates of said narcotic farms shall be employed in such manner and under such conditions as the Secretary of the Treasury may direct. The Secretary of the Treasury may, in his discretion, establish industries, plants, factories, or shops for the manufacture of articles, commodities, and supplies for the United States Government: require any Government department or establishment or other institution appropriated for directly or indirectly by the Congress of the United States to purchase at current market prices as determined by the Secretary of the Treasury, or his authorized representative, such articles, commodities, or supplies as meet their specifications; and the Secretary of the Treasury shall provide for the payment to the inmates or their dependents such pecuniary earnings as he may deem proper, and establish a working-capital fund for said industries out of any funds appropriated for said narcotic farms; and said working-capital fund shall be available for the purchase, repair, or replacement of machinery or equipment, for the purchase of raw materials and supplies, and for the employment of necessary civilian officers and employees: *Provided*, That at the opening of each regular session of Congress the Secretary of the Treasury shall make a detailed report to Congress of the receipts and expenditures made from said working-capital fund.

SEC. 10. That any inmate of said narcotic farms or any narcotic addict confined in any institution convicted of an offense against the United States shall not be eligible for parole under sections 1, 2, 3, 4, 5, 6, 7, and 8 of the Act of Congress approved June 25, 1910, being an Act to provide for the parole of United States prisoners, and for other purposes, or under the provisions of any Act or regulation relating to parole, or receive any commutation allowance for good conduct in accordance with the provisions of the Act of Congress approved June 21, 1902, and entitled "An Act to regulate commutation for good conduct for United States prisoners," and the Acts amendatory thereof and supplemental thereto, unless and until the Surgeon General of the Bureau of the Public Health Service shall have certified that said inmate is no longer a narcotic addict as defined by this Act. When such certificate shall have been made, the board of parole of the penal, correctional, disciplinary, or reformatory institution from which such former addict was transferred may authorize his release on parole without transfer back to such institution.

SEC. 11. That not later than one month prior to the expiration of the sentence of any addict confined in a United States narcotic farm, he shall be examined by the Surgeon General of the Bureau of the Public Health Service, or his authorized representative. If he believes the person to be discharged is still an addict within the meaning of this Act and that he may by further treatment in a United States narcotic farm be cured of his addiction, the addict shall be informed, under such rules and regulations as the Secretary of the Treasury may promulgate, of the advisability of his submitting himself to further treatment. The addict may then apply in writing

to the Secretary of the Treasury for further treatment in a United States narcotic farm for a period not exceeding the maximum length of time considered necessary by the Surgeon General of the Bureau of the Public Health Service. Upon approval of the application by the Secretary of the Treasury or his authorized agent, the addict may be given such further treatment as is necessary to cure him of his addiction: *Provided*, That if any addict voluntarily submits himself to treatment he may be confined in a United States narcotic farm for a period not exceeding the maximum amount of time estimated by the Surgeon General of the Bureau of the Public Health Service as necessary to effect a cure or until he ceases to be an addict within the meaning of this Act.

SEC. 12. That any person, except an unconvicted alien, addicted to the use of habit-forming narcotic drugs, whether or not he shall have been convicted of an offense against the United States, may apply to the Secretary of the Treasury, or his authorized representative, for admission to a United States narcotic farm.

Any such addict shall be examined by the Surgeon General of the Bureau of the Public Health Service or his authorized agent, who shall report to the Secretary of the Treasury whether the applicant is an addict within the meaning of this Act; whether he believes he may by treatment in a United States narcotic farm be cured of his addiction and the estimated length of time necessary to effect a cure, and any further pertinent information bearing on the addiction, habits, or character of the applicant. The Secretary of the Treasury may, in his discretion, admit the applicant to a United States narcotic farm. No such addict shall be admitted unless he voluntarily submits to treatment for the maximum amount of time estimated by the Surgeon General of the Bureau of the Public Health Service as necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted. The Secretary of the Treasury may require any such addict voluntarily applying to pay the cost of his subsistence, care, and treatment. All such money shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure was made: *Provided*, That if any addict voluntarily submits himself to treatment he may be confined in a United States narcotic farm for a period not exceeding the maximum amount of time estimated by the Surgeon General of the Bureau of the Public Health Service as necessary to effect a cure of the addiction or until he ceases to be an addict within the meaning of this Act: *And provided further*, That any person who voluntarily submits himself for treatment at a United States narcotic farm shall not forfeit or abridge thereby any of his rights as a citizen of the United States; nor shall such submission be used against him in any proceeding in any court, and that the record of his voluntary commitment shall be confidential and not divulged.

SEC. 13. Every person convicted of an offense against the United States shall upon discharge, or upon his release on parole, from a United States narcotic farm be furnished with the gratuities and transportation authorized by law to be furnished had his discharge or release been from the penal, correctional, disciplinary, or reform-

atory institution to which he was sentenced or from which he was transferred.

Any court of the United States having the power to suspend the imposition or execution of sentence, and place defendants on probation under any of the existing laws, may impose as one of the conditions of such probation that the defendant, if an addict, as herein defined, shall be admitted and submit himself for treatment at a United States narcotic farm until discharged therefrom as cured. Upon the discharge of any such probationer from a United States narcotic farm, he shall be furnished with the gratuities and transportation authorized to be furnished by the Act of July 3, 1926, entitled "An Act to increase the clothing and cash gratuities furnished to persons discharged from prisons." The actual and necessary expense incident to transporting such probationer to such farm and to furnishing such transportation and gratuities, shall be paid from the appropriation for the maintenance of such farm: *Provided*, That where existing law vests a discretion in any officer as to the place to which transportation shall be furnished or as to the amount of clothing and gratuities to be furnished, such discretion shall be exercised by the Secretary of the Treasury with respect to addicts discharged from United States narcotic farms.

SEC. 14. Any person not authorized by law or by the Secretary of the Treasury who introduces or attempts to introduce into a United States narcotic farm or within the grounds adjoining or adjacent thereto any habit-forming narcotic drugs as defined in this Act is guilty of a felony, and is punishable by confinement in the penitentiary for a period of not more than ten years.

SEC. 15. It shall be unlawful for any person properly committed thereto to escape or attempt to escape from a narcotic farm, and any such person upon apprehension and conviction in a United States court shall be punished by imprisonment for not more than five years, such sentence to begin upon the expiration of the sentence for which said person was originally confined.

SEC. 16. It shall be unlawful for any person to procure the escape of any inmate properly committed to a narcotic farm or to advise, connive at, aid, or assist in such escape, or conceal any such inmate after such escape, and upon conviction in a United States court shall be punished by imprisonment in the penitentiary for not more than three years.

SEC. 17. Wherever an alien addict has been transferred to either of the United States narcotic farms provided for in this Act who is entitled to his discharge but is subject to deportation in lieu of being returned to the penal institution from which he came, he shall be deported by the authority vested by law with power over deportation.

Approved, January 19, 1929.

[PUBLIC—No. 357—71ST CONGRESS]

[H. R. 11143]

An Act To create in the Treasury Department a Bureau of Narcotics, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be in the Department of the Treasury a bureau to be known as the Bureau of Narcotics and a Commissioner of Narcotics who shall be at the head thereof. The Commissioner of Narcotics shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of \$9,000 per annum. The commissioner shall make an annual report to Congress.

SEC. 2. (a) The Secretary of the Treasury is authorized to appoint, without regard to the civil service laws, one deputy commissioner and, in accordance with the civil service laws, such other officers and employees as he deems necessary to execute the functions vested in such bureau. The salaries of the deputy commissioner and of such officers and employees shall be fixed in accordance with the Classification Act of 1923, as amended (U. S. C., title 5, ch. 13; U. S. C., Supp. III, title 5, ch. 13). The deputy commissioner shall act as Commissioner of Narcotics during the absence or disability of such commissioner, or in the event that there is no commissioner. In case of the absence or disability of the commissioner and the deputy commissioner, or in the event that there is no commissioner and deputy commissioner, the Secretary of the Treasury is authorized to designate an officer or employee of the Treasury Department to act as Commissioner of Narcotics.

(b) In order to aid in the detection and prevention of the unlawful importation of narcotic drugs into the United States, and under such regulations as the Secretary of the Treasury may prescribe, the Commissioner of Narcotics may confer or impose upon such officers and employees of the Bureau of Narcotics, as he may designate any of the rights, privileges, powers, or duties of customs officers and employees, and may assign any of such officers and employees of the Bureau of Narcotics to duty at ports of entry or other places specific by such commissioner.

SEC. 3. (a) The Federal Narcotics Control Board established by the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, ch. 6), is hereby abolished, and all the authority, powers, and functions exercised by such board are hereby transferred to and shall be vested in and exercised and performed by the Commissioner of Narcotics.

(b) The Secretary of the Treasury is authorized to confer or impose any of the rights, privileges, powers, and duties in respect of narcotic drugs enumerated in subdivision (a) of section 4 of the Act entitled "An Act to create a Bureau of Customs and a Bureau of Prohibition in the Department of the Treasury," approved March 3, 1927 (U. S.

C., title 5, sec. 281c), upon the Commissioner of Narcotics, or any officer or employee of the Bureau of Narcotics.

(c) The Secretary of the Treasury is authorized to transfer to the Bureau of Narcotics such attorneys and other officers and employees of the Bureau of Prohibition, except the deputy commissioner in charge of narcotics (whose office is hereby abolished), the deputy commissioner in charge of prohibition, the Commissioner of Prohibition, and the assistant commissioner, together with such records and property (including office equipment), as may be necessary for the exercise by the Bureau of Narcotics of the functions vested in it.

(d) All unexpended balances of appropriations under the control of the Bureau of Prohibition for the enforcement of any laws relating to narcotic drugs and available on the date this Act takes effect shall be available for expenditure by the Bureau of Narcotics in the same manner and to the same extent as if the Bureau of Narcotics has been directly named in the laws making such appropriations.

(e) All orders, rules, and regulations in respect of any laws relating to narcotic drugs which have been issued by the Commissioner of Prohibition or the Federal Narcotics Control Board and which are in effect on the date this Act takes effect shall, after such date, continue in effect as though this Act had not been enacted or until modified, superseded, or repealed by the Commissioner of Narcotics, with the approval of the Secretary of the Treasury.

(f) All proceedings, investigations, and other matters pending in or before the Bureau of Prohibition or the Federal Narcotics Control Board in respect of the administration or enforcement of any laws relating to narcotic drugs shall be continued and brought to final determination before the Bureau of Narcotics.

SEC. 4. (a) The Narcotics Division in the office of the Surgeon General of the United States Public Health Service in the Treasury Department, as created by the Act entitled "An Act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes," approved January 19, 1929 (U. S. C., Supp. III, title 21, ch. 8), shall be known as the Division of Mental Hygiene. The authority, powers, and functions exercised by such Narcotics Division are hereby transferred to the Division of Mental Hygiene. The medical officer of the Public Health Service in charge of said division shall hold the rank and receive the pay and allowances of Assistant Surgeon General while so serving.

(b) The Surgeon General of the Public Health Service is authorized and directed to make such studies and investigations, as may be necessary, of the abusive use of narcotic drugs; of the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States; and of the causes, prevalence, and means for the prevention and treatment of mental and nervous diseases. The Surgeon General shall report to the Secretary of the Treasury not later than the 1st day of September each year the results of such studies and investigations. The results of such studies and investigations

of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be made available to the Commissioner of Narcotics, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the Narcotic Drugs Import and Export Act, as amended.

(c) The Secretary of the Treasury is hereby authorized to appoint such professional, technical, and clerical assistants as may be necessary to carry out the provisions of this section.

SEC. 5. Any person, corporation, association, or partnership aggrieved by any order, rule, or decision of the Commissioner of Narcotics, or by his failure to rule upon or decide any matter presented to him by proper application, may appeal therefrom to the Secretary of the Treasury, under such regulations as he may prescribe, who may affirm, reverse, or modify such action or direct such action to be taken as he may deem equitable and just.

SEC. 6. In addition to the amount of coca leaves which may be imported under section 2 (b) of the Narcotic Drugs Import and Export Act, the Commissioner of Narcotics is authorized to permit, in accordance with regulations issued by him, the importation of additional amounts of coca leaves: *Provided*, That after the entry thereof into the United States all cocaine, 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, shall be destroyed under the supervision of an authorized representative of the Commissioner of Narcotics. All coca leaves imported under this section shall be subject to the duties which are now or may hereafter be imposed upon such coca leaves when imported.

SEC. 7. The Secretary of the Treasury shall cooperate with the Secretary of State in the discharge of the international obligations of the United States concerning the traffic in narcotic drugs.

SEC. 8. That the Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed, if any, to effect the end named, and (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation 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. The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect.

SEC. 9. This Act shall take effect upon the expiration of thirty days after the date of its enactment.

Approved, June 14, 1930.

[PUBLIC—No. 502—71ST CONGRESS]

[H. R. 3395]

An Act Authorizing the Commissioner of Narcotics to pay for information concerning violations of the narcotic laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Narcotics is authorized and empowered to pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, 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: *Provided*, That all payments under authority of this Act to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment must be supported by a voucher with an accompanying certificate of the said consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on said voucher.

Approved, July 3, 1930.

(37)

[PUBLIC RESOLUTION—No. 96—71ST CONGRESS]

[H. J. Res. 367]

Joint Resolution To amend the Act entitled "An Act to create in the Treasury Department a Bureau of Narcotics, and for other purposes," approved June 14, 1930.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 2 of the Act entitled "An Act to create in the Treasury Department a Bureau of Narcotics, and for other purposes," approved June 14, 1930, is amended by striking out the word "specific" and inserting in lieu thereof the word "specified."

Sec. 2. Section 9 of such Act of June 14, 1930, is amended to read as follows:

"Sec. 9. This Act shall take effect on July 1, 1930."

Approved, June 26, 1930.

(38)

[PUBLIC RESOLUTION—No. 130—71ST CONGRESS]

[H. J. Res. 480]

Joint Resolution Authorizing an appropriation to defray the expenses of participation by the United States in the Conference on the Limitation of the Manufacture of Narcotic Drugs to be held at Geneva, Switzerland, on May 27, 1931.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of defraying the expenses of participation by the Government of the United States in the Conference on the Limitation of the Manufacture of Narcotic Drugs to be held at Geneva, Switzerland, on May 27, 1931, by means of delegates to be appointed by the President, an appropriation in the sum of \$35,000, or so much thereof as may be necessary, to be expended under the direction of the Secretary of State, is hereby authorized for travel expenses and subsistence or per diem in lieu of subsistence (notwithstanding the provisions of any other Act), stenographic and other services by contract if deemed necessary without regard to section 3709 of the Revised Statutes (U. S. C., title 41, sec. 5), printing and binding, compensation of employees in the District of Columbia and elsewhere, rent of rooms, office, and typewriters, purchase of books and documents, periodicals and newspapers, official cards, entertainment, and such other expenses as the Secretary of State shall deem proper.

Approved, March 3, 1931.

(39)

[PUBLIC RESOLUTION—No. 136—71ST CONGRESS]

[H. J. Res. 531]

Joint Resolution Making an appropriation for expenses of participation by the Government of the United States in the Conference on the Limitation of the Manufacture of Narcotic Drugs.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That for the expenses of participation by the Government of the United States in the Conference on the Limitation of the Manufacture of Narcotic Drugs to be held at Geneva, Switzerland, on May 27, 1931, as provided by the Public Resolution approved March 8, 1931, including travel expenses and subsistence or per diem in lieu of subsistence (notwithstanding the provisions of any other Act), stenographic and other services, by contract if deemed necessary without regard to section 8709 of the Revised Statutes (U. S. C., title 41, sec. 5), printing and binding, compensation of employees in the District of Columbia and elsewhere, rent of rooms, office, and typewriters, purchase of books and documents, periodicals and newspapers, official cards, entertainment, and such other expenses as the Secretary of State shall deem proper, to be expended under the direction of the Secretary of State, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$35,000, which shall remain available until June 30, 1932.

Approved, March 4, 1931.

(40)

(EXTRACT FROM)

[PUBLIC—No. 270—71ST CONGRESS]

SEC. 8. Any person not authorized by law or by the Attorney General or his representative who introduces or attempts to introduce into or upon the grounds of the institutions herein authorized any narcotic drug, weapon, or any other contraband article or thing, or any letter or message intended to be received by an inmate thereof, shall be guilty of a felony and punishable by imprisonment for a period of not more than ten years.

Approved, May 27, 1930.

(41)

(EXTRACT FROM)

[PUBLIC—No. 361—71st CONGRESS]

[H. R. 2667]

An Act To provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

PAR. 59. Opium containing not less than 8.5 per centum of anhydrous morphine, \$3 per pound; morphine, morphine sulphate, and all opium alkaloids and salts, esters, and other derivatives thereof, \$3 per ounce; cocaine, ecgonine, and salts, esters, and other derivatives thereof, \$2.60 per ounce; tincture of opium, such as laudanum, and other liquid preparations of opium, not specially provided for, 60 per centum ad valorem; opium containing less than 8.5 per centum of anhydrous morphine, \$6 per pound: *Provided*, That nothing herein contained shall be so construed as to repeal or in any manner impair or affect the provisions of the Narcotic Drugs Import and Export Act, as amended.

SEC. 584. FALSITY OR LACK OF MANIFEST—PENALTIES.

If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or the person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. Such penalty shall, notwithstanding the proviso in section 594 of this Act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalty and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such smoking opium or opium prepared for smoking was on board. Clearance of any such vessel may be withheld until such penalty is paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law.

Approved, June 17, 1930, at 12.59 p. m.

(42)

[PUBLIC—No. 683—71st CONGRESS]

[H. R. 3394]

An Act To provide for the deportation of aliens convicted and sentenced for violation of any law regulating traffic in narcotics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any alien (except an addict who is not a dealer in, or peddler of, any of the narcotic drugs mentioned in this Act) who, after the enactment of this Act, shall be convicted and sentenced for violation of or conspiracy to violate any statute of the United States taxing, prohibiting, or regulating the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, or any salt, derivative, or preparation of opium or coca leaves, shall be taken into custody and deported in manner provided in sections 19 and 20 of the Act of February 5, 1917, entitled "An Act to regulate the immigration of aliens to, and the residence of aliens in, the United States."

Approved, February 18, 1931.

(43)

(EXTRACT FROM)

[PUBLIC—No. 288—74TH CONGRESS]

SEC. 204. (a) The last paragraph of section 584 of the Tariff Act of 1930 (U. S. C., Supp. VII, title 19, sec. 1584) is amended to read as follows:

"If any of such merchandise so found consists of heroin, morphine, or cocaine, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of \$10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 594 of this Act (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law."

SEC. 209. Section 4197 of the Revised Statutes, as amended (U. S. C., title 46, sec. 91), is amended by striking out the second sentence and inserting in lieu thereof the following:

"If any vessel bound to a foreign port (other than a licensed yacht not engaging in any trade nor in any way violating the revenue laws of the United States) departs from any port or place in the United States without a clearance, or if the master delivers a false manifest, or does not answer truly the questions demanded of him, or, having received a clearance adds to the cargo of such vessel without having mentioned in the report outwards the intention to do so, or if the departure of the vessel is delayed beyond the second day after obtaining clearance without reporting the delay to the collector, the master or other person having the charge or command of such vessel shall be liable to a penalty of not more than \$1,000 nor less than \$500, or if the cargo consists in any part of narcotic drugs, or any spirits, wines, or other alcoholic liquors (sea stores excepted), a penalty of not more than \$5,000 nor less than \$1,000, for each offense, and the vessel shall be detained in any port of the United States until the said penalty is paid or secured."

Approved, August 5, 1935.

(EXTRACT FROM)

[PUBLIC—No. 5—72D CONGRESS]

Fort Worth, Texas, Narcotic Farm: For acquisition of site under the authority of the Act entitled "An Act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes," approved January 19, 1929 (U. S. C., Supp. V, secs. 222, 223), \$164,780, to remain available until June 30, 1933.

Approved, February 2, 1932.

(EXTRACT FROM)

[PUBLIC—No. 740—74TH CONGRESS]

[H. R. 12395]

AN ACT

To provide revenue, equalize taxation, and for other purposes.

SEC. 806. REGISTRATION UNDER THE NARCOTIC LAWS.

(a) The fourth paragraph of section 1 of the Act entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", approved December 17, 1914, as amended (38 Stat. 785), is amended to read as follows:

"Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound any of the aforesaid drugs, \$24 per annum; wholesale dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, \$12 per annum; retail dealers, lawfully entitled to sell and deal in any of the aforesaid drugs, \$8 per annum; physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, \$1 per annum or fraction thereof during which they engage in any of such activities; persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory any of the aforesaid drugs for the purpose of research, instruction, or analysis shall pay \$1 per annum, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of the aforesaid drugs as the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer, employee, or agent of the Treasury Department."

(b) The second proviso of section 6 of the said Act of December 17, 1914, as amended, is amended by inserting after the words "mentioned in this section" the following: "lawfully entitled to manufacture, produce, compound, or vend such preparations and remedies."

(c) This section shall take effect on July 1, 1936.

Approved, June 22, 1936, 9 p. m.

(46)

[PUBLIC—No. 238—75TH CONGRESS]

[CHAPTER 553—1ST SESSION]

[H. R. 6906]

AN ACT

To impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act—

(a) The term "person" means an individual, a partnership, trust, association, company, or corporation and includes an officer or employee of a trust, association, company, or corporation, or a member or employee of a partnership, who, as such officer, employee, or member, is under a duty to perform any act in respect of which any violation of this Act occurs.

(b) 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; but shall 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.

(c) The term "producer" means any person who (1) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (2) harvests and transfers or makes use of marihuana.

(d) The term "Secretary" means the Secretary of the Treasury and the term "collector" means collector of internal revenue.

(e) The term "transfer" or "transferred" means any type of disposition resulting in a change of possession but shall not include a transfer to a common carrier for the purpose of transporting marihuana.

SEC. 2. (a) Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall (1) within fifteen days after the effective date of this Act, or (2) before engaging after the expiration of such fifteen-day period in any of the above-mentioned activities, and (3) thereafter, on or before July 1 of each year, pay the following special taxes respectively:

(1) Importers, manufacturers, and compounders of marihuana, \$24 per year.

(2) Producers of marihuana (except those included within subdivision (4) of this subsection), \$1 per year, or fraction thereof, during which they engage in such activity.

(3) Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer, or prescribe

(47)

marihuana to patients upon whom they in the course of their professional practice are in attendance, \$1 per year or fraction thereof during which they engage in any of such activities.

(4) Any person not registered as an importer, manufacturer, producer, or compounder who obtains and uses marihuana in a laboratory for the purpose of research, instruction, or analysis, or who produces marihuana for any such purpose, \$1 per year, or fraction thereof, during which he engages in such activities.

(5) Any person who is not a physician, dentist, veterinary surgeon, or other practitioner and who deals in, dispenses, or gives away marihuana, \$3 per year: *Provided*, That any person who has registered and paid the special tax as an importer, manufacturer, compounder, or producer, as required by subdivisions (1) and (2) of this subsection, may deal in, dispense, or give away marihuana imported, manufactured, compounded, or produced by him without further payment of the tax imposed by this section.

(b) Where a tax under subdivision (1) or (5) is payable on July 1 of any year it shall be computed for one year; where any such tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability for the tax accrued to the following July 1.

(c) In the event that any person subject to a tax imposed by this section engages in any of the activities enumerated in subsection (a) of this section at more than one place, such person shall pay the tax with respect to each such place.

(d) Except as otherwise provided, whenever more than one of the activities enumerated in subsection (a) of this section is carried on by the same person at the same time, such person shall pay the tax for each such activity, according to the respective rates prescribed.

(e) Any person subject to the tax imposed by this section shall, upon payment of such tax, register his name or style and his place or places of business with the collector of the district in which such place or places of business are located.

(f) Collectors are authorized to furnish, upon written request, to any person a certified copy of the names of any or all persons who may be listed in their respective collection districts as special taxpayers under this section, upon payment of a fee of \$1 for each one hundred of such names or fraction thereof upon such copy so requested.

SEC. 3. (a) No employee of any person who has paid the special tax and registered, as required by section 2 of this Act, acting within the scope of his employment, shall be required to register and pay such special tax.

(b) An officer or employee of the United States, any State, Territory, the District of Columbia, or insular possession, or political subdivision, who, in the exercise of his official duties, engages in any of the activities enumerated in section 2 of this Act shall not be required to register or pay the special tax, but his right to this exemption shall be evidenced in such manner as the Secretary may by regulations prescribe.

SEC. 4. (a) It shall be unlawful for any person required to register and pay the special tax under the provisions of section 2 to import, manufacture, produce, compound, sell, deal in, dispense,

distribute, prescribe, administer, or give away marihuana without having so registered and paid such tax.

(b) In any suit or proceeding to enforce the liability imposed by this section or section 2, if proof is made that marihuana was at any time growing upon land under the control of the defendant, such proof shall be presumptive evidence that at such time the defendant was a producer and liable under this section as well as under section 2.

SEC. 5. It shall be unlawful for any person who shall not have paid the special tax and registered, as required by section 2, to send, ship, carry, transport, or deliver any marihuana within any Territory, the District of Columbia, or any insular possession, or from any State, Territory, the District of Columbia, any insular possession of the United States, or the Canal Zone, into any other State, Territory, the District of Columbia, or insular possession of the United States: *Provided*, That nothing contained in this section shall apply to any common carrier engaged in transporting marihuana; or to any employee of any person who shall have registered and paid the special tax as required by section 2 while acting within the scope of his employment; or to any person who shall deliver marihuana which has been prescribed or dispensed by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, who has been employed to prescribe for the particular patient receiving such marihuana; or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

SEC. 6. (a) It shall be unlawful for any person, whether or not required to pay a special tax and register under section 2, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary.

(b) Subject to such regulations as the Secretary may prescribe, nothing contained in this section shall apply—

(1) To a transfer of marihuana to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such marihuana transferred, showing the amount transferred and the name and address of the patient to whom such marihuana is transferred, and such record shall be kept for a period of two years from the date of the transfer of such marihuana, and subject to inspection as provided in section 11.

(2) To a transfer of marihuana, made in good faith by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 2: *Provided*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who issues the same: *Provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled so as to be readily accessible for inspection by the officers, agents, employees, and officials mentioned in section 11.

(3) To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any Territory, the District

of Columbia, or any of the insular possessions of the United States, to any person in any foreign country regulating the entry of marihuana, if such sale, shipment, or delivery of marihuana is made in accordance with such regulations for importation into such foreign country as are prescribed by such foreign country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(4) To a transfer of marihuana to any officer or employee of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

(5) To a transfer of any seeds of the plant *Cannabis sativa* L. to any person registered under section 2.

(c) The Secretary shall cause suitable forms to be prepared for the purposes before mentioned and shall cause them to be distributed to collectors for sale. The price at which such forms shall be sold by said collectors shall be fixed by the Secretary, but shall not exceed 2 cents each. Whenever any collector shall sell any of such forms he shall cause the date of sale, the name and address of the proposed vendor, the name and address of the purchaser, and the amount of marihuana ordered to be plainly written or stamped thereon before delivering the same.

(d) Each such order form sold by a collector shall be prepared by him and shall include an original and two copies, any one of which shall be admissible in evidence as an original. The original and one copy shall be given by the collector to the purchaser thereof. The original shall in turn be given by the purchaser thereof to any person who shall, in pursuance thereof, transfer marihuana to him and shall be preserved by such person for a period of two years so as to be readily accessible for inspection by any officer, agent, or employee mentioned in section 11. The copy given to the purchaser by the collector shall be retained by the purchaser and preserved for a period of two years so as to be readily accessible to inspection by any officer, agent, or employee mentioned in section 11. The second copy shall be preserved in the records of the collector.

SEC. 7. (a) There shall be levied, collected, and paid upon all transfers of marihuana which are required by section 6 to be carried out in pursuance of written order forms taxes at the following rates:

(1) Upon each transfer to any person who has paid the special tax and registered under section 2 of this Act, \$1 per ounce of marihuana or fraction thereof.

(2) Upon each transfer to any person who has not paid the special tax and registered under section 2 of this Act, \$100 per ounce of marihuana or fraction thereof.

(b) Such tax shall be paid by the transferee at the time of securing each order form and shall be in addition to the price of such form. Such transferee shall be liable for the tax imposed by this section but in the event that the transfer is made in violation of section 6 without an order form and without payment of the transfer tax imposed by this section, the transferor shall also be liable for such

(c) Payment of the tax herein provided shall be represented by appropriate stamps to be provided by the Secretary and said stamps shall be affixed by the collector or his representative to the original order form.

(d) All provisions of law relating to the engraving, issuance, sale, accountability, cancelation, and destruction of tax-paid stamps provided for in the internal-revenue laws shall, insofar as applicable and not inconsistent with this Act, be extended and made to apply to stamps provided for in this section.

(e) All provisions of law (including penalties) applicable in respect of the taxes imposed by the Act of December 17, 1914 (38 Stat. 785; U. S. C., 1934 ed., title 26, secs. 1040-1061, 1383-1391), as amended, shall, insofar as not inconsistent with this Act, be applicable in respect of the taxes imposed by this Act.

SEC. 8. (a) It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 7 to acquire or otherwise obtain any marihuana without having paid such tax; and proof that any person shall have had in his possession any marihuana and shall have failed, after reasonable notice and demand by the collector, to produce the order form required by section 6 to be retained by him, shall be presumptive evidence of guilt under this section and of liability for the tax imposed by section 7.

(b) No liability shall be imposed by virtue of this section upon any duly authorized officer of the Treasury Department engaged in the enforcement of this Act or upon any duly authorized officer of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States, who shall be engaged in the enforcement of any law or municipal ordinance dealing with the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana.

SEC. 9. (a) Any marihuana which has been imported, manufactured, compounded, transferred, or produced in violation of any of the provisions of this Act shall be subject to seizure and forfeiture and, except as inconsistent with the provisions of this Act, all the provisions of internal-revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

(b) Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this Act shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

(c) Any marihuana seized or coming into the possession of the United States in the enforcement of this Act, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

(d) The Secretary is hereby directed to destroy any marihuana confiscated by and forfeited to the United States under this section or to deliver such marihuana to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary.

SEC. 10. (a) Every person liable to any tax imposed by this Act shall keep such books and records, render under oath such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

(b) Any person who shall be registered under the provisions of section 2 in any internal-revenue district shall, whenever required so to do by the collector of the district, render to the collector a true and correct statement or return, verified by affidavits, setting forth the quantity of marihuana received or harvested by him during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine. If such person is not solely a producer, he shall set forth in such statement or return the names of the persons from whom said marihuana was received, the quantity in each instance received from such persons, and the date when received.

SEC. 11. The order forms and copies thereof and the prescriptions and records required to be preserved under the provisions of section 6, and the statements or returns filed in the office of the collector of the district under the provisions of section 10 (b) shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose, and such officers of any State, or Territory, or of any political subdivision thereof, or the District of Columbia, or of any insular possession of the United States as shall be charged with the enforcement of any law or municipal ordinance regulating the production, sale, prescribing, dispensing, dealing in, or distributing of marihuana. Each collector shall be authorized to furnish, upon written request, copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory, or political subdivision thereof, or the District of Columbia, or any insular possession of the United States as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of \$1 for each 100 words or fraction thereof in the copy or copies so requested.

SEC. 12. Any person who is convicted of a violation of any provision of this Act shall be fined not more than \$2,000 or imprisoned not more than five years, or both, in the discretion of the court.

SEC. 13. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 2 relating to registration or that he has complied with the provisions of section 6 relating to order forms, he shall be presumed not to have complied with such provisions of such sections, as the case may be.

SEC. 14. The Secretary is authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions of this Act and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

SEC. 15. The provisions of this Act shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, and the insular possessions of the United States, except the Philippine Islands. In Puerto Rico the administration of this Act, the collection of the special taxes and transfer taxes, and the issuance of the order forms provided for in section 6 shall be

performed by the appropriate internal-revenue officers of that government, and all revenues collected under this Act in Puerto Rico shall accrue intact to the general government thereof. The President is hereby authorized and directed to issue such Executive orders as will carry into effect in the Virgin Islands the intent and purpose of this Act by providing for the registration with appropriate officers and the imposition of the special and transfer taxes upon all persons in the Virgin Islands who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.

SEC. 16. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 17. This Act shall take effect on the first day of the second month after the month during which it is enacted.

SEC. 18. This Act may be cited as the "Marihuana Tax Act of 1937."

Approved, August 2, 1937.

[PUBLIC—No. 267—75TH CONGRESS]

[CHAPTER 598—1ST SESSION]

[H. R. 6283]

AN ACT

To increase the punishment of second, third, and subsequent offenders against the narcotic laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a person who, after having been convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports, or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such second offense, be fined not more than \$5,000 or imprisoned in a Federal penitentiary for not more than ten years, or both, in the discretion of the court, whenever the fact of such previous conviction is established in the manner prescribed in section 3 of this Act.

SEC. 2. A person who, after having been two times convicted of selling, importing, or exporting, or conspiring to sell, import, or export, opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, again sells, imports, or exports or conspires to sell, import, or export, any of the said narcotic drugs, in violation of the laws of the United States, shall, upon conviction of such third offense, or any offense subsequent thereto, be fined not more than \$10,000 or imprisoned in a Federal penitentiary for not more than twenty years, or both, in the discretion of the court, whenever the fact of such previous convictions is established in the manner prescribed in section 3 of this Act.

SEC. 3. Whenever it shall appear, after conviction and before or after sentence, that a person convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of the narcotic drugs enumerated in this Act has previously been convicted of unlawfully selling, importing, or exporting, or conspiring unlawfully to sell, import, or export, any of said narcotic drugs, in violation of the laws of the United States, it shall be the duty of the United States district attorney for the district in which such subsequent conviction was had to file an information alleging that the defendant has previously been so convicted; and further alleging the number of such previous convictions. The court in which the defendant was convicted shall cause the said defendant, whether confined in prison or otherwise, to appear before it and shall apprise him of the allegations of the information and of his right to a trial by jury as to the truth thereof. The court shall inquire of the defendant whether he is the person who has previously been convicted. If the defendant states he is not such person, or if he refuses to answer or remains silent, a plea of not guilty shall be entered by the court, and a jury shall be empaneled to determine whether the

defendant is the person alleged in the information to have previously been convicted, and the number of such previous convictions. If after a trial on the sole issue of the truth of such allegations the jury determines that the defendant is in fact the person previously convicted as charged in the information, or if he acknowledges in open court, after being duly cautioned as to his rights, that he is such person, he shall be punished as prescribed in sections 1 or 2 of this Act, as the case may be, and the previous sentence of the court, if any, shall be vacated and there shall be deducted from the new sentence the amount of time actually served under the sentence so vacated.

Approved, August 12, 1937.

[PUBLIC—No. 682—75TH CONGRESS]

[CHAPTER 532—3D SESSION]

[H. R. 7982]

AN ACT

To regulate the manufacturing, dispensing, selling, and possession of narcotic drugs in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The following words and phrases, as used in this Act, shall have the following meanings, unless the context otherwise requires:

(a) "Person" includes any corporation, association, copartnership, or one or more individuals.

(b) "Physician" means a person authorized by law to practice medicine or osteopathy in the District of Columbia.

(c) "Dentist" means a person authorized by law to practice dentistry in the District of Columbia.

(d) "Veterinarian" means a person authorized by law to practice veterinary medicine in the District of Columbia.

(e) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescription.

(f) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced nor prepared on official written orders but not on prescription.

(g) "Apothecary" means a licensed pharmacist as defined by the laws of the District of Columbia and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this Act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him by the pharmacy laws of the District of Columbia.

(h) "Hospital" means an institution or clinic for the care and treatment of the sick and injured, approved by the health officer of the District of Columbia as proper to be entrusted with the custody of narcotic drugs and the professional use of narcotic drugs under the direction of a physician, dentist, or veterinarian.

(i) "Laboratory" means a laboratory approved by the health officer of the District of Columbia as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific and medical purposes and for purposes of instruction.

(j) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(k) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except

derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(l) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium.

(m) "Cannabis" includes 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, including specifically the drugs known as American hemp, marihuana, Indian hemp or hasheesh, as used in cigarettes or in any other articles, compounds, mixtures, preparations, or products whatsoever, but shall not include the mature stalks of such plant; fiber produced from such stalks; oil or cake made from the seeds of such plant; any 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.

(n) "Narcotic drugs" means coca leaves, opium, cannabis, and every substance not chemically distinguishable from them.

(o) "Federal narcotic laws" means the laws of the United States relating to opium, coca leaves, cannabis, and other narcotic drugs.

(p) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by Federal law and, if no such order form is provided, then on an official form provided for that purpose by the Board of Pharmacy.

(q) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(r) "Registry number" means the number assigned to each person registered under the Federal narcotic laws.

(s) "Board of Pharmacy" means the Board of Pharmacy of the District of Columbia as provided by Act of Congress approved May 7, 1906, as amended (D. C. Code of 1929, title 20, part. 3, sec. 198).

ACTS PROHIBITED

Sec. 2. It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this Act.

MANUFACTURERS AND WHOLESALERS

Sec. 3. No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the Board of Pharmacy. Licenses shall be issued for a period of one year and may be renewed for a like period. A fee of \$10 shall be paid to the Board of Pharmacy for any license so issued or renewed. The said Board of Pharmacy is authorized to have printed such licenses as may be necessary and to be paid for out of the money collected by it for the issuance of licenses. At the close of each fiscal year any funds unexpended in

excess of the sum of \$100 shall be paid into the Treasury of the United States to the credit of the District of Columbia.

QUALIFICATIONS FOR LICENSES

SEC. 4. No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to the Board of Pharmacy of the following:

- (a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.
- (b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has been convicted of a willful violation of any law of the United States, or of any State, relating to opium, coca leaves, cannabis, or other narcotic drugs, or to any person who is a narcotic-drug addict. The Board of Pharmacy may suspend or revoke any license issued by said Board under the provisions of this Act for cause.

USE OF OFFICIAL WRITTEN ORDERS

SEC. 5. An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be unlawful for a manufacturer or wholesaler to sell, barter, exchange, or give away any preparation or remedy described in section 6 of the Act of Congress approved December 17, 1914, entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes", as amended, which contains not more than two grains of opium, or not more than one-fourth of a grain of morphine, or not more than one-eighth of a grain of heroin, or not more than one grain of codeine, or any salt or derivative of any of them in one fluid or avoirdupois ounce, except in pursuance of a written order, on a form to be issued in blank by the District of Columbia Board of Pharmacy. Every person who shall accept such order, and in pursuance thereof shall sell, barter, exchange, or give away any of the aforesaid preparations shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer or agent authorized for that purpose. The Board of Pharmacy shall cause suitable written order forms to be prepared for the purchase of narcotics for which no form is provided by the United States Commissioner of Narcotics, and shall cause the same to be for sale by said Board at a cost not to exceed the cost of the same to persons who shall have registered under

Federal narcotic laws. The Board of Pharmacy shall keep an account of the number of forms sold and the names and addresses of the purchasers and the serial numbers of such forms sold to each purchaser. Whenever the Board of Pharmacy shall sell any such forms it shall cause the name and address of the purchaser thereof to be plainly written or stamped thereon before delivering the same. The said Board is authorized and directed to make such rules and regulations, not inconsistent with law, as it may deem necessary for the administration and enforcement of this Act.

It shall be deemed a compliance with this section if the parties to the transaction have complied with the Federal narcotic laws respecting official order forms if such order forms are authorized and required by Federal laws, or, if no such order form is provided, then with the rules and regulations of the Board of Pharmacy respecting official order forms.

SALE ON WRITTEN ORDERS

SEC. 6. (a) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

- (1) To a manufacturer, wholesaler, or apothecary;
- (2) To a physician, dentist, or veterinarian;
- (3) To a hospital, but only for use by or in that hospital: *Provided*, That the official written order is signed by a physician, dentist, veterinarian, or pharmacist connected with that hospital; and

(4) To a person in charge of a laboratory, but only for use in that laboratory for scientific and medical purposes.

(b) A duly licensed manufacturer or wholesaler may also sell narcotic drugs to any of the following persons:

- (1) On a special written order accompanied by a certificate of exemption, as required by the Federal narcotic laws, to a person in the employ of the United States Government or of the District of Columbia, or of any State, Territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.
- (2) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or to a physician or surgeon duly licensed in some State, Territory, or the District of Columbia to practice his profession, or to a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft, for the actual medical needs of persons on board such ship or aircraft, when not in port: *Provided*, That such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft, or to a physician, surgeon, or retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.
- (3) To a person in a foreign country if the provisions of the Federal narcotic laws are complied with.

POSSESSION LAWFUL

(c) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful only if obtained and used in the regular course of business, occupation, profession, employment, or duty of the possessor.

SEC. 7. A person in charge of a hospital or of a laboratory, or in the employ of the District of Columbia or of any State, or of any political subdivision thereof, or a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, or a physician or surgeon duly licensed in some State, Territory, or the District of Columbia, to practice his profession, or a retired commissioned medical officer of the United States Army, Navy, or Public Health Service employed upon such ship or aircraft who obtains narcotic drugs under the provisions of section 6 of this Act, or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within the District of Columbia, except within the scope of his employment or official duty, and then only for scientific or medical purposes and subject to the provisions of this Act.

SALES BY APOTHECARIES

SEC. 8. (a) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed, in ink or indelible pencil, on the day when issued, by the physician, dentist, or veterinarian prescribing said narcotic drugs. The prescription when issued shall also state the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The person filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. The prescription shall not be refilled.

(b) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(c) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than 20 per centum of the complete solution, to be used for medical purposes.

PROFESSIONAL USE OF NARCOTIC DRUGS

PHYSICIANS AND DENTISTS

SEC. 9. (a) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe in writing,

administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse or interne under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the patient for whom the narcotic drug is prescribed and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, provided he is required by those laws to be so registered.

VETERINARIANS

(b) A veterinarian, in good faith and in the course of his professional practice only and not for use by a human being, may prescribe in writing, administer, and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. Such a prescription shall be dated and signed by the person prescribing on the day when issued and shall bear the full name and address of the owner of the animal; the species of the animal for which the narcotic is prescribed; and the full name, address, and registry number under the Federal narcotic laws of the person prescribing, provided he is required by those laws to be so registered.

RETURN OF UNUSED DRUGS

(c) Any person who has obtained from a physician, dentist, or veterinarian any narcotic drug for administration to a patient during the absence of such physician, dentist, or veterinarian shall return to such physician, dentist, or veterinarian any unused portion of such drug, when it is no longer required by the patient.

PREPARATIONS EXEMPTED

SEC. 10. Except as otherwise in this Act specifically provided, this Act shall not apply to the following cases:

(a) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce or, if a solid or semisolid preparation, in one avoirdupois ounce (1) not more than two grains of opium, (2) not more than one-quarter of a grain of morphine or of any of its salts, (3) not more than one grain of codeine or of any of its salts, (4) not more than one-eighth of a grain of heroin or of any of its salts.

(b) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations that are susceptible of external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this Act shall apply to all liniments, ointments, and other preparations that contain coca leaves in any quantity or combination.

The exemptions authorized by this section shall be subject to the following conditions:

(1) The medicinal preparation, or the liniment, ointment, or other preparation susceptible of external use only, prescribed, administered, dispensed, or sold, shall contain in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone.

Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this Act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold to any person, or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this Act.

Manufacturers or wholesalers shall sell tincture opii camphorata, commonly known as paregoric, only in accordance with the provisions of sections 5 and 6 of this Act on official written order forms provided for that purpose by the Board of Pharmacy. It shall be unlawful for any person to bring into or have in his possession for sale in the District of Columbia any paregoric unless an official written order form has been issued therefor. No person shall dispense or sell any paregoric at retail to any person without a prescription from a duly licensed physician, dentist, veterinarian, or other duly authorized person. Prescriptions shall be retained and filed as provided in section 8.

RECORD TO BE KEPT

PHYSICIANS, DENTISTS, VETERINARIANS, AND OTHER AUTHORIZED PERSONS

SEC. 11. (a) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription in accordance with the provisions of subsection (e) of this section. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

MANUFACTURERS AND WHOLESALERS

(b) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (e) of this section.

APOTHECARIES

(c) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection (e) of this section.

VENDORS OF EXEMPTED PREPARATIONS

(d) Every person who purchases for resale, or who sells narcotic drug preparations exempted by section 10 of this Act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection (e) of this section.

FORM AND PRESERVATION OF RECORDS

(e) The form of records shall be prescribed by the Board of Pharmacy. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced, and the proportion of resin contained in or producible from the plant Cannabis sativa L., received, or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered, or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal narcotic laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft.

LABELS

SEC. 12. (a) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this Act, shall alter, deface, or remove any label so affixed.

(b) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian he shall affix to the container in which such drug is sold or dispensed a label showing his own name, address, and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal, and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed as long as any of the original contents remain.

AUTHORIZED POSSESSION OF NARCOTIC DRUGS BY INDIVIDUALS

SEC. 13. A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of section 6 of this Act, and the owner of any animal for which any such drug has

been prescribed, sold, or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

SEARCH WARRANTS

SEC. 14. (a) A search warrant may be issued by any judge of the police court of the District of Columbia or by a United States commissioner for the District of Columbia when any narcotic drugs are manufactured, possessed, controlled, sold, prescribed, administered, dispensed, or compounded, in violation of the provisions of this Act, and any such narcotic drugs and any other property designed for use in connection with such unlawful manufacturing, possession, controlling, selling, prescribing, administering, dispensing, or compounding, may be seized thereunder, and shall be subject to such disposition as the court may make thereof and such narcotic drugs may be taken on the warrant from any house or other place in which they are concealed.

(b) A search warrant cannot be issued but upon probable cause supported by affidavit particularly describing the property and the place to be searched.

(c) The judge or commissioner must, before issuing the warrant, examine on oath the complainant and any witnesses he may produce, and require their affidavits or take their depositions in writing and cause them to be subscribed by the parties making them.

(d) The affidavits or depositions must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.

(e) If the judge or commissioner is thereupon satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, he must issue a search warrant, signed by him, to the major and superintendent of police of the District of Columbia or any member of the Metropolitan Police department, stating the particular grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof, and commanding him forthwith to search the place named for the property specified and to bring it before the judge or commissioner.

(f) A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution.

(g) The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance.

(h) The judge or commissioner must insert a direction in the warrant that it be served in the daytime unless the affidavit is positive that the property is in the place to be searched in which case he must insert a direction that it be served at any time in the day or night.

(i) A search warrant must be executed and returned to the judge or commissioner who issued it within ten days after its date; after the expiration of this time the warrant, unless executed, is void.

(j) When the officer takes property under the warrant, he must give a copy of the warrant together with a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or in the absence of any person, he must leave it in the place where he found the property.

(k) The officer must forthwith return the warrant to the judge or commissioner and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory and taken before the judge or commissioner at the time, to the following in effect: "I, _____, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant."

(l) The judge or commissioner must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken and to the applicant for the warrant.

(m) The judge or commissioner must annex the affidavits, search warrant, return, inventory, and evidence, and at once file the same, together with a copy of the record of his proceedings, with the clerk of the police court.

(n) Whoever shall knowingly and willfully obstruct, resist, or oppose any such officer or person in serving or attempting to serve or execute any such search warrant, or shall assault, beat, or wound any such officer or person, knowing him to be an officer or person so authorized, shall be fined not more than \$1,000 or imprisoned not more than two years.

PERSONS AND CORPORATIONS EXEMPTED

SEC. 15. The provisions of this Act restricting the possession and having control of narcotic drugs shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties.

COMMON NUISANCES

SEC. 16. Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such common nuisance.

NARCOTIC DRUGS TO BE DELIVERED TO STATE OFFICIAL, AND SO FORTH

SEC. 17. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have

come into the custody of a peace officer, shall be forfeited, and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction shall be kept, and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States Commissioner of Narcotics, by the officer who destroys them.

(b) Upon written application by the Board of Pharmacy, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said Board of Pharmacy for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within the District of Columbia not operated for private gain, the Board of Pharmacy may, in its discretion, deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The Board of Pharmacy may from time to time deliver excess stocks of such narcotic drugs to the United States Commissioner of Narcotics, or may destroy the same.

(d) The Board of Pharmacy of the District of Columbia shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all Federal or District of Columbia officers charged with the enforcement of Federal and District narcotic laws.

NOTICE OF CONVICTION TO BE SENT TO LICENSING BOARD

SEC. 18. On the conviction of any person of the violation of any provision of this Act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business, and the said board or officer may in its or his discretion suspend or revoke the license of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing for good cause, said board or officer may reinstate such license or registration.

RECORDS, CONFIDENTIAL

SEC. 19. Prescriptions, orders, and records, required by this Act, and stocks of narcotic drugs, shall be open for inspection only to Federal and District of Columbia officers whose duty it is to enforce the laws of the District of Columbia, or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such

knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

FRAUD OR DECEIT

SEC. 20. (a) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the forgery or alteration of a prescription or of any written order; or (3) by the concealment of a material fact; or (4) by the use of a false name or the giving of a false address.

(b) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(c) No person shall willfully make a false statement in any prescription, order, report, or record, required by this Act.

(d) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(e) No person shall make or utter any false or forged prescription or false or forged written order.

(f) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(g) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of section 10 of this Act, in the same way as they apply to transactions under all other sections.

EXCEPTIONS AND EXEMPTIONS NOT REQUIRED TO BE NEGATIVED

SEC. 21. In any complaint, information, or indictment, and in any action or proceeding brought for the enforcement of any provision of this Act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this Act, and the burden of proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant.

ENFORCEMENT AND COOPERATION

SEC. 22. It is hereby made the duty of the major and superintendent of police of the District of Columbia to enforce all provisions of this Act, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States relating to narcotic drugs.

The Commissioners of the District of Columbia are authorized to employ such personal services for the clerical work of the Board of Pharmacy as may be necessary to carry out the provisions of this Act and to provide for the expenses of said Board, including the cost of preparation and distribution of such official order forms as may be provided by the regulations of the Board of Pharmacy. Salaries of employees shall be fixed in accordance with the Classification Act of 1923, as amended. The Commissioners of the District

of Columbia shall include in their annual estimates such amounts as may be required for the salaries and expenses herein authorized.

PENALTIES

SEC. 23. Any person violating any provision of this Act, or of any regulation made by the Board of Pharmacy under authority of this Act, shall upon conviction be punished, for the first offense, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment.

EFFECT OF ACQUITTAL OR CONVICTION UNDER FEDERAL NARCOTIC LAWS

SEC. 24. No person shall be prosecuted for a violation of any provision of this Act if such person has been acquitted or convicted under any United States statute governing the sale or distribution of narcotic drugs, of the same act or omission which, it is alleged, constitutes a violation of this Act.

CONSTITUTIONALITY

SEC. 25. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

INCONSISTENT LAWS REPEALED

SEC. 26. All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

NAME OF ACT

SEC. 27. This Act may be cited as the "Uniform Narcotic Drug Act".

Approved, June 20, 1938.

[PUBLIC—No. 339—76TH CONGRESS]

[CHAPTER 566—1ST SESSION]

[H. R. 6555]

AN ACT

To amend the Act of March 28, 1928 (45 Stat. 374), as amended, relating to the advance of funds in connection with the enforcement of Acts relating to narcotic drugs, so as to permit such advances in connection with the enforcement of the Marihuana Tax Act of 1937, and to permit advances of funds in connection with the enforcement of the customs laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for advances of funds by special disbursing agents in connection with the enforcement of Acts relating to narcotic drugs", approved March 28, 1928, as amended (U. S. C., title 31, sec. 529a), is hereby amended to read as follows:

"That the Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Division of Disbursement, Treasury Department, in connection with the enforcement of the Act entitled 'An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes', approved December 17, 1914, as amended; the Act entitled 'An Act to amend an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909', as amended, known as the 'Narcotic Drugs Import and Export Act'; and the Act entitled 'An Act to impose an occupational excise tax upon certain dealers in marihuana, to impose a transfer tax upon certain dealings in marihuana, and to safeguard the revenue therefrom by registry and recording', approved August 2, 1937, known as the 'Marihuana Tax Act of 1937'.

"SEC. 2. The Commissioner of Customs, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Division of Disbursement, Treasury Department, in connection with the enforcement of the customs laws.

"SEC. 3. A certificate by the Commissioner of Customs or the Commissioner of Narcotics, as the case may be, stating the amount of an expenditure made from funds advanced and certifying that the confidential nature of the transaction involved renders it inadvisable to specify the details thereof or impracticable to furnish the payee's receipt shall be a sufficient voucher for the sum expressed to have been expended.

"SEC. 4. The provisions of this Act shall not affect payments made for the Bureau of Customs in foreign countries, nor the right of any customs or narcotics officer or employee to claim reimbursement for personal funds expended in connection with the enforcement of the customs or narcotics laws.

"SEC. 5. Advances pursuant to this Act in connection with the enforcement of the customs or narcotics laws may be made, notwithstanding the provisions of section 3648 of the Revised Statutes of the United States (U. S. C., title 31, sec. 529), from the appropriations available for the enforcement of such laws. The Secretary of the Treasury is authorized to prescribe such rules and regulations concerning advances made pursuant to this Act as are necessary or appropriate for the protection of the interests of the United States.

"SEC. 6. When used in this Act, the term 'narcotics laws' includes the 'Marihuana Tax Act of 1937'."

Approved, August 7, 1939.

[PUBLIC—NO. 357—76TH CONGRESS]

[CHAPTER 618—1ST SESSION]

[H. R. 6556]

AN ACT

To provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to transport narcotic drugs, firearms, and counterfeit coins, obligations, securities, and paraphernalia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it shall be unlawful (1) to transport, carry, or convey any contraband article in, upon, or by means of any vessel, vehicle, or aircraft; (2) to conceal or possess any contraband article in or upon any vessel, vehicle, or aircraft, or upon the person of anyone in or upon any vessel, vehicle, or aircraft; or (3) to use any vessel, vehicle, or aircraft to facilitate the transportation, carriage, conveyance, concealment, receipt, possession, purchase, sale, barter, exchange, or giving away of any contraband article.

(b) As used in this section, the term "contraband article" means—

(1) Any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States dealing therewith; or which is sold or offered for sale in violation thereof, or which does not bear appropriate tax-paid internal-revenue stamps as required by law or regulations;

(2) Any firearm, with respect to which there has been committed any violation of any provision of the National Firearms Act, as now or hereafter amended, or any regulation issued pursuant thereto; or

(3) Any falsely made, forged, altered, or counterfeit coin or obligation or other security of the United States or of any foreign government; or any material or apparatus, or paraphernalia fitted or intended to be used, or which shall have been used, in the making of any such falsely made, forged, altered, or counterfeit coin or obligation or other security.

SEC. 2. Any vessel, vehicle, or aircraft which has been or is being used in violation of any provision of section 1, or in, upon, or by means of which any violation of section 1 has taken or is taking place, shall be seized and forfeited: *Provided*, That no vessel, vehicle, or aircraft used by any person as a common carrier in the transaction of business as such common carrier shall be forfeited under the provisions of this Act unless it shall appear that (1) in the case of a railway car or engine, the owner, or (2) in the case of any other such vessel, vehicle, or aircraft, the owner or the master of such vessel or the owner or conductor, driver, pilot, or other person in charge of such vehicle or aircraft was at the time of the alleged illegal act a consenting party or privy thereto: *Provided further*, That no vessel, vehicle, or aircraft shall be forfeited under the provisions of this Act 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 vessel, vehicle, or aircraft was used

fully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any State.

SEC. 3. The Secretary of the Treasury is empowered to authorize, or designate, officers, agents, or other persons to carry out the provisions of this Act. It shall be the duty of any officer, agent, or other person so authorized or designated, or authorized by law, whenever he shall discover any vessel, vehicle, or aircraft which has been or is being used in violation of any of the provisions of this Act, or in, upon, or by means of which any violation of this Act has taken or is taking place, to seize such vessel, vehicle, or aircraft and to place it in the custody of such person as may be authorized or designated for that purpose by the Secretary of the Treasury, to await disposition pursuant to the provisions of this Act and any regulations issued hereunder.

SEC. 4. All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of vessels and vehicles for violation of the customs laws; the disposition of such vessels and vehicles or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as applicable and not inconsistent with the provisions hereof: *Provided*, That such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels and vehicles under the customs laws shall be performed with respect to seizures and forfeitures of vessels, vehicles, and aircraft under this Act by such officers, agents, or other persons as may be authorized or designated for that purpose by the Secretary of the Treasury.

SEC. 5. Any appropriation which has been or shall hereafter be made for the enforcement of the customs, narcotics, counterfeiting, or internal-revenue laws, and the provisions of the National Firearms Act shall be available for the defraying of expenses of carrying out the provisions of this Act.

SEC. 6. The provisions of this Act shall be construed to be supplemental to, and not to impair in any way, existing provisions of law imposing fines, penalties, or forfeitures; or providing for the seizure, condemnation, or disposition of forfeited property or the proceeds thereof; or authorizing the remission or mitigation of fines, penalties, or forfeitures.

SEC. 7. When used in this Act—

(a) The term "vessel" includes every description of watercraft or other contrivance used, or capable of being used, as means of transportation in water, but does not include aircraft;

(b) The term "vehicle" includes every description of carriage or other contrivance used, or capable of being used, as means of transportation on, below, or above the land, but does not include aircraft;

(c) The term "aircraft" includes every description of craft or carriage or other contrivance used, or capable of being used, as means of transportation through the air;

(d) The term "narcotic drug" means any narcotic drug, as now or hereafter defined by the Narcotic Drugs Import and Export Act, the internal-revenue laws or any amendments thereof, or the regula-

tions issued thereunder; or marihuana as now or hereafter defined by the Marihuana Tax Act of 1937 or the regulations issued thereunder;

(e) The term "firearm" means any firearm, as now or hereafter defined by the National Firearms Act, or any amendments thereof, or the regulations issued thereunder; and

(f) The words "obligation or other security of the United States" are used as now or hereafter defined in section 147 of the Criminal Code, as amended (U. S. C., title 18, sec. 261).

SEC. 8. The Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to carry out the provisions of this Act.

Approved, August 9, 1939.

[PUBLIC LAW 797—77TH CONGRESS]

[CHAPTER 720—2D SESSION]

[H. R. 7568]

AN ACT

To discharge more effectively the obligations of the United States under certain treaties relating to the manufacture and distribution of narcotic drugs, by providing for domestic control of the production and distribution of the opium poppy and its products, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act (1) to discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931; (2) to promote the public health and the general welfare; (3) to regulate interstate and foreign commerce in opium poppies; and (4) to safeguard the revenue derived from taxation of opium and opium products.

SEC. 2. For the purpose of this Act—

(a) The term "person" includes a partnership, company, association, or corporation, as well as a natural person or persons.

(b) The terms "produce" or "production" include the planting, cultivation, growth, harvesting, and any other activity which facilitates the growth of the opium poppy.

(c) The term "opium poppy" includes the plant *Papaver somniferum*, any other plant which is the source of opium or opium products, and any part of any such plant.

(d) The term "opium" includes the inspissated juice of the opium poppy, in crude or refined form.

(e) The term "opium products" includes opium and all substances obtainable from opium or the opium poppy, except the seed thereof.

SEC. 3. It shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to produce or attempt to produce the opium poppy, or to permit the production of the opium poppy in or upon any place owned, occupied, used, or controlled by him.

SEC. 4. (a) Except as otherwise provided in section 7: (1) it shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to purchase or in any other manner obtain the opium poppy; and (2) it shall be unlawful for any person to sell, transfer, convey any interest in, or give away the opium poppy to any person not so licensed.

(b) It shall be unlawful for any person who is not the holder of a license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance

with the provisions of this Act, to manufacture, compound, or extract opium or opium products from the opium poppy.

SEC. 5. It shall be unlawful for any person who is not the holder of a license authorizing him to produce the opium poppy or to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to send, ship, carry, transport, or deliver any opium poppies within any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, or from any State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States, into any other State, Territory, the District of Columbia, the Canal Zone, or insular possession of the United States: *Provided*, That nothing contained in this section shall apply to any common carrier engaged in transporting opium poppies pursuant to an agreement with a person duly licensed under the provisions of this Act as a producer of the opium poppy, or as a manufacturer of opium or opium products, or to any employee of any person so licensed while acting within the scope of his employment.

SEC. 6. (a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall make application therefor in such manner and form as the Secretary of the Treasury shall by rules and regulations prescribe.

(b) A license to produce the opium poppy shall be issued only to a person who, in the opinion of the Secretary of the Treasury, is determined to be a person (1) of good moral character; (2) of suitable financial standing and farming experience; (3) who owns or controls suitable farm land to be used as a production area, in such locality, as will, in the judgment of the Secretary of the Treasury, render reasonably probable the efficient and diligent performance of the operations of producing the opium poppy in appropriate number and quality; and (4) who complies with such additional requirements as the Secretary of the Treasury shall deem and prescribe as reasonably necessary for the controlled production and distribution of the opium poppy. Each such license shall be nontransferable and shall be valid only to the extent of the production area and maximum weight of opium poppy yield specified in the license, shall state the locality of the production area, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary of the Treasury, for a like period.

(c) A license to manufacture opium or opium products shall be issued only to a person who, in the opinion of the Secretary of the Treasury, is determined to be a person (1) of good moral character; (2) who possesses a method and facilities, deemed satisfactory to the Secretary of the Treasury, for the efficient and economical extraction of opium or opium products; (3) who has such experience in manufacturing and marketing other medicinal drugs as to render reasonably probable the orderly and lawful distribution of opium or opium products of suitable quality to supply medical and scientific needs; and (4) who complies with such additional requirements as the Secretary of the Treasury shall deem and prescribe as reasonably necessary for the controlled production, manufacture, and distribution of the opium poppy, opium, or opium products. Such license shall be nontransferable, shall state the maximum quantity of opium poppies

purchasable or obtainable thereunder, and shall be effective for a period of one year from the date of issue and may be renewed, in the discretion of the Secretary of the Treasury, for a like period.

(d) All licenses issued under this Act shall be limited to such number, localities, and areas as the Secretary of the Treasury shall determine to be appropriate to supply the medical and scientific needs of the United States for opium or opium products, with due regard to provision for reasonable reserves: *Provided, however,* That nothing contained in this Act shall be construed as requiring the Secretary of the Treasury to issue or renew any license or licenses under the provisions of this Act.

(e) The Secretary of the Treasury may revoke or refuse to renew any license issued under this Act, if, after due notice and opportunity for hearing, he finds such action to be in the public interest, or finds that the licensee has failed to maintain the requisite qualifications.

SEC. 7. It shall be unlawful for any person to sell, transfer, convey any interest in, or give away, except to a person duly licensed under this Act, or for any unlicensed person to purchase or otherwise obtain, opium poppy seed for the purpose of opium poppy production: *Provided,* That the seed obtained from opium poppies produced by licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

SEC. 8. (a) Any opium poppies which have been produced or otherwise obtained heretofore, and which may be produced or otherwise obtained hereafter in violation of any of the provisions of this Act, shall be seized by and forfeited to the United States.

(b) The failure, upon demand by the Secretary of the Treasury, or his duly authorized agent, of the person in occupancy or control of land or premises upon which opium poppies are being produced or stored to produce an appropriate license, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture of such opium poppies.

(c) The Secretary of the Treasury, or his duly authorized agent, shall have authority to enter upon any land (but not a dwelling house, unless pursuant to a search warrant issued according to law) where opium poppies are being produced or stored, for the purposes of enforcing the provisions of this Act.

(d) Any opium poppies, the owner or owners of which are unknown, seized by or coming into the possession of the United States in the enforcement of this Act shall be forfeited to the United States.

(e) The Secretary of the Treasury is hereby directed to destroy any opium poppies seized by and forfeited to the United States under this section, or to deliver for medical or scientific purposes such opium poppies to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulations as may be prescribed by the Secretary of the Treasury.

SEC. 9. (a) Nothing in this Act shall be construed to repeal any provisions of the Internal Revenue Code, except that the provisions of subchapter A of chapter 23, and part V of subchapter A of chapter 27 of the Internal Revenue Code shall not apply to the production, sale, or transfer of opium poppies, when such opium poppies are lawfully produced, sold, or transferred by persons duly licensed under this

Act in conformity with the provisions of this Act and the regulations issued pursuant thereto.

(b) Nothing in this Act shall be construed to repeal any provision of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, secs. 171-184): *Provided,* That the Secretary of the Treasury is hereby authorized to limit further or to prohibit entirely the importation or bringing in of crude opium, to the extent that he shall find the medical and scientific needs of the United States for opium or opium products are being, or can be, supplied by opium poppies produced in accordance with this Act.

SEC. 10. (a) It shall be the duty of the Secretary of the Treasury, whenever in his opinion the medical and scientific needs of the Nation will not be met by importation or licensed production, to provide for the acquisition of opium poppy seed, for the production of the opium poppy, for the manufacture of opium or opium products, and for the use, sale, giving away, or other proper distribution of opium poppy seed, opium poppies, opium, or opium products by the United States Government either directly or through and with the approval of the head of any agency of the Government, including any Government-owned or controlled corporation.

(b) None of the prohibitions contained in this Act shall apply to any officer or employee of the United States Treasury Department, who in the performance of his official duties and within the scope of his authority engages in any of the businesses or activities herein described, nor to any other officer or employee of the United States Government, who in the performance of his official duties, within the scope of his authority and with the approval of the Secretary of the Treasury, engages in any of the businesses or activities herein described.

SEC. 11. (a) It shall be the duty of the Secretary of the Treasury to enforce the provisions of this Act, and he is hereby authorized to make, prescribe, and publish all necessary rules and regulations for carrying out the provisions hereof, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

(b) It shall be the duty of the other departments, bureaus, and independent establishments, and particularly the Bureau of Plant Industry in the Department of Agriculture, when requested by the Secretary of the Treasury, to furnish such assistance, including technical advice, as will aid in carrying out the purposes of this Act.

SEC. 12. The provisions of this Act shall apply to the several States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Canal Zone, Puerto Rico, and the other insular possessions of the United States.

SEC. 13. (a) Any person who violates any provision of this Act shall be guilty of a felony and upon conviction thereof, be fined not more than \$2,000, or imprisoned not more than five years, or both, in the discretion of the court.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of this Act shall (whether or not such false or

fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be guilty of a misdemeanor, and, upon conviction thereof, be fined not more than \$2,000 or imprisoned for not more than one year, or both.

SEC. 14. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of an appropriate license by the defendant, he shall be presumed not to have been duly licensed in accordance with this Act and the burden of proof shall be on the defendant to rebut such presumption.

SEC. 15. If any provision of this Act, or the application of such provision to any circumstance, shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SEC. 16. This Act shall take effect on the sixtieth day after its enactment.

SEC. 17. The Act may be cited as the "Opium Poppy Control Act of 1942".

Approved, December 11, 1942.

[PUBLIC LAW 400—78TH CONGRESS]

[CHAPTER 363—2D SESSION]

[H. J. Res. 241]

JOINT RESOLUTION

Requesting the President to urge upon the governments of those countries where the cultivation of the poppy plant exists, the necessity of immediately limiting the production of opium to the amount required for strictly medicinal and scientific purposes.

Whereas for nearly forty years the United States of America has led the fight to destroy the illicit traffic in and nonmedical consumption of opium, as evidenced by its abolishing the opium monopoly system which it inherited in the Philippine Islands; its calling at Shanghai in 1909 the first International Commission to consider the opium problem; its suggesting the calling of the three International Opium Conferences at The Hague in 1912, 1913, 1914; its urging at the International Opium Conference of 1924 and 1925 sponsored by the League of Nations that the only effective way to suppress the demoralizing use of opium and its derivatives (heroin, morphine, and so forth) was to control the source of the evil by limiting the cultivation of the poppy plant to the legitimate medicinal and scientific needs of the world; and its further participation in the Geneva Conference of 1931 to restrict the manufacture and distribution of narcotic drugs; and

Whereas the laws of the Chinese Government strictly prohibit the cultivation of the opium poppy and the use of smoking opium in all territory under its control, and the people of China have valiantly resisted the attempts of the invading Japanese militarists to enslave them by encouraging and even compelling the cultivation and use of opium; and

Whereas final defeat of Japan will terminate the illicit traffic in narcotics which has been carried on by the Japanese military in all territories they have occupied in the Far East; and

Whereas the British and the Netherlands Governments have recently announced their decision to prohibit the use of opium for smoking and not to reestablish their government monopolies for the sale of smoking opium in the territories formerly controlled by them in the Far East when those territories are freed from Japanese occupation, stating however that the success of their action must in the final analysis depend upon the cooperation of the opium-growing countries; and

Whereas because of our military operations in certain other areas in Asia, there are now thousands of young American citizens in countries where opium is cultivated and freely available, and other Americans are on vessels delivering war materials to those countries, which condition constitutes a real threat to the health and welfare of those Americans and affords easy opportunity for the highly profitable smuggling of opium into the United States;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress express its conviction that this World War ought to be not an occasion for permitting expansion and spreading of illicit traffic in opium, but rather an opportunity for completely eliminating it; and be it further

Resolved, That the President be, and he hereby is, requested to approach the Governments of all opium-producing countries throughout the world, urging upon them in the interest of protecting American citizens and those of our allies and of freeing the world of an age-old evil, that they take immediate steps to limit and control the growth of the opium poppy and the production of opium and its derivatives to the amount actually required for strictly medicinal and scientific purposes.

Approved July 1, 1944.

[PUBLIC LAW 414—78TH CONGRESS]

[CHAPTER 377—2D SESSION]

[H. R. 4881]

AN ACT

To amend the Internal Revenue Code, the Narcotic Drugs Import and Export Act, as amended, and the Tariff Act of 1930, as amended, to classify a new synthetic drug, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 2550 of the Internal Revenue Code is hereby amended by inserting immediately after the phrase "levied, assessed, collected, and paid upon opium," the word "isonipecaïne,"

SEC. 2. Subsection (a) of section 2553 of the Internal Revenue Code is hereby amended by striking out the word "for" immediately following the phrase "absence of appropriate tax-paid stamps" and inserting in lieu thereof the word "from".

SEC. 3. Paragraphs 5 and 6 of subsection (b) of section 2557 of the Internal Revenue Code are hereby amended by inserting in each immediately following the words "or conspiring to sell, import, or export opium, coca leaves, cocaine," the word "isonipecaïne,"; by deleting in each the word "or" from the phrase "preparation of opium, coca leaves, or cocaine," and by inserting in each immediately following such phrase the words "or isonipecaïne,".

SEC. 4. The first sentence of subsection (b) of section 2558 of the Internal Revenue Code is hereby amended by striking out the words "its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof," and inserting in lieu thereof the words "coca leaves, isonipecaïne, and all salts, derivatives, and preparations of opium, coca leaves, and isonipecaïne,"; and by inserting immediately following the citation "or the Act of February 9, 1909 (ch. 100, 35 Stat. 614), as amended by the Act of January 17, 1914 (ch. 9, 38 Stat. 275)" the following citations: "the Act of May 26, 1922 (ch. 202, 42 Stat. 596), the Act of June 7, 1924 (ch. 352, 43 Stat. 657), and the Act of June 14, 1930 (ch. 488, 46 Stat. 586)".

SEC. 5. Section 2565 of the Internal Revenue Code is hereby amended by adding the following new reference at the end thereof: "Isonipecaïne.—Subsection (e)."

SEC. 6. The first paragraph of section 3220 of the Internal Revenue Code is hereby amended by striking out the word "or" immediately following the word "opium" and inserting in lieu thereof a comma; and by inserting immediately following the words "coca leaves," the words "or isonipecaïne,".

SEC. 7. Section 3228 of the Internal Revenue Code is hereby amended by adding the following new subsection (e) at the end thereof:

"(e) ISONIPECAÏNE.—The word 'isonipecaïne' as used in this part and subchapter A of chapter 23 shall mean any substance..."

chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated."

SEC. 8. Subsection (a) of section 1 of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, sec. 171), is hereby amended to read as follows:

"(a) The term 'narcotic drug' means opium, coca leaves, cocaine, isonipecaine, or any salt, derivative, or preparation of opium, coca leaves, cocaine, or isonipecaine; and the word 'isonipecaine' as used herein shall mean any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated."

SEC. 9. Sections 1 and 2 of the Act of August 12, 1937 (ch. 598, 50 Stat. 627; U. S. C., title 21, secs. 200 and 200a), are hereby amended by inserting in each immediately following the words "or conspiring to sell, import, or export; opium, coca leaves, cocaine," the word "isonipecaine,"; by deleting in each the word "or" from the phrase "preparation of opium, coca leaves, or cocaine," and by inserting in each immediately following such phrase the words "or isonipecaine,"; and by adding a new sentence at the end of each section to read as follows: "The word 'isonipecaine' as used in this section shall mean any substance identified chemically as 1-methyl-4-phenyl-piperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated."

SEC. 10. The second paragraph of section 584 of the Tariff Act of 1930, as amended (U. S. C., title 19, sec. 1584), is hereby amended by deleting in the first sentence the word "or" from the phrase "If any of such merchandise so found consists of heroin, morphine, or cocaine," and by inserting immediately following such phrase the words "or isonipecaine,"; by striking out in the second sentence the word "or" from the phrase "If any of such merchandise so found consists of smoking opium or opium prepared for smoking," and inserting in lieu thereof a comma, and by inserting immediately following such phrase the words "or marihuana,"; and by adding a new sentence at the end of the paragraph to read as follows: "The words 'isonipecaine' and 'marihuana' as used in this paragraph shall have the same meaning as defined in sections 3228 (e) and 3238 (b), respectively, of the Internal Revenue Code."

Approved July 1, 1944.

[PUBLIC LAW 320—79TH CONGRESS]

[CHAPTER 81—2D SESSION]

[H. R. 2348]

AN ACT

To provide for the coverage of certain drugs under the Federal narcotic laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3228 of the Internal Revenue Code (containing definitions of terms used for purposes of certain provisions relating to narcotics) is amended by adding the following new subsection (f) at the end thereof:

"(f) OPIATE.—The word 'opiate' as used in this part and subchapter A of chapter 23 shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act) found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found by the Secretary. The Secretary is authorized to issue necessary rules and regulations for carrying out the provisions of this subsection, and to confer or impose upon any officer or employee of the Treasury Department, as he shall designate or appoint, the duty of conducting any hearing authorized hereunder."

SEC. 2. Section 2550 (a) of the Internal Revenue Code (tax on certain substances) is amended by inserting after the phrase "levied, assessed, collected, and paid upon opium, isonipecaine, coca leaves," the word "opiate,".

SEC. 3. Paragraphs 5 and 6 of section 2557 (b) (penalties for violations of certain provisions relating to narcotics) are hereby amended by inserting in each immediately following the words "or conspiring to sell, import, or export, opium, coca leaves, cocaine, isonipecaine," the word "opiate,"; by deleting in each the word "or" from the phrase "preparation of opium, coca leaves, cocaine, or isonipecaine," and by inserting in each immediately following such phrase the words "or opiate,".

SEC. 4. The first sentence of section 2558 (b) of the Internal Revenue Code (providing for confiscation and disposal of seized narcotics) is hereby amended by inserting immediately after the words "All opium, coca leaves, isonipecaine," the word "opiates,"; and by deleting the word "and" before the word "isonipecaine" in the phrase "all salts, derivatives, and preparations of opium, coca leaves, and isonipecaine," and inserting immediately following such phrase the words "and opiates,".

SEC. 5. Section 2565 of the Internal Revenue Code (cross-reference to definitions) is hereby amended by adding at the end thereof the following:

"OPIATE.—
"SUBSECTION (f)."

word "or" in the phrase "gives away opium, coca leaves, or isonipe-caine," and inserting immediately following such phrase the words "or opiate."

SEC. 7. Section 1 (a) of the Narcotic Drugs Import and Export Act, as amended (U. S. C., 1940 edition, title 21, sec. 171), is amended by inserting after the phrase "The term 'narcotic drugs' means opium, coca leaves, cocaine, isonipe-caine," the word "opiate,"; by deleting the word "or" from the words "preparation of opium, coca leaves, cocaine, or isonipe-caine" and inserting the words "or opiate"; and by striking out the period at the end thereof and inserting the following: "; and the word 'opiate' as used herein shall have the same meaning as defined in section 3228 (f) of the Internal Revenue Code."

SEC. 8. Sections 1 and 2 of the Act of August 12, 1937, as amended, entitled "An Act to increase the punishment of second, third, and subsequent offenders against the narcotic laws" (ch. 598, 50 Stat. 627; U. S. C., 1940 edition, title 21, secs. 200 and 200a), are hereby amended by inserting in each immediately following the words "or conspiring to sell, import, or export, opium, coca leaves, cocaine, isonipe-caine," the word "opiate,"; by deleting in each the word "or" from the phrase "preparation of opium, coca leaves, cocaine, or isonipe-caine," and by inserting in each immediately following such phrase the words "or opiate,"; and by adding a new sentence at the end of each section to read as follows: "The word 'opiate' as used in this section shall have the same meaning as defined in section 3228 (f) of the Internal Revenue Code."

SEC. 9. The second paragraph of section 584 of the Tariff Act of 1930, as amended (U. S. C., 1940 edition, title 19, sec. 1584), is hereby amended by deleting in the first sentence the word "or" from the phrase "If any of such merchandise so found consists of heroin, mor-phine, cocaine, or isonipe-caine," and by inserting immediately fol-lowing such phrase the words "or opiate,"; and by inserting in the last sentence of the paragraph immediately following the word "isonipe-caine" the word "opiate" and inserting immediately fol-lowing the reference "sections 3228 (e)" the following: ", 3228 (f)"

AMENDMENTS RELATING TO MARIHUANA

SEC. 10. (a) EXEMPTION FOR CERTAIN TRANSFERS TO MILLERS.—Section 2591 of the Internal Revenue Code is amended by adding at the end thereof a new subsection (e) to read as follows:

"(e) EXEMPTION FOR CERTAIN TRANSFERS TO MILLERS.—Nothing in this section shall apply to a transfer of the plant *Cannabis sativa* L. or any parts thereof from any person registered under section 3230 to a person who is also registered under section 3231 as a taxpayer required to pay the tax imposed by section 3230 (a) (6)."

(b) SPECIAL TAX ON MILLERS.—Section 3230 of the Internal Revenue Code is hereby amended by adding at the end of subsection (a) a new subdivision (6) to read as follows:

"(6) MILLERS.—Any person who at a mill manufactures or produces from the plant *Cannabis sativa* L. any fiber or fiber products, \$1 per year or fraction thereof during which he engages in such activities."

(c) REGISTRATION OF MILLERS.—Section 3231 of the Internal Revenue Code is hereby amended by inserting at the beginning the

before the word "Any" the following: "(a) IN GENERAL.—"; and by adding at the end of such section a new subsection to read as follows: "(b) SPECIAL REQUIREMENTS FOR MILLERS.—The Secretary shall not permit the registration of any person under this section as a person required to pay the tax imposed by section 3230 (a) (6), unless in the opinion of the Secretary such person (or if a corporation, each officer thereof) is a person of good moral character and unless in the opinion of the Secretary such person is a person of suitable financial standing, intends to engage in good faith in the business of manufacturing or producing fiber or fiber products from the plant *Cannabis sativa* L. on a commercial basis, and is not seeking registration under this section for the purpose of facilitating the unlawful diversion of marihuana. Any person who is registered under this section and has paid the tax imposed by section 3230 (a) (6) shall afford agents of the Bureau of Narcotics ready access at all times to any part of the premises of the mill or other premises of such person and the right to inspect any and all books, papers, records, or documents connected with the activities of such person in dealing in, manufacturing, and processing *Cannabis sativa* L. and fiber or fiber products thereof, and the handling of marihuana. The Secretary may cancel or may refuse to renew, after notice and opportunity for hearing, the registration of any such person if he finds that such person has not complied or is not complying with the requirements of this subsection, or if he finds that grounds exist which would justify the refusal to permit the original registration of such person under this section."

Approved March 8, 1946.

[PUBLIC LAW 365—81ST CONGRESS]

[CHAPTER 702—1ST SESSION]

[H. R. 6213]

AN ACT

To authorize reimbursement to the appropriations of the Bureau of Narcotics of moneys expended for the purchase of narcotics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of March 28, 1928, chapter 266 (45 Stat. 374; U. S. C., 1946 edition, title 31, sec. 529a), is hereby amended by adding at the end thereof a paragraph reading as follows:

"Moneys expended from appropriations of the Bureau of Narcotics, Treasury Department, for the purchase of narcotics, including marihuana, and subsequently recovered shall be reimbursed to the appropriation for enforcement of the narcotics and marihuana laws current at the time of the deposit."

Approved October 20, 1949.

[PUBLIC LAW 678—81ST CONGRESS]

[CHAPTER 655—2D SESSION]

[S. 3380]

AN ACT

To amend the Act of August 9, 1939, to redefine the term "contraband article" with respect to narcotic drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 (b) (1) of the Act of August 9, 1939 (53 Stat. 1291; U. S. C., 1946 edition, title 49, sec. 781 (b) (1)), is amended to read as follows:

"(1) Any narcotic drug which has been or is possessed with intent to sell or offer for sale in violation of any laws or regulations of the United States dealing therewith; or which has been acquired or is possessed, sold, transferred, or offered for sale, in violation of any laws of the United States dealing therewith; or which has been acquired by theft, robbery, or burglary and carried or transported within any Territory, possession, or the District of Columbia, or from any State, Territory, possession, the District of Columbia, or the Canal Zone, to another State, Territory, possession, the District of Columbia, or the Canal Zone; or which does not bear appropriate tax-paid internal-revenue stamps as required by law or regulations;".

Approved August 9, 1950.

(86)

[PUBLIC LAW 804—81ST CONGRESS]

[CHAPTER 974—2D SESSION]

[H. R. 7891]

AN ACT

To amend section 3224 (b) of the Internal Revenue Code, relating to the transportation of narcotic drugs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3224 (b) of the Internal Revenue Code is hereby amended to read as follows:

"(b) TRANSPORTATION.—Except as otherwise provided in this subsection, it shall be unlawful for any person to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, into any other State or Territory or the District of Columbia, or any insular possession of the United States. Nothing contained in this subsection shall apply—

"(1) to any person who shall have registered and paid the special tax as required by sections 3220 and 3221;

"(2) to common carriers engaged in transporting the aforesaid drugs;

"(3) to any employee acting within the scope of his employment for any person who shall have registered and paid the special tax as required by sections 3220 and 3221, or to any contract carrier or other agent acting within the scope of his agency for such registered person;

"(4) to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, veterinarian, or other practitioner required to register under the terms of this part or section 2551 (a) and employed to prescribe for the particular patient receiving such drug;

"(5) to any person carrying any such drug which has been obtained by the person from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinarian, or other practitioner registered under section 3221 if the bottle or other container in which such drug is carried bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing such prescription;

"(6) to any person carrying any such drug which has been obtained by the person as a patient from a registered physician, dentist, or other practitioner in the course of his professional practice if such drug is dispensed to the patient for legitimate medical purposes; or

"(7) to any United States, State, county, municipal, district, Territorial, or insular officer or official acting within the scope of his official duties."

Approved September 21, 1950.

(87)

Public Law 255 - 82d Congress
Chapter 666 - 1st Session
H. R. 3490

AN ACT

To amend the penalty provisions applicable to persons convicted of violating certain narcotic laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 (c) of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, sec. 174), is amended to read as follows:

"(c) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subdivision, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subdivision or in section 2557

(b) (1) of the Internal Revenue Code, or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202 of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or sections 2557 (b) (1) or 2596 of the Internal Revenue Code enacted February 10, 1939 (ch. 2, 53 Stat. 274, 282), as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subdivision.

"Whenever on trial for a violation of this subdivision the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury."

Sec. 2. Section 2557 (b) (1) of the Internal Revenue Code is amended to read as follows:

"(1) Whoever commits an offense or conspires to commit an offense described in this subchapter, subchapter C of this chapter,

Narcotic law
violations,
penalties.
42 Stat. 596.

Infra.

21 U.S.C. §§ 171,
173, 174-177.

65 Stat. 768.

65 Stat. 767,
65 Stat. 768.

53 Stat. 274.
26 U.S.C. § 2557.

53 Stat. 269.
26 U.S.C.
§§ 2550-2565,
2590-2604,
3220-3239.

Infra.

53 Stat. 282.
26 U.S.C.
§ 2596.

53 Stat. 387.
26 U.S.C.
§ 3235.

65 Stat. 768.
65 Stat. 769.
Repeals.
42 Stat. 597.

50 Stat. 627.
21 U.S.C.
§ 200-200b.

or parts V or VI of subchapter A of chapter 27, for which no specific penalty is otherwise provided, shall be fined not more than \$2,000 and imprisoned not less than two or more than five years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than five or more than ten years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than ten or more than twenty years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this paragraph, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this paragraph or in section 2 (c) of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, sec. 174), or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the Act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202, of the Act of May 26, 1922 (42 Stat. 596), as amended; section 12, Chapter 553, of the Act of August 2, 1937 (50 Stat. 556), as amended; or sections 2557 (b) (1) or 2596 of the Internal Revenue Code enacted February 10, 1939 (ch. 2, 53 Stat. 274, 282), as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this paragraph."

Sec. 3. Section 2596 of the Internal Revenue Code is amended to read as follows:

"SEC. 2596. PENALTIES.

"For penalties for violating or failing to comply with any of the provisions of this subchapter, see section 2557 (b) (1)."

Sec. 4. Section 3235 of the Internal Revenue Code is amended to read as follows:

"SEC. 3235. PENALTIES.

"For penalties for violating or failing to comply with any of the provisions of this part, see section 2557 (b) (1)."

Sec. 5. There are hereby repealed—

(1) section 2 (f) of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, sec. 174);

(2) the Act of August 12, 1937, as amended (U. S. C., title 21, secs. 200-200 (b));

(3) sections 2557 (b) (5), (6), and (7) of the Internal Revenue Code.

SEC. 6. Any rights or liabilities now existing under the laws or parts thereof repealed by this Act shall not be affected by such repeal.

Approved November 2, 1951.

All 65 Stat. 769.

53 Stat. 275.
26 U.S.C.
§ 2557.

Public Law 76 - 83d Congress
Chapter 149 - 1st Session
H. R. 3307

AN ACT

To provide for the treatment of users of narcotics in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to protect the health and safety of the people of the District of Columbia from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. The Congress intends that Federal criminal laws shall be enforced against drug users as well as other persons, and this Act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

Narcotics.
Treatment of
users in D. C.

DEFINITIONS

SEC. 2. For the purposes of this Act—

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

(2) The term "patient" means a person with respect to whom there has been filed with the clerk of the United States District Court for the District of Columbia a statement as provided for in section 3.

FILING A STATEMENT

SEC. 3. (a) Whenever it appears to the United States attorney for the District of Columbia that any person within the District of Columbia, other than a person referred to in subsection (b), is a drug user, he may file with the clerk of the United States District Court for the District of Columbia a statement in writing setting forth the facts tending to show that such a person is a drug user.

(b) The United States attorney shall not file a statement under this section with respect to any person who is charged with a criminal offense, whether by indictment, by information, or who is under sentence for a criminal offense, whether he is serving the sentence, or is on probation or parole, or has been released on bond pending appeal.

COURT ORDER FOR EXAMINATION

SEC. 4. Upon the filing of such a statement, the court shall order the patient to appear before it for an examination by physicians pursuant to section 6 (a) of this Act and for a hearing if required under section 7 of this Act. The copy of the statement and order of the court shall be served personally upon the patient by the United States Marshal.

RIGHT TO COUNSEL

SEC. 5. A patient shall have the right to the assistance of counsel at every stage of the judicial proceeding under this Act. Before the court appoints physicians pursuant to section 6 of this Act it shall advise the patient of his right to counsel and shall assign counsel to represent him if the patient is unable to obtain counsel.

EXAMINATIONS BY PHYSICIANS

SEC. 6. (a) When such a statement has been filed the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination the court

may order the patient committed for such reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. Each physician shall, within such periods as the court may direct, file a written report of the examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

(b) The counsel for the patient may inspect the reports of the examination. No such report and no evidence resulting from the personal examination of the patient or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this Act.

WHEN HEARING IS REQUIRED

Sec. 7. If, in a report filed pursuant to section 6 of this Act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing in the manner provided in section 8 of this Act. If, on the basis of the reports filed, the court is not required to conduct such a hearing, it shall enter an order dismissing the proceeding under this Act. If a hearing is deemed necessary, then such notice of hearing shall be served personally upon the patient to afford the said patient the opportunity to prepare for the hearing.

HEARING

67 Stat. 78.
67 Stat. 79.

Sec. 8. Upon the evidence introduced at a hearing held for that purpose the court shall determine whether the patient is a drug user. The hearing shall be conducted without a jury unless, before the hearing and within fifteen days after the date on which the second report is filed pursuant to section 6 of this Act, a jury is demanded by the patient or by the United States Attorney. The patient may, after appointment or employment of counsel, waive a hearing and be committed directly to a hospital designated by the Commissioners of the District of Columbia, or their designated agent. The rules of evidence applicable in judicial proceedings in the court are applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpoena and cross-examine witnesses.

CONFINEMENT OF PATIENT

Sec. 9. If the court finds the patient to be a drug user, it may commit him to a hospital designated by the patient or the Commissioners of the District of Columbia, or their designated agent, and approved by the court, to be confined there for rehabilitation until released in accordance with section 10 of this Act. The head of the hospital shall submit written reports, within such periods as the court may direct, but no longer than six months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

RELEASE OF PATIENT

Sec. 10. (a) When the head of the hospital to which the patient is committed finds that the patient appears to be no longer in need of rehabilitation, or has received maximum benefits, they shall give notice to the judge of the committing court, and the said patient shall be delivered to the said court, for such further action as the court may deem necessary and proper under the provisions of this Act.

All 67 Stat. 79.

(b) The court, upon petition of the patient after confinement for one year, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of care, treatment, guidance, or rehabilitation, or has received maximum benefits, it shall order the patient released, in accordance with the provisions of section 11 of this Act.

PERIODIC EXAMINATION OF RELEASED PATIENTS

Sec. 11. For the two years after his release, the patient shall report to the Commissioners of the District of Columbia, or their designated agent, at such times and places as those officers, or officer, require, but not more frequently than once each month, for a physical examination to determine whether the patient has again become a drug user. If the Commissioners of the District of Columbia, or their designated agent, determine that the person examined is a drug user, they shall so notify the United States attorney for the District of Columbia who may then file a statement under section 3 of this Act with respect to the person examined.

PATIENT NOT DEEMED A CRIMINAL

Sec. 12. The patient in any proceeding under this Act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction.

Sec. 13. This Act shall become effective six months after the date of its approval. Effective date.

Approved June 24, 1953.

Public Law 240 - 83d Congress
Chapter 394 - 1st Session
H. R. 5561

AN ACT

To amend the Internal Revenue Code and the Narcotic Drugs Import and Export Act so as to provide that certain drugs which are or may be chemically synthesized shall be included within the classification of narcotic drugs.

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

Narcotic drugs.

DEFINITION OF "NARCOTIC DRUGS"

SECTION 1. Section 3228 of the Internal Revenue Code is amended by adding at the end thereof the following new subsection: 60 Stat. 38.
26 USC 3228.

"(g) NARCOTIC DRUGS.—The words 'narcotic drugs' as used in this part and subchapter A of chapter 23, shall mean 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:

- "(1) Opium, isonipecaine, coca leaves, and opiate;
- "(2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;
- "(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2)."

TECHNICAL AMENDMENTS

SEC. 2. Section 2550 (a) of the Internal Revenue Code (relating to tax on opium and coca leaves) is amended by striking out "opium, isonipecaine, coca leaves, opiate, any compound, salt, derivative, or preparation thereof," and by inserting in lieu thereof "narcotic drugs". 53 Stat. 269.
26 USC 2550.

SEC. 3. (a) Section 2558 (b) of the Internal Revenue Code is amended (1) by striking out "opium, coca leaves, isonipecaine, opiates, and all salts, derivatives, and preparations of opium, coca leaves, isonipecaine, and opiates," and by inserting in lieu thereof "narcotic drugs", and (2) by striking out "None of the aforesaid drugs" and inserting in lieu thereof "No narcotic drugs". 26 USC 2558.

(b) Sections 2564 (b), 3220 (g), and 3222 (c) (1) of the Internal Revenue Code are each amended by striking out "opium or coca leaves, their salts, derivatives, or preparations" and by inserting in lieu thereof "narcotic drugs". 26 USC 2564, 3220, 3222.

SEC. 4. Section 2565 of the Internal Revenue Code is amended by striking out all that follows "Subsection (d)." and by inserting in lieu thereof the following:

"NARCOTIC DRUGS.—
"SUBSECTION (g)."

SEC. 5. Section 3220 of the Internal Revenue Code (relating to tax on narcotics) is amended by striking out "opium, coca leaves, isonipecaine, or opiate, or any compound, manufacture, salt, derivative, or preparation thereof," and by inserting in lieu thereof "narcotic drugs". 26 USC 3220.
67 Stat. 505.
67 Stat. 506.

SEC. 6. Subchapter A of chapter 23 of the Internal Revenue Code and part V of subchapter A of chapter 27 of the Internal Revenue Code are amended by striking out "the drugs mentioned in section 2550 (a)", "any of the drugs mentioned in section 2550 (a)", "any of the drugs mentioned in section 3220", "any of the aforesaid drugs", and "the aforesaid drugs", wherever those words appear, and by inserting in lieu thereof "narcotic drugs". 26 USC 2550-2565, 3220-3228.

Public Law 238 - 83d Congress
Chapter 392 - 1st Session
H. R. 5257

AN ACT

To extend to the Trust Territory of the Pacific Islands certain provisions of the Internal Revenue Code relating to narcotics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2563 of the Internal Revenue Code (relating to Territorial extent of law) is amended by inserting "the Territory of the Pacific Islands," immediately after "the insular possessions of the United States,"

SEC. 2. (a) The heading of section 2564 of the Internal Revenue Code is amended to read as follows: 53 Stat. 277.
26 USC 2563.

"SEC. 2564. ADMINISTRATION IN PUERTO RICO, THE TRUST TERRITORY OF THE PACIFIC ISLANDS, THE CANAL ZONE, AND THE VIRGIN ISLANDS."

(b) Section 2504 (a) of the Internal Revenue Code is amended to read as follows: 26 USC 2504(a).

"(a) PUERTO RICO AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS.—In Puerto Rico and the Trust Territory of the Pacific Islands, the administration of this subchapter and part V of subchapter A of chapter 27, the collection of the special tax imposed by section 3220 of chapter 27, and the issuance of the order forms specified in section 2554 shall be performed by the appropriate internal revenue officers of those governments, and all revenues collected thereunder in Puerto Rico and the Trust Territory of the Pacific Islands shall accrue intact to the general governments thereof, respectively. The highest court of original jurisdiction of the Trust Territory of the Pacific Islands shall possess and exercise jurisdiction in all cases arising in such Territory under this subchapter and part V of subchapter A of chapter 27."

SEC. 3. Section 2554 (h) (1) of the Internal Revenue Code is amended by striking out "PHILIPPINE ISLANDS" and "Philippine Islands" and inserting in lieu thereof, respectively, "TRUST TERRITORY OF THE PACIFIC ISLANDS" and "Trust Territory of the Pacific Islands".

SEC. 4. Section 2565 of the Internal Revenue Code is amended by adding at the end thereof the following:

"TERRITORY.—
"Subsection (g)."

SEC. 5. Section 3228 of the Internal Revenue Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) TERRITORY.—As used in this part and subchapter A of chapter 23, (1) the word 'Territory' shall include the Trust Territory of the Pacific Islands, and (2) the word 'Territorial' shall reflect such inclusion." 67 Stat. 500.
67 Stat. 501.

SEC. 6. The amendments made by this Act shall take effect on the first day of the third month which begins more than ten days after the date of enactment of this Act. Effective date.

Approved August 8, 1953.

All 67 Stat. 506.

58 Stat. 721; SEC. 7. Sections 3228 (e) and 3228 (f) of the Internal Revenue Code are each amended by striking out "and subchapter A of chapter 23".

60 Stat. 38. SEC. 8. Paragraph (a) of the first section of the Narcotic Drugs Import and Export Act: (21 U. S. C., sec. 171 (a)) is amended to read as follows:

42 Stat. 596.

"(a) The term 'narcotic drug' shall have the meaning ascribed to the term 'narcotic drugs' by section 3228 (g) of the Internal Revenue Code; the term 'isonipeaine' shall have the meaning ascribed to that term by section 3228 (e) of such Code; and the term 'opiate' shall have the meaning ascribed to that term by section 3228 (f) of such Code."

Approved August 8, 1953.

Public Law 355 - 83d Congress
Chapter 195 - 2d Session
H. R. 6702

AN ACT

To authorize the care and treatment at facilities of the Public Health Service of narcotic addicts committed by the United States District Court for the District of Columbia, and for other purposes.

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

Narcotics.
Treatment of
users in D. C.

DECLARATION OF PURPOSE

SECTION 1. In order to afford the District of Columbia time to provide the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), and, in the interim, to help it meet its responsibility for the detention, care, and treatment of noncriminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities for a temporary period, at the expense of the District of Columbia, for such detention, care, and treatment.

SEC. 2. The Public Health Service Act (42 U. S. C., ch. 6A) is amended by redesignating section 345 as section 346 and by inserting after section 344 the following new section:

"PERSONS COMMITTED FROM DISTRICT OF COLUMBIA

68 Stat. 79.
68 Stat. 80.

"SEC. 345. (a) The Surgeon General is authorized to admit for care and treatment in any hospital of the Service suitably equipped therefor, and thereafter to transfer between hospitals of the Service in accordance with section 321 (b), any addict who is committed, under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), to the Service or to a hospital thereof for care and treatment and who the Surgeon General determines is a proper subject for such care and treatment. No such addict shall be admitted unless (1) he is committed prior to July 1, 1956; and (2) at the time of his commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than fifty; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted.

"(b) Any person admitted to a hospital of the Service pursuant to subsection (a) shall be discharged therefrom (1) upon order of the United States District Court for the District of Columbia, or (2) when he is found by the Surgeon General to be cured and rehabilitated. When any such person is so discharged, the Surgeon General shall give notice thereof to the United States District Court for the District of Columbia and shall deliver such person to such court for such further action as such court may deem necessary and proper under the provisions of the Act of June 24, 1953 (Public Law 76, Eighty-third Congress).

"(c) With respect to the detention, transfer, parole, or discharge of any person committed to a hospital of the Service in accordance with subsection (a), the Surgeon General and the officer in charge of the hospital, in addition to authority otherwise vested in them, shall have such authority as may be conferred upon them, respectively, by the order of the committing court.

"(d) The cost of providing care and treatment for persons admitted to a hospital of the Service pursuant to subsection (a) shall be a charge on the District of Columbia and shall be paid by the District of Columbia to the Public Health Service, either in advance or otherwise, as may be determined by the Surgeon General. Such cost may be determined for each addict or on the basis of rates established for all

or particular classes of patients, and shall include the cost of transportation to and from facilities of the Public Health Service. Moneys so paid to the Public Health Service shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to the District of Columbia, including subsistence allowance while traveling, for any such addict who is discharged."

42 USC 257.

SEC. 3. The first sentence of section 341 of such Act is amended to read: "The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who voluntarily submit themselves for treatment, addicts who have been or are hereafter convicted of offenses against the United States, including persons convicted by general courts-martial and consular courts, and addicts who are committed to the Service or to a hospital thereof pursuant to section 345."

Supra.

SEC. 4. Such Act is further amended by adding the following new section after the section herein redesignated as section 346:

68 Stat. 80.
68 Stat. 81.

"RELEASE OF PATIENTS

"SEC. 347. For purposes of this Act, an individual shall be deemed cured of his addiction and rehabilitated if the Surgeon General determines that he has received the maximum benefits of treatment and care by the Service for his addiction or if the Surgeon General determines that his further treatment and care for such purpose would be detrimental to the interests of the Service."

Approved May 8, 1954

Public Law 500 - 83d Congress
Chapter 512 - 2d Session
H. R. 8538

AN ACT

To provide for the revocation or denial of merchant marine documents to persons involved in certain narcotics violations. All 68 Stat. 484.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in Narcotic users, Seaman's document.

(a) The term "narcotic drug" shall have the meaning ascribed to that term by paragraph (a) of the first section of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 171 (a)), and also shall include marihuana as defined in section 3238 (b) of the Internal Revenue Code. 58 Stat. 721.
53 Stat. 397.

(b) The term "Secretary" means the head of the department in which the Coast Guard is operating. 26 USC 3238.

(c) The term "seaman's document" means any document authorized by law or regulation to be issued to a merchant mariner by the Secretary.

SEC. 2. The Secretary may—

(a) deny a seaman's document to—

(1) any person who, within ten years prior to the date of the application therefor, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States, which conviction has become final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has ever been a user of or addicted to the use of a narcotic drug; and

(b) take action, based on a hearing before a Coast Guard examiner, under hearing procedures prescribed by the Administrative Procedure Act, as amended (U. S. C., title 5, secs. 1001-1011), to revoke the seaman's document of— Denial.
Revocation.
60 Stat. 237.

(1) any person who, subsequent to the effective date of this Act and within ten years prior to the institution of the action, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States; the revocation to be subject to the conviction's becoming final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has been, subsequent to the effective date of this Act, a user of or addicted to the use of a narcotic drug.

Approved July 15, 1954.

(Extract from)

PUBLIC LAW 591, 83D CONGRESS

INTERNAL REVENUE CODE OF 1954

SEC. 7237. VIOLATION OF LAWS RELATING TO NARCOTIC DRUGS AND TO MARIHUANA.

(a) VIOLATION OF LAW RELATING TO OPIUM AND COCA LEAVES AND MARIHUANA.—Whoever commits an offense or conspires to commit an offense described in subpart C of part I, or part II of subchapter A of chapter 39 for which no specific penalty is otherwise provided, shall be fined not more than \$2,000 and imprisoned not less than 2 or more than 5 years. For a second offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 5 or more than 10 years. For a third or subsequent offense, the offender shall be fined not more than \$2,000 and imprisoned not less than 10 or more than 20 years. Upon conviction for a second or subsequent offense, the imposition or execution of sentence shall not be suspended and probation shall not be granted. For the purpose of this subsection, an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which is provided in this subsection or in section 2 (c) of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C. 174), or if he previously has been convicted of any offense the penalty for which was provided in section 9, chapter 1, of the act of December 17, 1914 (38 Stat. 789), as amended; section 1, chapter 202, of the act of May 26, 1922 (42 Stat. 596), as amended; section 12, chapter 553, of the act of August 2, 1937 (50 Stat. 556), as amended; or sections 2557 (b) (1) or 2596 of the Internal Revenue Code enacted February 10, 1939 (ch. 2, 53 Stat. 274, 282), as amended. After conviction, but prior to pronouncement of sentence, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in this subsection.

(b) UNLAWFUL DISCLOSURE OF INFORMATION ON RETURNS OR ORDER FORMS.—Any person who shall disclose the information contained in the statements or returns required under section 4732 (b) or in the duplicate order forms required in section 4705 (e), except as expressly provided in section 4773, and except for the purpose of

(100)

enforcing the provisions of subpart C of part I of subchapter A of chapter 39, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs, shall, on conviction, be fined or imprisoned as provided by subsection (a) of this section.

SEC. 7238. VIOLATION OF LAWS RELATING TO OPIUM FOR SMOKING.

A penalty of not less than \$10,000 or imprisonment for not less than 5 years, or both, in the discretion of the court, shall be imposed for each and every violation of subpart B of part I of subchapter A of chapter 39 (relating to opium for smoking) by any person or persons.

Approved August 16, 1954.

Public Law 729 - 83d Congress
Chapter 1147 - 2d Session
S. 3447

AN ACT

To amend the Internal Revenue Code to permit the filling of oral prescriptions for certain drugs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2554 (c) (1) of the Internal Revenue Code of 1939 is amended to read as follows:

"(1) USE OF DRUGS IN PROFESSIONAL PRACTICE.—To the dispensing or distribution of narcotic drugs to a patient by a physician, dentist, veterinary surgeon, or other practitioner, registered under section 3221, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner, shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed; the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, veterinary surgeon, or other practitioner, shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in section 2556."

SEC. 2. Section 2554 (c) (2) of the Internal Revenue Code of 1939 is amended to read as follows:

"(2) PRESCRIPTION.—To the sale, dispensing, or distribution of narcotic drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner, registered under section 3221: *Provided, however*, That (1) such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner, who shall have issued the same; (2) that such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 2556.

"In lieu of a written prescription for such narcotic drugs or compounds of a narcotic drug which the Secretary, in his discretion (after considering any views expressed on the subject by the Surgeon General, United States Public Health Service; the Commissioner, United States Food and Drug Administration, the respective heads of State narcotic law enforcement agencies, and the respective secretaries of national associations representing (a) narcotic drug manufacturers, (b) physicians, and (c) pharmacists), shall find and by regulation designate to possess relatively little or no addiction liability, the sale, dispensing, or distribution may be made by a dealer to a consumer upon oral prescription of a duly registered physician, dentist, veterinary surgeon, or other practitioner, which oral prescription is reduced promptly to writing, and the writing filed and preserved by the dealer for a period of two years from the date on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 2556. In issuing an oral prescription, the prescriber shall furnish the dealer with the same information as is required by law or regulation in case of a written prescription for narcotic drugs or compounds of a narcotic drug except for the written signature of the prescriber, and the dealer who fills such prescription shall be re-

Narcotic drugs.
Oral prescriptions.

68A Stat. 942,
551.

68A Stat. 946,
555.

68A Stat. 942,
567.

68 Stat. 1001.
68 Stat. 1002.

68A Stat. 942,
551.

68A Stat. 942,
567.

68A Stat. 946,
556.

68 Stat. 1002.
68 Stat. 1003.

68A Stat. 942,
551.

68A Stat. 946,
555.

68A Stat. 551.

68A Stat. 555.

quired to inscribe such information on the written record of the prescription made, filed and preserved by him, and shall inscribe on the label of the container of the narcotic drug or compound of a narcotic drug the same information as is required in filling a written prescription. An oral prescription shall not be refilled.

"If the Secretary shall subsequently determine that a narcotic drug or a compound of a narcotic drug, to which the oral prescription procedure described in the preceding paragraph has been made applicable, possesses a degree of drug addiction liability that, in his opinion, results in abusive use of such procedure, he shall by regulation publish the determination in the Federal Register. The determination shall be final, and after the expiration of a period of six months from the date of its publication, the oral prescription procedure described in the preceding paragraph shall cease to apply to the particular narcotic drug or to the particular compound of a narcotic drug which is the subject of the determination."

SEC. 3. Section 2553 (b) (1) of the Internal Revenue Code of 1939 is amended to read as follows:

"(1) PRESCRIPTIONS.—To any person having in his or her possession any narcotic drugs or compounds of narcotic drug which have been obtained from a registered dealer in pursuance of a written or oral prescription referred to in section 2554 (c) (2), issued for legitimate medical uses by a physician, dentist, veterinary surgeon, or other practitioner registered under section 3221; and where the bottle or other container in which such narcotic drug or compound of a narcotic drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, and name and address of the patient, serial number of prescription, and name, address, and registry number of the person issuing said prescription; or".

SEC. 4. Section 2556 (a) of the Internal Revenue Code of 1939 is amended by placing a comma after the word "prescriptions" in the first sentence thereof and interpolating immediately following said comma, the phrase "including the written record of oral prescriptions."

SEC. 5. Section 3224 (b) (5) of the Internal Revenue Code of 1939 is amended to read as follows:

"(5) to any person carrying any narcotic drug or compound of a narcotic drug which has been obtained by the person from a registered dealer in pursuance of a written or oral prescription referred to in section 2554 (c) (2), issued for legitimate medical uses by a physician, dentist, veterinary surgeon, or other practitioner, registered under section 3221, if the bottle or other container in which such drug or compound of a narcotic drug is carried bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person issuing such prescription."

SEC. 6. Section 4705 (c) (1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(1) USE OF DRUGS IN PROFESSIONAL PRACTICE.—To the dispensing or distribution of narcotic drugs to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4722, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs

are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, veterinary surgeon, or other practitioner shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in section 4773."

SEC. 7. Section 4705 (c) (2) of the Internal Revenue Code of 1954 is amended to read as follows:

"(2) PRESCRIPTIONS.—(A) To the sale, dispensing, or distribution of narcotic drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4722: *Provided, however,* That (i) such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who shall have issued the same; (ii) that such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 4773.

"(B) In lieu of a written prescription for such narcotic drugs or compounds of a narcotic drug which the Secretary or his delegate, in his discretion (after considering any views expressed on the subject by the Surgeon General, United States Public Health Service; the Commissioner, United States Food and Drug Administration; the respective heads of State narcotic law enforcement agencies; and the respective secretaries of national associations representing (i) narcotic drug manufacturers, (ii) physicians, and (iii) pharmacists), shall find and by regulation designate to possess relatively little or no addiction liability, the sale, dispensing, or distribution may be made by a dealer to a consumer upon oral prescription of a duly registered physician, dentist, veterinary surgeon, or other practitioner, which oral prescription is reduced promptly to writing, and the writing filed and preserved by the dealer for a period of two years from the date on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials mentioned in section 4773. In issuing an oral prescription, the prescriber shall furnish the dealer with the same information as is required by law or regulation in case of a written prescription for narcotic drugs or compounds of a narcotic drug except for the written signature of the prescriber, and the dealer who fills such prescription shall be required to inscribe such information on the written record of the prescription made, filed and preserved by him; and shall inscribe on the label of the container of the narcotic drug or compound of a narcotic drug the same information as is required in filling a written prescription. An oral prescription shall not be refilled.

"(C) If the Secretary or his delegate shall subsequently determine that a narcotic drug or a compound of a narcotic drug, to which the oral prescription procedure described in the preceding subparagraph has been made applicable, possesses a degree of drug addiction liability that, in his opinion, results in abusive use of such procedure, he shall by regulation publish the determination in the Federal Register. The determination shall be final, and after the expiration of a period of six months from the date of its publication, the oral prescription procedure described in the preceding subparagraph shall cease to apply to the particular narcotic drug or to the particular compound of a narcotic drug which is the subject of the determination."

68A Stat. 567.
68A Stat. 551.

68A Stat. 555.

68A Stat. 567.

68 Stat. 1003.
68 Stat. 1004.

All 68 Stat. 1004.

68A Stat. 551. SEC. 8. Section 4704 (b) (1) of the Internal Revenue Code of 1954 is amended to read as follows:

"(1) PRESCRIPTIONS.—To any person having in his or her possession any narcotic drugs or compounds of narcotic drug which have been obtained from a registered dealer in pursuance of a written or oral prescription referred to in section 4705 (c) (2), issued for legitimate medical uses by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4722; and where the bottle or other container in which such narcotic drug or compound of a narcotic drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, and name and address of the patient, serial number of prescription, and name, address, and registry number of the person issuing said prescription; or"

68A Stat. 567. SEC. 9. Section 4773 of the Internal Revenue Code of 1954 is amended by striking out "prescriptions required" and inserting in lieu thereof "prescriptions, including the written record of oral prescriptions, required".

68A Stat. 556. SEC. 10. Section 4724 (b) (5) of the Internal Revenue Code of 1954 is amended to read as follows:

"(5) to any person carrying any narcotic drug or compound of a narcotic drug which has been obtained by the person from a registered dealer in pursuance of a written or oral prescription referred to in section 4705 (c) (2), issued for legitimate medical uses by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4722, if the bottle or other container in which such drug or compound of a narcotic drug is carried bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person issuing such prescription;"

Approved August 31, 1954.

68A Stat. 551.

68A Stat. 555.

Public Law 1 - 84th Congress
 Chapter 1 - 1st Session
 H. R. 2369

AN ACT

All 69 Stat. 3.

To amend section 7237 of the Internal Revenue Code of 1954.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (a) of section 7237 of the Internal Revenue Code of 1954 is hereby amended by striking out "subpart C of part I," and inserting in lieu thereof "part I." Subsection (b) of such section is hereby amended by striking out "subpart C of".

Approved January 20, 1955.

(106)

Public Law 57 - 84th Congress
 Chapter 119 - 1st Session
 S. 1727

AN ACT

All 69 Stat. 82.

To authorize certain administrative expenses in the Treasury Department, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury may make the following expenditures:

- (a) Expenditures for arms and ammunition required by civilian employees of the Department of the Treasury in the performance of their official duties.
- (b) Expenditures to reimburse Federal Reserve banks and branches for necessary expenses for services performed as Government depositaries and as fiscal agents of the United States.
- (c) Expenditures not to exceed \$10,000 per annum for services or information looking toward the apprehension of narcotic law violators who are fugitives from justice.

Sec. 2. The Secretary of the Treasury is authorized to accept services without compensation in connection with the program for the sale of United States public-debt obligations.

Sec. 3. Section 10 of the Second Liberty Bond Act, as amended (40 Stat. 292; U. S. C., title 31, sec. 760), is amended by adding at the end thereof the following sentence: "During any period for which a definite appropriation has been made for expenses for which this section makes an indefinite appropriation, the definite appropriation shall be available under the terms of this section and the indefinite appropriation shall not be available for obligation."

Approved June 1, 1955.

(107)

Public Law 362 - 84th Congress
Chapter 800 - 1st Session
H. R. 7018

AN ACT

To authorize subpoenas in connection with the enforcement of the narcotic laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 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 the laws of the United States relating to narcotic drugs and marihuana, the Secretary of the Treasury is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records (including books, papers, documents, and tangible things which constitute or contain evidence) which the Secretary of the Treasury 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: *Provided*, That a witness shall not be required to appear at any hearing distant more than one hundred miles from the place where he was served with subpoena. Witnesses summoned by the Secretary of the Treasury shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

SEC. 2. 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.

SEC. 3. 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.

Approved August 11, 1955.

(108)

Public Law 728 - 84th Congress
Chapter 629 - 2d Session
H. R. 11619

AN ACT

All 70 Stat. 567.

To amend the Internal Revenue Code of 1954 and the Narcotic Drugs Import and Export Act to provide for a more effective control of narcotic drugs and marihuana, and for other related purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Narcotic Control Act of 1956."

Narcotic Control Act of 1956.

TITLE I—AMENDMENTS TO THE 1954 CODE, THE NARCOTIC DRUGS IMPORT AND EXPORT ACT, ETC.

SEC. 101. UNLAWFUL ACQUISITION, ETC., OF MARIHUANA.

Subsection (a) of section 4744 of the Internal Revenue Code of 1954 (unlawful acquisition of marihuana) is amended to read as follows: 68A Stat. 562, 26 USC 4744.

"(a) PERSONS IN GENERAL.—It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 4741 26 USC 4741.

(a)—
" (1) to acquire or otherwise obtain any marihuana without having paid such tax, or
" (2) to transport or conceal, or in any manner facilitate the transportation or concealment of, any marihuana so acquired or obtained.

Proof that any person shall have had in his possession any marihuana and shall have failed, after reasonable notice and demand by the Secretary or his delegate, to produce the order form required by section 4742 to be retained by him shall be presumptive evidence of guilt under this subsection and of liability for the tax imposed by section 4741 (a)." 26 USC 4742.

SEC. 102. UNLAWFUL TRANSPORTATION OF MARIHUANA.

Subsection (b) of section 4755 of the Internal Revenue Code of 1954 (unlawful transportation of marihuana) is amended to read as follows: 68A Stat. 565, 26 USC 4755.

"(b) Transportation—Except as otherwise provided in this subsection, it shall be unlawful for any person to send, ship, carry, transport, or deliver any marihuana within any Territory, the District of Columbia, or any insular possession of the United States, or from any State, Territory, the District of Columbia, or any insular possession of the United States into any other State, Territory, the District of Columbia, or insular possession of the United States. Nothing contained in this subsection shall apply—

"(1) to any person who shall have registered and paid the special tax as required by sections 4751 to 4753, inclusive; 26 USC 4751-4753.

"(2) to any common carrier engaged in transporting marihuana;

"(3) to any employee acting within the scope of his employment for any person who shall have registered and paid the special tax as required by sections 4751 to 4753, inclusive, or to any contract carrier or other agent acting within the scope of his agency for such registered person;

"(4) to any person who shall deliver marihuana which has been prescribed or dispensed by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4753 and employed to prescribe for the particular patient receiving such marihuana;

"(5) to any person carrying marihuana which has been obtained by the person from a registered dealer in pursuance of a written prescription referred to in section 4742 (b) (2), issued for legitimate medical uses by a physician, dentist, veterinary 26 USC 4742.

(109)

All 70 Stat. 568.

surgeon, or other practitioner registered under section 4733, if the bottle or other container in which such marihuana is carried bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person issuing such prescription;

"(6) to any person carrying marihuana which has been obtained by the person as a patient from a registered physician, dentist, or other practitioner in the course of his professional practice if such marihuana is dispensed to the patient for legitimate medical purposes; or

"(7) to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties."

SEC. 103. VIOLATIONS OF NARCOTIC DRUG AND MARIHUANA LAWS.

Section 7237 of the Internal Revenue Code of 1954 (violations of laws relating to narcotic drugs and marihuana) is amended to read as follows:

"SEC. 7237. VIOLATION OF LAWS RELATING TO NARCOTIC DRUGS AND TO MARIHUANA.

"(a) WHERE NO SPECIFIC PENALTY IS OTHERWISE PROVIDED.—Whoever commits an offense, or conspires to commit an offense, described in part I or part II of subchapter A of chapter 39 for which no specific penalty is otherwise provided, shall be imprisoned not less than 2 or more than 10 years and, in addition, may be fined not more than \$20,000. For a second offense, the offender shall be imprisoned not less than 5 or more than 20 years and, in addition, may be fined not more than \$20,000. For a third or subsequent offense, the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than \$20,000.

"(b) SALE OR OTHER TRANSFER WITHOUT WRITTEN ORDER.—Whoever commits an offense, or conspires to commit an offense, described in section 4705 (a) or section 4742 (a) shall be imprisoned not less than 5 or more than 20 years and, in addition, may be fined not more than \$20,000. For a second or subsequent offense, the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than \$20,000. If the offender attained the age of 18 before the offense and—

"(1) the offense consisted of the sale, barter, exchange, giving away, or transfer of any narcotic drug or marihuana to a person who had not attained the age of 18 at the time of such offense, or

"(2) the offense consisted of a conspiracy to commit an offense described in paragraph (1),

the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than \$20,000.

"(c) CONVICTION OF SECOND OR SUBSEQUENT OFFENSE.—

"(1) PRIOR OFFENSES COUNTED.—For purposes of subsections (a), (b), and (d) of this section, subsections (c) and (h) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 174), and the Act of July 11, 1941, as amended (21 U. S. C., sec. 184a), an offender shall be considered a second or subsequent offender, as the case may be, if he previously has been convicted of any offense the penalty for which was provided in subsection (a) or (b) of this section or in—

"(A) subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act (21 U. S. C., sec. 174);

"(B) the Act of July 11, 1941 (21 U. S. C., sec. 184a);

"(C) section 9 of the Act of December 17, 1914 (38 Stat. 789);

68A Stat. 860.
26 USC 7237.

68A Stat. 549,
560.
26 USC 4701-4762.

26 USC 4705,
4742.

65 Stat. 767.
Post, p. 570.
55 Stat. 584.
Post, p. 571.

Post, pp. 570, 571.

Post, p. 571.

21 USC 174
note.

All 70 Stat. 569.

"(D) section 1 of the Act of May 26, 1922 (42 Stat. 596); 21 USC 171, 173,
"(E) section 12 of the Marihuana Tax Act of 1937 (50 Stat. 556); or 174, 176, 177.
"(F) section 2557 (b) (1) or 2596 of the Internal Revenue Code of 1939. 53 Stat. 274, 282.

For purposes of determining prior offenses under the preceding sentence, a reference to any subsection, section, or Act providing a penalty for an offense shall be considered as a reference to such subsection, section, or Act as in effect (as originally enacted or as amended, as the case may be) with respect to the offense for which the offender previously has been convicted.

"(2) PROCEDURE.—After conviction (but before pronouncement of sentence) of any offense the penalty for which is provided in subsection (a) or (b) of this section, subsection (c) or (h) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, the court shall be advised by the United States attorney whether the conviction is the offender's first or a subsequent offense. If it is not a first offense, the United States attorney shall file an information setting forth the prior convictions. The offender shall have the opportunity in open court to affirm or deny that he is identical with the person previously convicted. If he denies the identity, sentence shall be postponed for such time as to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted, or if he acknowledges that he is such person, he shall be sentenced as prescribed in subsection (a) or (b) of this section, subsection (c) or (h) of such section 2, or such Act of July 11, 1941, as amended, as the case may be.

"(d) NO SUSPENSION OF SENTENCE; NO PROBATION; ETC.—Upon conviction—

"(1) of any offense the penalty for which is provided in subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, or

"(2) of any offense the penalty for which is provided in subsection (a) of this section, if it is the offender's second or subsequent offense,

the imposition or execution of sentence shall not be suspended, probation shall not be granted, section 4202 of title 18 of the United States Code shall not apply, and the Act of July 15, 1932 (47 Stat. 696; D. C. Code 24-201 and following), as amended, shall not apply.

"(e) UNLAWFUL DISCLOSURE OF INFORMATION ON RETURNS AND ORDER FORMS.—Any person who shall disclose the information contained in the statements or returns required under section 4732 (b) or 4754 (a), in the duplicate order forms required under section 4705 (e), or in the order forms or copies thereof referred to in section 4742 (d), except—

"(1) as expressly provided in section 4773,
"(2) for the purpose of enforcing any law of the United States relating to narcotic drugs or marihuana, or

"(3) for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs or marihuana, shall be fined not more than \$2,000 or imprisoned not more than 5 years or both."

Post, p. 570.
21 USC 184a.
Post, p. 571.

Post, pp. 570, 571.
21 USC 184a.
Post, p. 571.

62 Stat. 854.
61 Stat. 379.

26 USC 4732,
4754, 4705, 4742.
26 USC 4773.

All 70 Stat. 570.

SEC. 104. ADDITIONAL AUTHORITY FOR BUREAU OF NARCOTICS AND BUREAU OF CUSTOMS.

(a) **IN GENERAL.**—Subchapter A of chapter 78 of the Internal Revenue Code of 1954 (discovery of liability and enforcement of title) is amended by renumbering section 7607 as section 7608 and by inserting after section 7606 the following new section:

"SEC. 7607. ADDITIONAL AUTHORITY FOR BUREAU OF NARCOTICS AND BUREAU OF CUSTOMS.

"The Commissioner, Deputy Commissioner, Assistant to the Commissioner, and agents, of the Bureau of Narcotics of the Department of the Treasury, and officers of the customs (as defined in section 401 (1) of the Tariff Act of 1930, as amended; 19 U. S. C., sec. 1401 (1)), may—

"(1) carry firearms, execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under the authority of the United States, and

"(2) make arrests without warrant for violations of any law of the United States relating to narcotic drugs (as defined in section 4731) or marihuana (as defined in section 4761) where the violation is committed in the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such violation."

(b) **AMENDMENT OF TABLE OF SECTIONS.**—The table of sections for subchapter A of chapter 78 is amended by striking out

"Sec. 7607. Cross references."

and inserting in lieu thereof

"Sec. 7607. Additional authority for Bureau of Narcotics and Bureau of Customs.

"Sec. 7608. Cross references."

SEC. 105. IMPORTATION, ETC., OF NARCOTIC DRUGS.

Section 2 (c) of the Narcotic Drugs Import and Export Act, as amended (U. S. C., title 21, sec. 174), is amended to read as follows:

"(c) Whoever fraudulently or knowingly imports or brings any narcotic drug into the United States or any territory under its control or jurisdiction, contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of any such narcotic drug after being imported or brought in, knowing the same to have been imported or brought into the United States contrary to law, or conspires to commit any of such acts in violation of the laws of the United States, shall be imprisoned not less than five or more than twenty years and, in addition, may be fined not more than \$20,000. For a second or subsequent offense (as determined under section 7237 (c) of the Internal Revenue Code of 1954), the offender shall be imprisoned not less than ten or more than forty years and, in addition, may be fined not more than \$20,000.

"Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of the narcotic drug, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains the possession to the satisfaction of the jury.

"For provision relating to sentencing, probation, etc., see section (d) of the Internal Revenue Code of 1954."

SEC. 106. SMUGGLING OF MARIHUANA.

Section 2 of the Narcotic Drugs Import and Export Act, as amended is amended by adding at the end thereof the following:

"(h) Notwithstanding any other provision of law, whoever, knowingly, with intent to defraud the United States, imports or brings

68A Stat. 903.
26 USC 7607.

49 Stat. 521.

26 USC 4731,
4761.

65 Stat. 767.

Ante, p. 568.

Supra; post p.
571.

All 70 Stat. 571.

the United States marihuana contrary to law, or smuggles or clandestinely introduces into the United States marihuana which should have been invoiced, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such marihuana after being imported or brought in, knowing the same to have been imported or brought into the United States contrary to law, or whoever conspires to do any of the foregoing acts, shall be imprisoned not less than five or more than twenty years and, in addition, may be fined not more than \$20,000. For a second or subsequent offense (as determined under section 7237 (c) of the Internal Revenue Code of 1954), the offender shall be imprisoned for not less than ten or more than forty years and, in addition, may be fined not more than \$20,000.

"Whenever on trial for a violation of this subsection, the defendant is shown to have or to have had the marihuana in his possession, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant explains his possession to the satisfaction of the jury.

"As used in this subsection, the term 'marihuana' has the meaning given to such term by section 4761 of the Internal Revenue Code of 1954.

"For provision relating to sentencing, probation, etc., see section 7237 (d) of the Internal Revenue Code of 1954." Ante, p. 569.

SEC. 107. SALE OF HEROIN TO JUVENILES—PENALTIES.

Section 2 of the Narcotic Drugs Import and Export Act, as amended, is further amended by adding at the end thereof the following:

"(i) Notwithstanding any other provision of law, whoever, having attained the age of eighteen years, knowingly sells, gives away, furnishes, or dispenses, facilitates the sale, giving, furnishing, or dispensing, or conspires to sell, give away, furnish, or dispense, any heroin unlawfully imported or otherwise brought into the United States, to any person who has not attained the age of eighteen years, may be fined not more than \$20,000, and shall be imprisoned for life, or for not less than ten years, except that the offender shall suffer death if the jury in its discretion shall so direct.

"Whenever on trial for a violation of this subsection the defendant is shown to have had heroin in his possession, such possession shall be sufficient proof that the heroin was unlawfully imported or otherwise brought into the United States unless the defendant explains his possession to the satisfaction of the jury.

"For the purposes of this subsection, the term 'heroin' means any substance identified chemically as diacetylmorphine or any salt thereof. For provision relating to sentencing, probation, etc., see section 7237 (d) of the Internal Revenue Code of 1954." Ante, p. 569.

SEC. 108. UNLAWFUL POSSESSION OF NARCOTIC DRUGS AND MARIHUANA ON VESSELS.

(a) **IN GENERAL.**—Subsection (a) of the first section of the Act of July 11, 1941 (21 U. S. C., sec. 184a), is amended by striking out "fined not more than \$5,000 or be imprisoned for not more than five years, or both," and inserting in lieu thereof "imprisoned not less than five or more than twenty years and, in addition, may be fined not more than \$20,000. For a second or subsequent offense (as determined under section 7237 (c) of the Internal Revenue Code of 1954), the offender shall be imprisoned not less than ten or more than forty years and, in addition, may be fined not more than \$20,000. For provision relating to sentencing, probation, etc., see section 7237 (d) of the Internal Revenue Code of 1954." Ante, p. 568.

Ante, p. 568.

26 USC 4761.

Ante, p. 569.

Ante, p. 570.

Ante, p. 569.

55 Stat. 584.

Ante, p. 568.

Ante, p. 569.

All 70 Stat. 572.

(b) CORRECTION OF REFERENCE.—Subsection (b) of such section is amended by striking out “chapter 23 of the Internal Revenue Code, as amended,” and inserting in lieu thereof “subchapter A of chapter 39 of the Internal Revenue Code of 1954.”

SEC. 109. TERRITORIAL EXTENT OF LAW.

26 USC 4774.

Section 4774 of the Internal Revenue Code of 1954 (territorial extent of certain laws relating to narcotic drugs and marihuana) is amended by adding at the end thereof the following: “On and after the effective date of the Narcotic Control Act of 1956, the provisions referred to in the preceding sentence shall not apply to the Commonwealth of Puerto Rico unless the Legislative Assembly of the Commonwealth of Puerto Rico expressly consents thereto in the manner prescribed in the constitution of the Commonwealth of Puerto Rico for the enactment of a law.”

TITLE II—AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE

SEC. 201. ADDITION OF NEW CHAPTER—NARCOTICS.

62 Stat. 764.

Part I of title 18 of the United States Code is amended by inserting after chapter 67 the following new chapter:

“CHAPTER 68—NARCOTICS

“Sec.

- “1401. Definitions.
- “1402. Surrender of heroin—procedure.
- “1403. Use of communications facilities—penalties.
- “1404. Motion to suppress—appeal by the United States.
- “1405. Issuance of search warrants—procedure.
- “1406. Immunity of witnesses.
- “1407. Border crossings—narcotic addicts and violators.

“§ 1401. Definitions:

“As used in this chapter—
 “The term ‘heroin’ shall mean any substance identified chemically as diacetylmorphine or any salt thereof.
 “The term ‘United States’ shall include the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the Commonwealth of Puerto Rico, the insular possessions of the United States, the Trust Territory of the Pacific, and the Canal Zone.

“§ 1402. Surrender of heroin—procedure

Any heroin lawfully possessed prior to the effective date of this Act shall be surrendered to the Secretary of the Treasury, or his designated representative, within one hundred and twenty days after the effective date of the Act, and each person making such surrender shall be fairly and justly compensated therefor. The Secretary of the Treasury, or his designated representative, shall formulate regulations for such procedure. All quantities of heroin not surrendered in accordance with this section and the regulations promulgated thereunder by the Secretary of the Treasury, or his designated representative, shall by him be declared contraband, seized, and forfeited to the United States without compensation. All quantities of heroin received pursuant to the provisions of this section, or otherwise, shall be disposed of in the manner provided in section 4733 of the Internal Revenue Code of 1954, except that no heroin shall be distributed or used for other than scientific research purposes approved by the Secretary of the Treasury, or his designated representative.

26 USC 4733.

All 70 Stat. 573.

“§ 1403. Use of communications facilities—penalties

“(a) Whoever uses any communication facility in committing or in causing or facilitating the commission of, or in attempting to commit, any act or acts constituting an offense or a conspiracy to commit an offense the penalty for which is provided in—

“(1) subsection (a) or (b) of section 7237 of the Internal Revenue Code of 1954,

“(2) subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C. sec. 174), or

“(3) the Act of July 11, 1941, as amended (21 U. S. C. sec. 184a),

shall be imprisoned not less than two and not more than five years, and, in addition, may be fined not more than \$5,000. Each separate use of a communication facility shall be a separate offense under this section.

“(b) For purposes of this section, the term ‘communication facility’ means any and all public and private instrumentalities used or useful in the transmission of writings, signs, signals, pictures, and sounds of all kinds by mail, telephone, wire, radio, or other means of communication.

“§ 1404. Motion to suppress—appeal by the United States

“In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion for the return of seized property and to suppress evidence made before the trial of a person charged with a violation of—

“(1) any provision of part I or part II of subchapter A of chapter 39 of the Internal Revenue Code of 1954 the penalty for which is provided in subsection (a) or (b) of section 7237 of such Code,

“(2) subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 174),

or
 “(3) the Act of July 11, 1941, as amended (21 U. S. C., sec. 184a).

This section shall not apply with respect to any such motion unless the United States attorney shall certify, to the judge granting such motion, that the appeal is not taken for purposes of delay. Any appeal under this section shall be taken within 30 days after the date the order was entered and shall be diligently prosecuted.

“§ 1405. Issuance of search warrants—procedure

“In any case involving a violation of any provision of part I or part II of subchapter A of chapter 39 of the Internal Revenue Code of 1954 the penalty for which is provided in subsection (a) or (b) of section 7237 of such Code, a violation of subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 174), or a violation of the Act of July 11, 1941, as amended (21 U. S. C., sec. 184a)—

“(1) a search warrant may be served at any time of the day or night if the judge or the United States Commissioner issuing the warrant is satisfied that there is probable cause to believe that the grounds for the application exist, and

“(2) a search warrant may be directed to any officer of the Metropolitan Police of the District of Columbia authorized to enforce or assist in enforcing a violation of any of such provisions.

Ante, p. 568.

65 Stat. 767,
 Ante, pp. 570, 571.
 55 Stat. 584,
 Ante, p. 571.

Ante, p. 568.

65 Stat. 767;
 Ante, pp. 570, 571.

55 Stat. 584,
 Ante, p. 571.

26 USC 4701-

1954 the penalty for which is provided in subsection (a) or (b) of section 7237 of such Code, a violation of subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 174), or a violation of the Act of July 11, 1941, as amended (21 U. S. C., sec. 184a)—

65 Stat. 767;
 55 Stat. 584;
 Ante, pp. 570, 571.

All 70 Stat. 574.

"§ 1406. Immunity of witnesses

"Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of—

"(1) any provision of part I or part II of subchapter A of chapter 39 of the Internal Revenue Code of 1954 the penalty for which is provided in subsection (a) or (b) of section 7237 of such Code,

"(2) subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended (21 U. S. C., sec. 174), or

"(3) the Act of July 11, 1941, as amended (21 U. S. C., sec. 184a),

is necessary to the public interest, he, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except prosecution described in the next sentence) against him in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

"§ 1407. Border crossings—narcotic addicts and violators

"(a) In order further to give effect to the obligations of the United States pursuant to the Hague convention of 1912, proclaimed as a treaty on March 3, 1915 (38 Stat. 1912), and the limitation convention of 1931, proclaimed as a treaty on July 10, 1933 (48 Stat. 1571), and in order to facilitate more effective control of the international traffic in narcotic drugs, and to prevent the spread of drug addiction, no citizen of the United States who is addicted to or uses narcotic drugs, as defined in section 4731 of the Internal Revenue Code of 1954, as amended (except a person using such narcotic drugs as a result of sickness or accident or injury and to whom such narcotic drug is being furnished, prescribed, or administered in good faith by a duly licensed physician in attendance upon such person, in the course of his professional practice) or who has been convicted of a violation of any of the narcotic or marihuana laws of the United States, or of any State thereof, the penalty for which is imprisonment for more than one year, shall depart from or enter into or attempt to depart from or enter into the United States, unless such person registers, under such rules and regulations as may be prescribed by the Secretary of the Treasury with a customs official, agent, or employee at a point of entry or a border customs station. Unless otherwise prohibited by law or Federal regulation such customs official, agent, or employee shall issue a certificate to any such person departing from the United States; and such person shall, upon returning to the United States, surrender such certificate to the customs official, agent, or employee present at the port of entry or border customs station.

26 USC 4701-4762.
Ante, p. 568.

Ante, pp. 570, 571.

55 Stat. 584.
Ante, p. 571.

48 Stat. 1543.

26 USC 4731.

All 70 Stat. 575.

"(b) Whoever violates any of the provisions of this section shall be punished for each such violation by a fine of not more than \$1,000 or imprisonment for not less than one nor more than three years, or both."

SEC. 202. TECHNICAL AMENDMENT.

The analysis of part 1 of title 18 of the United States Code, immediately preceding chapter 1 of such title, is amended by adding

"68. Narcotics"

after

"67. Military and Navy".

TITLE III—AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT, ETC.

SEC. 301. AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) Section 212 (a) (23) of the Immigration and Nationality Act is amended to read as follows:

66 Stat. 184.
8 USC 1182.

"(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, or any salt derivative or preparation of opium or coca leaves, or isonipeaine or any addiction-forming or addiction-sustaining opiate; or any alien who the consular officer or immigration officers know or have reason to believe is or has been an illicit trafficker in any of the aforementioned drugs;"

(b) Section 241 (a) (11) of such Act is amended to read as follows:

66 Stat. 206.
8 USC 1251.

"(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation relating to the illicit possession of or traffic in narcotic drugs, or who has been convicted of a violation of, or a conspiracy to violate, any law or regulation governing or controlling the taxing, manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, exportation, or the possession for the purpose of the manufacture, production, compounding, transportation, sale, exchange, dispensing, giving away, importation, or exportation of opium, coca leaves, heroin, marihuana, any salt derivative or preparation of opium or coca leaves or isonipeaine or any addiction-forming or addiction-sustaining opiate;"

(c) Section 241 (b) of such Act is amended by adding at the end thereof the following additional new sentence: "The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a) (11) of this section."

66 Stat. 208.
8 USC 1251.

SEC. 302. AMENDMENT TO ACT OF JUNE 14, 1930.

Section 8 of the Act entitled "An Act to create in the Treasury Department the Bureau of Narcotics, and for other purposes", approved June 14, 1930 (46 Stat. 587), as amended, is amended to read as follows:

21 USC 198.

"Sec. 8. (a) The Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed, if any, to effect

All 70 Stat. 576.

the end named, (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation 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) to conduct narcotic training programs, as an integral part of narcotic law enforcement for the training of such local and State narcotic enforcement personnel as may be arranged with the respective local and State agencies, and (4) to maintain in the Bureau of Narcotics a 'Division of Statistics and Records' to accept, catalog, file, and otherwise utilize narcotic information and statistics, including complete records on drug addicts and other narcotic 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. Federal agencies of the United States may make available to the Bureau of Narcotics the names, identification, and any other pertinent information which may be specified by the Secretary of the Treasury, or his designated representative, of all persons who are known by them to be drug addicts or convicted violators of any of the narcotic laws of the United States, or any State thereof. The Commissioner of Narcotics shall request and encourage all heads of State and local agencies to make such information available to the Bureau of Narcotics.

"Federal agencies",

"(b) As used in this section, the term 'Federal agencies' shall include (1) the executive departments, (2) the Departments of the Army, Navy, and the Air Force, (3) the independent establishments and agencies in the executive branch, including corporations wholly owned by the United States, and (4) the municipal government of the District of Columbia.

Regulations.

"The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect."

IV—EFFECTIVE DATE; SEPARABILITY OF PROVISIONS

SEC. 401. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the day following the date of enactment of this Act.

SEC. 402. SEPARABILITY.

If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remaining provisions of this Act, or the application of such provisions to other persons or circumstances, shall not be affected thereby.

Approved July 18, 1956.

Public Law 764 - 84th Congress
Chapter 676 - 2d Session
H. R. 11320

AN ACT

All 70 Stat. 609.

To effect the control of narcotics and dangerous drugs in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Dangerous Drug Control Act for the District of Columbia".

Dangerous Drug Control Act for the District of Columbia.

D. C. Code 24-601 to 24-612.

TITLE I—TREATMENT OF NARCOTIC USERS

SEC. 101. The Act entitled "An Act to provide for the treatment of users of narcotics in the District of Columbia", approved June 24, 1953 (67 Stat. 77), is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Hospital Treatment for Drug Addicts Act for the District of Columbia'.

"PURPOSE

"SEC. 2. The purpose of this Act is to protect the health and safety of the people of the District of Columbia from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. The Congress intends that Federal criminal laws shall be enforced against drug users as well as other persons, and this Act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

"DEFINITIONS

"SEC. 3. For the purpose of this Act—

"(a) The term 'drug user' means any person, including a person under eighteen years of age, notwithstanding the provisions of the Juvenile Court Act of the District of Columbia, as amended, who uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

"(b) The term 'narcotic drugs' shall have the same meaning as that given to such term by section 4731 of the Internal Revenue Code of 1954.

"(c) The term 'patient' means any person ordered to appear before the Commissioners, pursuant to the provisions of section 4 of this Act.

"(d) The term 'Commissioners' means the Commissioners of the District of Columbia, sitting as a Board, or their designated agent or agents.

68A Stat. 557.
26 USC 4731.

"ORDER OF EXAMINATION

"SEC. 4. (a) Whenever the Commissioners have probable cause to believe that any person within the District of Columbia, other than a person referred to in subsection (b) hereof, is a drug user, they forthwith shall order any law enforcement officer of the District of Columbia to bring that person before them, to conduct a preliminary examination, and if they find sufficient evidence of addiction, as hereinbefore defined, they shall cause that person to be placed in an institution to be designated by them for an examination by physicians pursuant to section 5 of this Act.

All 70 Stat. 610.

"(b) The Commissioners shall not order any person brought before them if the said person is charged with a criminal offense, whether by indictment, information, or otherwise, or if the said person is under sentence for a criminal offense, whether he is serving the sentence, or is on probation, or parole, or has been released on bond pending appeal.

"EXAMINATION BY PHYSICIAN

"SEC. 5. (a) Whenever the Commissioners order a patient into an institution pursuant to the provisions of section 4 hereof, they shall immediately appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the said patient, and within five days after such appointment, each physician shall file with the United States Attorney for the District of Columbia, a written report of such examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

"(b) The United States Attorney for the District of Columbia shall review the facts and circumstances of each case submitted to him and present by petition those in which he feels justification exists in the public interest to the United States District Court for the District of Columbia for determination and disposition, or dismiss the patient from custody. A copy of such petition shall be served on the patient in open court, at which time the court shall set a hearing date and advise the patient of his right to counsel and his right to demand within five days a trial by jury.

"WHEN HEARING IS REQUIRED

"SEC. 6. If, in a report filed pursuant to section 5 of this Act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing upon petition of the United States Attorney in the manner provided in section 8 of this Act.

"RIGHT TO COUNSEL

"SEC. 7. (a) A patient shall have the right to the assistance of counsel at every stage of the judicial proceeding under this Act, and the court shall assign counsel to represent him if the patient is unable to obtain counsel.

"(b) The counsel for a patient may inspect the reports of the examination made pursuant to the authority contained in section 5 of this Act. No such report and no evidence resulting from such personal examination or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this Act.

"(c) The patient may, prior to the examination made pursuant to the provisions of section 5 of this Act or prior to the hearing provided for by section 8 of this Act, waive his rights to an examination, to counsel, or to such hearing, and voluntarily submit himself to commitment pursuant to the provisions of this Act.

"HEARING

"SEC. 8. (a) Upon the evidence introduced at a hearing held for that purpose the court shall determine whether the patient is a drug user. The hearing shall be conducted without a jury unless, before such hearing and within five days after the date on which the petition

All 70 Stat. 611.

is filed pursuant to section 5 of this Act, a jury is demanded by the patient or by the United States attorney for the District of Columbia. Each patient concerning whom a report is filed shall be detained at such place as the Commissioners may designate until the completion of such hearing or until released as provided in section 5 (b) hereof.

"(b) The rules of evidence applicable in civil judicial proceedings shall be applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpoena and cross-examine witnesses. However, no patient examined pursuant to the provisions of this Act, shall be permitted at any hearing ordered pursuant to this section to object to the submission of testimony concerning such examination on the ground of privilege.

"CONFINEMENT OF PATIENT

"SEC. 9. If the court finds the patient to be a drug user, it may commit him to a hospital designated by the patient or the Commissioners and approved by the court, to be confined there for rehabilitation until released in accordance with section 10 of this Act. In the event a patient elects to designate a hospital to which he wishes to be committed, he shall be required to satisfy the court that such hospital has medical, rehabilitation, and security facilities comparable to the institutions designated by the Commissioners and, in addition, the cost of such hospitalization shall be borne by the patient. The head of the hospital shall submit written reports within such periods as the court may direct, but no longer than six months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

"RELEASE OF PATIENT

"SEC. 10. (a) When the head of the hospital to which the patient is committed finds that the patient appears to be no longer in need of confinement for treatment purposes, or has received maximum benefits, he shall give notice to the judge of the committing court, and said patient shall be delivered to the said court for such further action as the court may deem necessary and proper under the provisions of this Act.

"(b) The court, upon petition of the patient after confinement for one year, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of care, treatment, guidance, or rehabilitation, or has received maximum benefits, it shall order the patient released, in accordance with the provisions of section 11 of this Act.

"PERIODIC EXAMINATION OF RELEASED PATIENTS

"SEC. 11. (a) For two years after his release, the patient shall report to the Commissioners at such times and places as required, for a physical examination to determine whether the patient has again become a drug user. If the Commissioners determine that the person examined is a drug user, they shall then order the patient into an institution in accordance with the provisions of this Act.

"(b) Upon the failure of any patient to report in accordance with the provisions of subsection (a) hereof, the United States attorney for the District of Columbia shall be notified of such failure, and a statement of such failure to report shall be filed with the court. The court shall issue an attachment for the patient and order him confined forthwith for examination and such further action as the court may deem necessary and proper under the provisions of this Act.

All 70 Stat., 612.

"PATIENT NOT DEEMED A CRIMINAL"

"SEC. 12. The patient in any proceedings under this Act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction."

Effective date. SEC. 102. This title shall take effect thirty days after the date of its enactment.

TITLE II—REGULATION AND CONTROL OF CERTAIN DRUGS OTHER THAN NARCOTICS

Dangerous Drug Act for the District of Columbia.

SEC. 201. This title may be cited as the "Dangerous Drug Act for the District of Columbia".

DEFINITIONS

SEC. 202. For the purposes of this title—

(1) The term "dangerous drug" means—

(A) amphetamine, desoxyephedrine, or compounds or mixtures thereof, including all derivatives of phenylethylamine or any of the salts thereof which have a stimulating effect on the central nervous system, except preparations intended for use in the nose and unfit for internal use;

(B) barbituric acid, also known as malonylurea, and its salts and derivatives, and compounds, preparations, and mixtures thereof;

(C) other drugs or compounds, preparations, or mixtures thereof which the Commissioners shall find and declare by rule or regulation duly promulgated, after reasonable public notice and opportunity for a hearing to be habit-forming, excessively stimulating, or to have a dangerously toxic, or hypnotic or somnifacient effect on the body of a human or animal; except that the term "dangerous drug" shall not include any drug the manufacture or delivery of which is regulated by Federal narcotic drug laws, or by the narcotic drug laws of the District of Columbia.

(2) The terms "delivery" and "furnish" mean the selling, dispensing, giving away, sampling, or supplying in any other manner.

(3) The term "patient" means, as the case may be—

(A) the individual for whom a dangerous drug is prescribed, administered, or supplied in the course of professional practice for a legitimate medical purpose; or

(B) the owner or the agent of the owner of the animal for whom a dangerous drug is prescribed or to which or on which a dangerous drug is administered or used in the course of professional practice for a legitimate medical purpose.

(4) The term "person" includes any corporation, partnership, association, or one or more individuals, acting either as principal or agent.

(5) The term "practitioner" means any person duly licensed by appropriate authority and, in conformance with the law, licensed to prescribe dangerous drugs, and to administer and use dangerous drugs in the course of his professional practice.

(6) The term "pharmacist" means a person duly licensed as a pharmacist pursuant to the Act approved May 7, 1906, as amended (title 2, ch. 6, D. C. Code, 1951 edition).

(7) The term "prescription" means a written or oral order by a practitioner to a pharmacist for a dangerous drug for a particular patient, which specifies the date of issue, the name and address of the patient (and, in the case of prescription for an animal, the species of such animal), the name and quantity of the dangerous drug prescribed, the directions for use of such drug, and in case of a written

34 Stat. 175.
D. C. Code 2-
601 to 2-617.

All 70 Stat., 613.

order, the signature and office address of such practitioner, and in the case of an oral order, the District of Columbia or State registration number and office address of such practitioner (and if the practitioner be a member of the Armed Forces of the United States, then he shall give his rank, serial number, and station). Each oral order by a practitioner for a dangerous drug must be promptly reduced to writing by the pharmacist.

(8) The term "hospital" means an institution or dispensary or clinic for the care and treatment of the sick and injured, approved by the Commissioners as proper to be entrusted with the custody of dangerous drugs and the professional use of dangerous drugs under the direction of a physician, dentist, or veterinarian.

(9) The term "laboratory" means a laboratory approved by the Commissioners as proper to be entrusted with the custody of dangerous drugs and their use for medical and scientific purposes, and for purposes of instruction.

(10) The term "manufacturer" means a person or persons, other than pharmacists and practitioners who manufacture dangerous drugs, and includes persons who prepare such drugs in dosage forms by mixing, compounding, encapsulating, entableting, or other process, or who repackage such drugs.

(11) The term "wholesaler" means a person or persons engaged in the business of distributing dangerous drugs to persons included in any of the classes named in subdivisions (A) and (D), inclusive, of section 205.

(12) The term "drug salesman" or "manufacturer's representative" means any person who, acting in the course of his regular duties, calls upon or visits practitioners or pharmacists in the interest of demonstrating, selling, or detailing the use and sale of dangerous drugs.

(13) The term "warehouseman" means a person who, in the usual course of business, stores drugs for others lawfully entitled to possess them, and who has no control over the disposition of such drugs except for the purpose of such storage.

(14) The term "Commissioners" means the Commissioners of the District of Columbia, sitting as a board, or their designated agent or agents.

PROHIBITED ACTS

SEC. 203. (a) Except as otherwise provided by sections 204 and 205 of this title, the following acts, the failure to act as hereinafter set forth, and the causing of any such act or failure are hereby declared unlawful:

(1) The delivery of any dangerous drug unless—

(A) such dangerous drug is delivered by a pharmacist, upon a prescription, and there is affixed to the immediate container of such or in which such drug is delivered a label bearing (i) the name and address of the owner of the establishment from which such drug was delivered; (ii) the date on which the prescription for such drug was filled; (iii) the number of such prescription as filed in the prescription files of the pharmacist who filled such prescription; (iv) the name of the practitioner who prescribed such drug; (v) the name and address of the patient, and if such drug was prescribed for an animal, a statement of the species of the animal; and (vi) the directions for the use of the drug, as contained in the prescription; or

(B) such dangerous drug is delivered to a practitioner by a pharmacist for his professional use in his practice; in which case the pharmacist may deliver the drug without affixing any addi-

tional label to the original package of such drug and must immediately record such sale and delivery by filing a suitable record of such sale and delivery in the prescription file as maintained for prescriptions for such drugs; or

(C) such dangerous drug is delivered by a manufacturer's representative or drug salesman to a practitioner in the course of calling upon the practitioner; in which case the manufacturer's representative or drug salesman shall immediately record, in a suitable bound notebook (i) the name and quantity of the drug delivered, (ii) the date such drug was delivered, and (iii) the name and address of the practitioner to whom the drug was delivered; or

(D) such dangerous drug is delivered by a practitioner in the course of his practice and the immediate container in which such drug is delivered bears a label on which appears the directions for use of such drug, the name and address of such practitioner, the name and address of the patient, and, if such drug is prescribed for an animal, a statement of the species of the animal.

(2) The refilling of any prescription for a dangerous drug except as designated on the prescription, or by the consent of the practitioner.

(3) The delivery of a dangerous drug upon prescription unless the pharmacist who filled such prescription files and retains it as required by section 206 of this title.

(4) The possession of a dangerous drug by any person, unless such person obtained such drug on the prescription of a practitioner or in accordance with subparagraph (D) of paragraph (1) of this subsection.

(5) The making or uttering by any person of any false or forged prescription, or false or forged written order for the purpose of obtaining any dangerous drug.

(6) The delivery of any dangerous drug to any person in the District of Columbia not lawfully entitled to receive such drug.

(7) The willful making of or concealment of any material false statement or representation in any prescription, order, report, or record required by this title.

(8) The refusal to make available and to accord full opportunity to check any record or file as required by section 207 of this title.

(9) The failure to keep records as required by subsections (a) and (b) of section 206 of this title.

(10) The using by any person to his own advantage, or the revealing, other than to any officer of the Metropolitan Police Department of the District of Columbia in the performance of his official duties, the Commissioners, acting pursuant to authority vested in them, or to a court when relevant in a judicial proceeding under this title, of any information required under the authority of section 207, concerning any method or process which as a trade secret is entitled to protection.

(b) Nothing in this section shall be construed to relieve any person with respect to dangerous drugs, from any requirement prescribed by or under the authority of sections 502 and 503 (b) of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040; 21 U. S. C. 352, 353 (b)).

EXEMPTIONS

Sec. 204. Nothing in this title shall apply to a compound, mixture, or preparation which is delivered or acquired in good faith for the purpose for which it is intended and not for the purpose of evading the provisions of this title if—

(1) such compound, mixture, or preparation of barbituric acid, its salts and derivatives shall be declared by rule or regulation duly promulgated by the Commissioners after reasonable public notice and opportunity for hearing to have or to contain no habit-forming properties and not to have a dangerously toxic or hypnotic or somnifacient effect on the body of a human or animal; or

(2) such compound, mixture, or preparation of amphetamine, desoxyephedrine, phenylethylamine, or their salts or derivatives shall be found and declared by rule or regulation duly promulgated by the Commissioners after reasonable public notice and opportunity for hearing to contain in addition to such drug or its salts and derivatives some other drug or drugs causing it to possess other than an excessively stimulating effect upon the central nervous system and to have no habit-forming properties or dangerously toxic effect upon the body of a human or animal.

EXEMPTION OF PERSONS

SEC. 205. The provisions of subparagraphs (1) (A) and (1) (D) and paragraph (4) of section 203 (a) of this title shall not be applicable (1) to the delivery of dangerous drugs to persons included in any of the classes hereinafter named, or to agents or employees of such persons, for use in the normal or usual course of their business or practice or in the performance of their official duties, as the case may be; or (2) to the possession of dangerous drugs by such persons or their agents or employees for such use:

(A) Pharmacists.

(B) Practitioners.

(C) Persons who procure dangerous drugs (i) for handling by or under the supervision of pharmacists or practitioners, or (ii) for the purpose of lawful research, teaching, or testing and not for resale.

(D) Hospitals which procure dangerous drugs for lawful administration or use by practitioners.

(E) Laboratories which procure dangerous drugs for lawful medical and scientific purposes.

(F) Officers or employees of appropriate enforcement agencies of Federal, State, District of Columbia, or local governments, pursuant to their official duties.

(G) Manufacturers and wholesalers.

(H) Manufacturers' representatives and drug salesmen.

(I) Carriers and warehousemen.

RECORDS

SEC. 206. (a) Persons (other than carriers and practitioners) listed in paragraphs (A) through (I) of section 205 of this title shall—

(1) make, within thirty days after the effective date of this title, and biennially thereafter, a complete record of all stocks of dangerous drugs on hand, such records to be held for a period of two years, and

(2) retain all such commercial or other records, including invoices, relating to dangerous drugs received or maintained by them in the course of their business or occupation, or as required by this title, for not less than two calendar years immediately following the date of such record.

(b) Pharmacists shall, in addition to complying with the provisions of subsection (a) hereof, retain each prescription or notation of sale to practitioners for a dangerous drug received by them, for

All 70 Stat. 616.

not less than two calendar years immediately following the date of the filling of the order or prescription and a complete record of each refilling of such prescription.

INSPECTION

SEC. 207. Prescriptions, orders, and records, required by section 206 of this title, and stocks of dangerous drugs shall be opened for inspection—

(1) upon written request, to any officer or employee duly designated by the Commissioners at all reasonable hours for the purpose of inspection and copying; and, any person upon whom such request is served shall accord to such officer or employee full opportunity to check the correctness of such files or records, including the opportunity to make inventory of all stocks of dangerous drugs on hand; and it shall be unlawful for any such person to fail to make such files or records available or to accord such opportunity to check their correctness, or

(2) to District of Columbia officers whose duty it is to enforce the laws of the District of Columbia, or of the United States, relating to dangerous drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, in which such prescriptions, orders, or records may be pertinent.

REGULATIONS

SEC. 208. The Commissioners are hereby authorized to promulgate necessary regulations for the administration and enforcement of this title.

PENALTIES

SEC. 209. (a) Any person violating any provision of this title, or of any regulation made by the Commissioners under the authority of this title shall upon conviction be punished, for the first offense, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment; and for any subsequent offense by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment.

(b) The conviction of any person for a violation of this title, or of any regulation made under the authority of this title, involving any dangerous drug shall constitute ground for suspension or revocation or denial of renewal of the professional license of such person. Proceedings for such suspension or revocation or denial of renewal shall be had in accordance with the statutes relating to the issuance, revocation, suspension, and denial of renewal of such licenses and in accordance with statutes relating to judicial review of administrative action in connection with the revocation, suspension, or denial of renewal of such licenses.

(c) As used in this section the term "professional license" means a license issued under the following Acts: (1) The Act entitled "An Act to regulate the practice of the healing art to protect the public health in the District of Columbia", approved February 27, 1929 (45 Stat. 1326), as amended; (2) the Act entitled "An Act to amend the Act for the regulation of the practice of dentistry in the District of Columbia, and for the protection of the people from empiricism in relation thereto"; approved June 6, 1892, and Acts amendatory thereof,

"Professional
license".

D. C. Code 2-101
to 2-140.

All 70 Stat. 617.

approved July 2, 1940 (54 Stat. 716), as amended; (3) the Act entitled "An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes", approved May 7, 1906 (34 Stat. 175), as amended; (4) the Act entitled "An Act to regulate the practice of veterinary medicine in the District of Columbia", approved February 1, 1907 (34 Stat. 870), as amended; (5) the Act entitled "An Act to define the term of 'registered nurse' and to provide for the registration of nurses in the District of Columbia", approved February 9, 1907 (34 Stat. 837), as amended; and (6) the Act entitled "An Act to regulate the practice of podiatry in the District of Columbia", approved May 23, 1918 (40 Stat. 560), as amended.

27 Stat. 42.
D. C. Code 2-301
to 2-331.

D. C. Code 2-
601 to 2-617.
D. C. Code 2-
801 to 2-812.

34 Stat. 887.
D. C. Code 2-401
to 2-411
55 Stat. 696.
D. C. Code 2-701
to 2-719.

SEARCH WARRANTS

SEC. 210. (a) A search warrant may be issued upon probable cause, supported by affidavit particularly describing the property to be seized and place to be searched, by any judge of the municipal court for the District of Columbia or by the United States Commissioner for the District of Columbia, to any officer of the Metropolitan Police Department when any dangerous drugs are manufactured, possessed, prescribed, and delivered in violation of the provisions of this title, and any such dangerous drugs and any other property designed for use in connection with such unlawful manufacturing, possession, prescribing, or delivery, may be seized thereunder and shall be subject to such disposition as the court may make thereof, and such dangerous drugs may be taken on the warrant from any house or other place in which they are concealed.

(b) Any search warrant issued in accordance with the provisions of subsection (a) of this section may be served at any time in the day or night and must be executed and returned to the issuing authority within ten days after its date.

ARRESTS WITHOUT WARRANT

SEC. 211. (a) Arrests without a warrant, and searches of the person and seizures pursuant thereto, may be made for a violation of any of the provisions of section 203 of this title by police officers, as in the case of a felony, upon probable cause that the person arrested is violating such section at the time of his arrest.

(b) No evidence discovered in the course of any such arrest, search, or seizure authorized by this section shall be admissible in any criminal proceeding against the person arrested, unless at the time of such arrest he was violating section 203 of this title.

FORFEITURE

SEC. 212. Any dangerous drug seized pursuant to any lawful search or which may have come into the custody of any peace officer, the lawful possession of which cannot be established or the title to which cannot be ascertained, shall be forfeited and destroyed in the same manner provided for narcotic drugs in section 17 of the Uniform Narcotic Drug Act, approved June 20, 1938 (52 Stat. 794; D. C. Code, title 33-417), as amended.

SEPARABILITY CLAUSE

SEC. 213. If any provision of this title is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

SEC. 214. This title shall take effect ninety days after the date of its enactment.

TITLE III—MISCELLANEOUS

AMENDMENTS TO UNIFORM NARCOTIC DRUG ACT

SEC. 301. (a) (1) The first section of the Uniform Narcotic Drug Act approved June 20, 1938 (52 Stat. 785; D. C. Code, sec. 33-401), is amended by amending subsections (n) and (o) to read as follows:

"(n) 'Narcotic drugs' means coca leaves, opium, cannabis, isonipecaine, and opiate, and every substance not chemically distinguishable from them, and any compound, manufacture, salt, derivative, or preparation of coca leaves, opium, cannabis, isonipecaine, or opiate, 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.

"(o) 'Federal narcotic laws' means the laws of the United States and the regulations promulgated thereunder relating to opium, coca leaves, cannabis, and other narcotic drugs."

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(t) 'Isonipecaine' and 'opiate' shall have the same meaning as that given to such terms by section 4731 of the Internal Revenue Code of 1954."

(b) Section 2 of such Act is amended (1) by inserting "(a)" immediately after "Sec. 2.", and (2) by adding at the end of such section the following new subsections:

"(b) Arrests without a warrant, and searches of the person and seizures pursuant thereto, may be made for a violation of subsection (a) hereof by police officers, as in the case of a felony, upon probable cause that the person arrested is violating such subsection at the time of his arrest.

"(c) No evidence discovered in the course of any such arrest, search, or seizure authorized by subsection (b) hereof, shall be admissible in any criminal proceeding against the person arrested unless at the time of such arrest he was violating the provisions of this section."

(c) Section 5 of such Act is amended (1) by striking out in the fourth sentence of the first paragraph thereof "in section 6 of the Act of Congress approved December 17, 1914, entitled 'An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes', as amended," and inserting in lieu thereof "in section 4702 of the Internal Revenue Code of 1954" and (2) by striking out in the first sentence of the second paragraph thereof "at a cost not to exceed \$1 a hundred", and inserting in lieu thereof "at cost", and (3) by amending the last paragraph thereof to read as follows:

"It shall be deemed a compliance with this section if the parties to the transaction have complied with the Federal narcotic laws respecting official order forms if such order forms are authorized and required by Federal laws, or, if no such order form is required by Fed-

Effective date.

68A Stat. 557.
26 USC 4731.

D. C. Code 33-402.

D. C. Code 33-405.

68A Stat. 549.
26 USC 4702.

eral law and if no such order form is available for purchase as provided in the preceding paragraph of this section, then the parties to the transaction shall comply with the rules and regulations made pursuant to this Act respecting official order forms and such other records as may be required."

(d) Section 8 of such Act is amended (1) by redesignating subsections (b) and (c) as (d) and (e), respectively, and (2) by striking out in subsection (a) thereof the last two sentences and inserting in lieu thereof the following new subsections:

"(b) An apothecary, in good faith, may sell and dispense on oral prescription of a physician, dentist, or veterinarian such narcotic drugs or compounds thereof as are found by the Secretary of the Treasury or his delegate, pursuant to section 4705 (c) (2) of the Internal Revenue Code of 1954, to possess relatively little or no addiction liability. The oral prescription shall be reduced to a written record by the apothecary before filling, with said written record containing the same information as is required by law or regulation in the case of a written prescription except for the requirement of the written signature of the prescriber.

"(c) A written prescription or a written record of an oral prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this Act. The prescription shall not be refilled."

(e) Section 9 (a) of such Act is amended (1) by striking out in the first sentence thereof "may prescribe in writing" and inserting in lieu thereof "may prescribe by a written or oral prescription", (2) by striking out in the second sentence thereof "Such a prescription" and inserting in lieu thereof "Each written prescription"; and (3) by adding at the end thereof the following new sentence: "In issuing an oral prescription, the physician or dentist shall furnish the apothecary with the same information as is required by law or regulation in the case of a written prescription for narcotic drugs and compounds, except for the requirement of the written signature of the prescriber."

(f) Section 9 (b) of such Act is amended (1) by striking out in the first sentence thereof "may prescribe in writing" and inserting in lieu thereof "may prescribe by a written or oral prescription", (2) by striking out in the second sentence thereof "Such a prescription" and inserting in lieu thereof "Each written prescription"; and (3) by adding at the end thereof the following new sentence: "In issuing an oral prescription, the veterinarian shall furnish the apothecary with the same information as is required by law in the case of a written prescription for narcotic drugs and compounds, except for the written signature of the prescriber."

(g) Section 9 of such Act is further amended by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) the following new subsection:

"(c) Nothing contained in subsections (a) and (b) of this section shall be construed as authorizing an oral prescription to be furnished by the physician, dentist, or veterinarian to the apothecary, for a narcotic drug or compound other than those narcotic drugs or compounds determined by the Secretary of the Treasury, or his delegate, pursuant to the provisions of section 4705 (c) (2) of the Internal Revenue Code of 1954, to possess little or no addiction liability."

(h) Section 10 of such Act is amended—

(1) by inserting immediately before the period at the end of subsection (a) thereof, a comma and the following:

"(5) not more than one-sixth of a grain of dihydrocodeinone or any of its salts";

D. C. Code 33-408.

68A Stat. 551.
26 USC 4705.

D. C. Code 33-409.

26 USC 4705.

D. C. Code 33-410.

(2) by inserting immediately after subsection (b) thereof, the following new subsection:

"(c) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation containing not in excess of 25 per centum of paregoric, in combination with some drug or drugs which confer upon it medicinal properties other than those possessed by paregoric."; and

(3) by striking out in the third sentence of the last paragraph thereof "without a prescription" and inserting in lieu thereof "without a written prescription".

D. C. Code 33-411. (i) Subsection (e) of section 11 of such Act is amended by striking out the last sentence thereof.

D. C. Code 33-412. (j) (1) The second sentence of subsection (a) of section 12 of such Act is amended by striking out "a prescription" and inserting in lieu thereof "a written or oral prescription".

(2) The first sentence of subsection (b) of section 12 of such Act is amended (A) by striking out "a prescription" and inserting in lieu thereof "a written or oral prescription", and (B) by striking out "affix to" and inserting in lieu thereof "affix to or place in".

D. C. Code 33-414. (k) Section 14 (h) of such Act is amended to read as follows:

"(h) The judge or commissioner shall insert a direction in the warrant that it may be served at any time in the day or night."

D. C. Code 33-416. (l) Such Act is further amended by inserting after section 16 the following new section:

"SEC. 16A. VAGRANCY—NARCOTIC DRUG USER—PENALTIES—CONDITIONS IMPOSED.

"(a) The purpose of this section is to protect the public health, welfare, and safety of the people of the District of Columbia by providing safeguards for the people against harmful contact with narcotic drug users who are vagrants within the meaning of this section and to establish, in addition to the Hospital Treatment for Drug Addicts Act for the District of Columbia, further procedures and means for the care and rehabilitation of such narcotic drug users.

Ante, p. 609.

"(b) For the purpose of this section—

"Vagrant".

"(1) the term 'vagrant' shall mean any person who is a narcotic drug user or who has been convicted of a narcotic offense in the District of Columbia or elsewhere and who—

"(A) having no lawful employment or visible means of support realized from a lawful occupation or source, is found mingling with others in public or loitering in any park or other public place and fails to give a good account of himself; or

"(B) is found in any place, abode, house, shed, dwelling, building, structure, vehicle, conveyance, or boat, in which any illicit narcotic drugs are kept, found, used, or dispensed; or

"(C) wanders about in public places at late or unusual hours of the night, either alone or in the company of or association with a narcotic drug user or convicted narcotic law violator, and fails to give a good account of himself; or

"(D) is included within one of the classes of persons defined in paragraphs (1) through (9), inclusive, of section 5 of the Act of December 17, 1941 (55 Stat. 808; D. C. Code, sec. 22-3302), as amended;

"Narcotic drug user".

"(2) the term 'narcotic drug user' shall mean any person who takes or otherwise uses narcotic drugs, except a person using such narcotic drug as a result of sickness or accident or injury, and to whom such narcotic drugs are being furnished, prescribed, or administered in good faith by a duly licensed physician in the course of his professional practice.

70 Stat. 620.
70 Stat. 621.

"(c) Whenever any law-enforcement officer has probable cause to believe that any person is a vagrant within the meaning of this section, he is authorized to place that person under arrest and to confine him in any place in the District of Columbia designated by the Commissioners thereof.

"(d) Pending arraignment and without unnecessary delay the person arrested as a vagrant within the meaning of this section shall have the opportunity to be examined by a physician designated by the Commissioners of the District of Columbia, who shall determine whether there is evidence of narcotic drug usage.

"(e) If the physician designated by the Commissioners of the District of Columbia is satisfied that the person examined is not a narcotic drug user, or if there is insufficient evidence of narcotic drug usage, the United States Attorney shall, if the said person is not otherwise chargeable as a vagrant within the meaning of this section, bring such matter to the attention of the Corporation Counsel for the District of Columbia for determination as to whether there shall be a prosecution under the provisions of the Act of December 17, 1941 (55 Stat. 808; D. C. Code, sec. 23-3302), as amended.

"(f) Upon affirmative determination that the person arrested is a narcotic drug user, or if the person has been convicted of a narcotic offense in the District of Columbia or elsewhere, and if such person is also a vagrant as hereinbefore defined, he shall be charged with the offense of vagrancy within the meaning of this section and arraigned in the United States branch of the municipal court, where the prosecution shall be conducted in the name of the United States by the United States attorney.

"(g) Any person convicted of being a vagrant under the provisions of this section shall be punished by fine of not more than \$500 or imprisonment for not more than one year, or by both such fine and imprisonment.

"(h) The court, in sentencing any person found guilty under the provisions of this section, may in its own discretion or upon the recommendation of the probation officer, impose conditions upon the service of any such sentence. Conditions thus imposed by the court may include submission to medical and mental examination, and treatment by proper public health and welfare authorities; confinement at such place as may be designated by the Commissioners of the District of Columbia, and such other terms and conditions as the court may deem best for the protection of the community and the punishment, control, and rehabilitation of the defendant.

"(i) In all prosecutions under the provisions of this section, the burden of proof shall be upon the defendant to show that he has lawful employment or has lawful means of support realized from a lawful occupation or source."

(m) Section 17 of such Act is amended to read as follows:

D. C. Code 33-417.

"SEC. 17. All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which come into the custody of a peace officer shall be delivered promptly to the Secretary of the Treasury or his delegate for disposal in accordance with the provisions of section 4733 of the Internal Revenue Code of

All 70 Stat. 622.

68A Stat. 558.
26 USC 4733. 1954, except that narcotic drugs which may be needed as evidence in any criminal or administrative proceeding pursuant to the provisions of this Act or the provisions of any Federal narcotic law shall, upon delivery to the Secretary of the Treasury, not be so disposed of until the United States attorney for the District of Columbia or any assistant United States attorney shall certify that such narcotic drugs are no longer needed as evidence."

D. C. Code 33-
23.

(n) Section 23 of such Act is amended to read as follows:
"Sec. 23. Any person violating any provision of this Act, or any regulation made by the Commissioners of the District of Columbia, under authority of its sections, for which no specific penalty is otherwise provided, shall upon conviction be punished, for the first offense, by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for not exceeding ten years, or by both such fine and imprisonment."

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

58 Stat. 698.
42 USC 257.

Sec. 302. (a) Section 341 of the Public Health Service Act, as amended, is amended by adding at the end thereof the following new sentence: "Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioners of the District of Columbia, or their designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person."

42 USC 260.

(b) Section 344 (d) of such Act is amended by striking out "shall be confidential" and inserting in lieu thereof "shall, except as otherwise provided by this Act, be confidential".

42 USC 261.

(c) The second sentence of section 345 (a) of such Act is amended to read as follows: "No such addict shall be admitted unless (1) committed prior to July 1, 1958; (2) at the time of commitment, the number of persons in hospitals of the Service who have been admitted pursuant to this subsection is less than one hundred; and (3) suitable accommodations are available after all eligible addicts convicted of offenses against the United States have been admitted."

AMENDMENT TO PUBLIC LAW 355, EIGHTY-THIRD CONGRESS

42 USC 257, 260a,
261, 261a.

Sec. 303. Section 1 of the Act entitled "An Act to authorize the care and treatment at facilities of the Public Health Service of narcotic addicts committed by the United States District Court for the District of Columbia, and for other purposes", approved May 8, 1954 (68 Stat. 79), is amended to read as follows:

67 Stat. 77.
D. C. Code 24-
601 to 24-612.

"Sec. 1. In order to afford the District of Columbia the facilities required to carry out the Act of June 24, 1953 (Public Law 76, Eighty-third Congress), as amended, and to help it meet its responsibility for

All 70 Stat. 622.

the detention, care, and treatment of noncriminal narcotic addicts, it is hereby declared to be the purpose of this Act to authorize the limited use of suitable Public Health Service facilities at the expense of the District of Columbia for such detention, care, and treatment."

Sec. 304. Subsection (1) of section 301 of this title shall take effect Effective date. thirty days after the date of its enactment.

Approved July 24, 1956.

Public Law 86-206
86th Congress, H. R. 8225
August 25, 1959

AN ACT

73 STAT. 430.

To amend the Uniform Narcotic Drug Act of the District of Columbia, as amended, to permit paregoric to be dispensed by oral as well as written prescription.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Uniform Narcotic Drug Act of the District of Columbia, as amended (52 Stat. 790; sec. 33-410, D.C. Code, 1951 edition), is amended by striking out in the third sentence of the last paragraph thereof "without a written prescription" and inserting in lieu thereof "without a written or oral prescription".

Approved August 25, 1959.

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Public Law 86-429
86th Congress, H. R. 529
April 22, 1960

AN ACT

74 STAT. 55.

To discharge more effectively obligations of the United States under certain conventions and protocols relating to the institution of controls over the manufacture of narcotic drugs, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Narcotics Manufacturing Act of 1960".

Narcotics Manufacturing Act of 1960.

NECESSITY FOR LEGISLATION

SEC. 2. The enactment of this Act is necessary for the following reasons:

(1) The Congress has long recognized that the manufacture, distribution, and use of narcotic drugs for nonmedical and nonscientific purposes endangers the health of the American people and threatens the general welfare. The Congress has enacted laws and the Senate has approved international conventions designed to establish effective control over domestic and international traffic in narcotic drugs.

(2) Until recently, most narcotic drugs were made from natural raw materials such as the opium poppy and the coca leaf, produced in limited areas of the world. In practice, control over the production of narcotic drugs could therefore be achieved by national and international restrictions over the production and shipment of these raw materials and their use to manufacture narcotic drugs.

(3) In recent years, however, technological advances have resulted in the development of new types of narcotic drugs, produced synthetically from a variety of generally available raw materials. As a result, controls over the production of narcotic drugs can no longer be maintained solely by controls relating to the opium poppy and the coca leaf.

(4) The United States has joined with other nations in executing international conventions intended to establish suitable controls over production, shipment, and use of all narcotic drugs. These conventions are not self-executing, and the obligations of the United States thereunder must be performed pursuant to appropriate legislation.

(5) In order (A) to discharge more effectively the international obligations of the United States, (B) to promote the public health, safety, and welfare, (C) to regulate interstate and foreign commerce in narcotic drugs, and (D) to safeguard the revenue derived from taxation of narcotic drugs, the Congress finds it necessary to enact a statute for the licensing and control of the manufacture of all narcotic drugs.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "1931 convention" means the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933; as amended by the protocol signed at Lake Success on December 11, 1946.

48 Stat. 1543.
61 Stat. 2230;
62 Stat. 1796.
TIAS 1671, 1859.

(b) The term "1948 protocol" means the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake

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Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950.

(c) The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly or indirectly by one or more delegations of authority) to perform the function mentioned or described in the context.

(d) The term "person" includes an individual, partnership, corporation, association, trust, or other institution or entity.

(e) The term "narcotic drug" means narcotic drug as defined in section 4731(a) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

(f) The term "manufacture" means the production of a narcotic drug, either 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.

(g) The term "basic class of narcotic drug" means any one of the following classes of narcotic drugs and any additional class or classes of narcotic drugs (other than crude opium or coca leaves), by whatever trade name designated, as may be defined from time to time by the Secretary or his delegate in accordance with section 6 of this Act:

1. Opium, powdered, granulated, or deodorized, or tinctures or extracts of opium.

2. Mixed alkaloids of opium and their salts.

3. Morphine and its salts.

4. Codeine and its salts.

5. Thebaine and its salts.

6. Narcotine and its salts.

7. Papaverine and its salts.

8. Cotarnine and its salts.

9. Narceine and its salts.

10. Ethylmorphine and its salts.

11. Apomorphine and its salts.

12. Nalorphine (N-allylnormorphine) and its salts.

13. Hydromorphone (dihydromorphinone) and its salts.

14. Metopon (methyldihydromorphinone) and its salts.

15. Dihydrocodeine and its salts.

16. Hydrocodone (dihydrocodeinone) and its salts.

17. Oxycodone (dihydrohydroxycodone) and its salts.

18. Cocaine and its salts.

19. Ecgonine and its salts.

20. Pethidine (meperidine, isonipecaine) (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester) and its salts.

21. Alphaprodine (alpha-1, 3-dimethyl-4-phenyl-4-propionoxy-piperidine) and its salts.

22. Methadone (amidone) (6-dimethylamino-4, 4-diphenyl-3-heptanone) and its salts.

23. Isomethadone (isoamidone) (6-dimethylamino-5-methyl-4, 4-diphenyl-3-hexanone) and its salts.

24. Levorphan and racemorphan (3-hydroxy-N-methylmorphinan) and their salts.

25. Levomethorphan and racemethorphan (3-methoxy-N-methylmorphinan) and their salts.

26. Anileridine (Ethyl 1-[2-(p-amino phenyl)-ethyl]-4-phenyl piperidine-4-carboxylate) and its salts.

27. Phenazocine (2'-Hydroxy-5, 9-dimethyl-2-(2-phenylethyl)-6, 7-benzomorphan) and its salts.

(h) The term "net disposal" means the quantity of a basic class of narcotic drug, sold, exchanged, given away, used in the production of another basic class of narcotic drug for which the manufacturer is licensed, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer of such basic class) by the manufacturer during a stated period, less the quantity of any such basic class of narcotic drug returned to the manufacturer by a customer and any quantity sold or transferred to another licensed manufacturer of the same basic class of narcotic drug.

(i) The term "narcotic precursor" means a substance other than a narcotic drug which the Secretary or his delegate has found, after due notice and opportunity for public hearing—

(1) is an immediate chemical precursor of a narcotic drug;

(2) is produced primarily for use in the manufacture of a narcotic drug; and

(3) is used, or is likely to be used, in the manufacture of a narcotic drug by persons other than persons licensed to manufacture such narcotic drug.

AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

SEC. 4. (a) Subsection (a) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows: 68A Stat. 557.
26 USC 4731.

"(a) NARCOTIC DRUGS.—The words 'narcotic drugs' as used in this part shall mean 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:

"(1) Opium, isonipecaine, coca leaves, and opiate;

"(2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;

"(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2); except that the words 'narcotic drugs' as used in this part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine."

(b) Subsection (g) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows:

"(g) OPIATE.—

"(1) IN GENERAL.—The word 'opiate' as used in this part shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (52 Stat. 1041, sec. 201(g); 21 U.S.C. 321)) or other substance found by the Secretary or his delegate and proclaimed by the Secretary or his delegate (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have been so found in the Federal Register, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine or to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability, where, in the judgment of the Secretary or his delegate, the relative technical simplicity and degree of yield of such conversion create a risk of improper use of the drug or other substance.

"(2) TERMINATION.—The Secretary or his delegate is authorized to withdraw any previous finding that a drug or other substance is an 'opiate' whenever (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his

delegate, on the subject) he determines that such previous finding was erroneous, and upon publication of such determination in the Federal Register, the particular drug or other substance shall cease to be an opiate. For purposes of the foregoing provision the Secretary or his delegate may consider any action taken pursuant to article 3 of the 1948 protocol (as defined in section 3(b) of the Narcotics Manufacturing Act of 1960)."

"(3) REGULATIONS, ETC.—The Secretary or his delegate is authorized to issue necessary rules and regulations for carrying out the provisions of this subsection, and to confer or impose upon any officer or employee of the Treasury Department whom he shall designate or appoint, the duty of conducting any hearing authorized hereunder.

"(4) CROSS REFERENCE.—

"For treatment of certain drugs as being, or ceasing to be, opiates for purposes of this part, see section 5 of the Narcotics Manufacturing Act of 1960."

68A Stat. 549. (c) Subsection (a) of section 4702 of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) EXCEPTIONS FROM CERTAIN PROVISIONS AUTHORIZED FOR PREPARATIONS OF NO ADDICTIVE QUALITY OR OF MINOR ADDICTIVE QUALITY.—

"(1) If the Secretary or his delegate, either upon his own motion or upon the application of an interested party, after consideration of the report and recommendations of an advisory committee appointed under paragraph (4) of this subsection, and after due notice and opportunity for hearing, finds that a pharmaceutical preparation containing a narcotic drug combined with other active or inactive ingredients—

"(A) either possesses no addiction-forming or addiction-sustaining liability, or does not possess an addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this part, and

"(B) does not permit the recovery of a narcotic drug having such an addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use;

the Secretary or his delegate may except such pharmaceutical preparation to the extent consistent with the obligations undertaken by the United States pursuant to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, 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 of 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, and entered into force with respect to the United States of America, September 11, 1950, and with the public health, safety, and welfare, from any or all of the requirements imposed by this part, other than those requirements imposed by sections 4721, 4722, 4724 (a), and 4732, and from any or all of the requirements imposed by section 6 of the Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes', approved February 9, 1909, as amended by section 15 of the Narcotics Manufacturing Act of 1960.

"(2) In excepting any pharmaceutical preparation under paragraph (1), the Secretary or his delegate may, in his discretion, apply any or all of the following requirements:

"(A) Such pharmaceutical preparation shall be manufactured, sold, distributed, given away, dispensed, or possessed as a medicine and not for the purpose of evading the intentions and provisions of this subpart and subpart C;

"(B) Any manufacturer, producer, compounder, or vendor (including dispensing physicians) of such pharmaceutical preparation, lawfully entitled to manufacture, produce, compound, or vend such pharmaceutical preparation, shall keep such records relating to such pharmaceutical preparation as the Secretary or his delegate shall deem necessary;

"(C) Every person so possessing or disposing of such pharmaceutical preparation shall register as required in section 4722 and, if he is not paying a tax under section 4721, shall pay a special tax of \$1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the official in charge of the collection district in which he carries on such occupation as provided in subpart C.

"(3) If the Secretary or his delegate shall subsequently determine, after due notice and opportunity for hearing, that a pharmaceutical preparation to which such exceptions have been made applicable possesses a degree of addiction liability, or permits recovery of a narcotic drug having a degree of addiction liability, that results in abusive use of such exceptions, he is authorized to withdraw and revoke such exceptions in whole or in part.

"(4) Whenever the Secretary or his delegate shall, on his own motion, determine that there may exist reasonable evidence to support a finding in accordance with paragraph (1) of this subsection, or whenever an interested party makes an application for such a finding, the Secretary or his delegate shall thereupon appoint an advisory committee of experts. At least one member of such an advisory committee shall be selected by the Secretary or his delegate, one by the interested party making the application, if any, one by the Surgeon General of the (United States) Public Health Service, and one by the Commissioner of the (United States) Food and Drug Administration. The Secretary or his delegate shall submit to such advisory committee the application of the interested party, if any, and any other available data. As soon as practicable thereafter, the advisory committee shall, after independent study of the material submitted to it by the Secretary or his delegate and other data available to it, certify a report and recommendations to the Secretary or his delegate with respect to the pharmaceutical preparation involved.

"(5) After consideration of the report and recommendation of the advisory committee, and after due notice and opportunity for hearing, the Secretary or his delegate shall either make the finding provided for in paragraph (1) of this subsection and grant such exceptions as he deems appropriate, or determine that the evidence does not support such a finding and deny the application, if any."

(d) The amendment to subsection (g) of section 4731 of the Internal Revenue Code of 1954, made by subsection (b) of this section, shall not affect any proceeding commenced before such amendment, but such proceeding shall be continued to final disposition as if the amendment had not been made.

NOTIFICATIONS, FINDINGS, AND DECISIONS UNDER THE 1948 PROTOCOL

SEC. 5. (a) Before a notification may be sent on behalf of the United States to the Secretary General of the United Nations, under article I of the 1948 protocol, that a drug is considered liable to the 2 UST 1629.

same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2, of the 1931 convention, such drug shall have been found by the Secretary or his delegate to be an "opiate", as defined in section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of this Act, and so proclaimed in accordance with the procedure prescribed by section 4731(g) as amended by section 4(b) of this Act.

(b) With respect to any drug which is or may be used for medical or scientific purposes and to which the 1931 convention does not apply, and which is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2 of the 1931 convention, upon receipt by the United States of a finding or decision made pursuant to article 1 or article 2 of the 1948 protocol that any such drug is capable of producing addiction or of conversion into a drug capable of producing addiction and that the appropriate provisions of the 1931 convention shall apply to such drug, such finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate shall cause such finding or decision to be published in the Federal Register unless such drug has already been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act. From the time of such publication, such drug shall be an opiate to the same extent as if the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, had been followed with respect to such drug.

(c) If the finding or decision so received and published in the Federal Register relates to a drug which has not previously been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, any person in the United States interested in the domestic manufacture and distribution of such drug for medical and scientific purposes may submit to the Secretary or his delegate written data, views, and argument opposed to such finding or decision. Such written data, views, and argument shall be transmitted to the Secretary General of the United Nations for consideration by the World Health Organization or the Commission on Narcotic Drugs of the United Nations, as the case may be, under article 3 of the 1948 protocol. If thereafter the United States receives a revised finding or decision, under article 3 of the 1948 protocol, that such a drug is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not apply to such drug, such revised finding or decision shall be transmitted to the Secretary or his delegate, who shall cause such revised finding or decision to be published in the Federal Register within ninety days of receipt thereof by the Secretary or his delegate. From the time of such publication, such drug shall cease to be an opiate, unless the Secretary or his delegate has theretofore initiated an opiate procedure under section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

(d) Upon receipt by the United States of a revised finding or decision under article 3 of the 1948 protocol (except a revised finding or decision to which subsection (c) applies) that a drug (theretofore subject to the Federal narcotic laws as an opiate) is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not apply to such drug, the revised finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate may, in his discretion, publish the revised finding or decision in the Federal

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2 UST 1634.

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Register and, from the time of such publication, such drug shall cease to be an opiate. If the revised finding or decision is not so published in the Federal Register, the said drug shall continue to be an opiate.

MODIFICATION OF LIST OF BASIC NARCOTIC DRUGS

Sec. 6. The Secretary or his delegate, upon his initiative or upon the petition of any interested person shall have the power by rule made on the record after opportunity for hearing, to alter classifications set forth in section 3(g) by adding to, subtracting from, or further defining such classifications or any one or more of them, on the basis of their chemical structure and content and addiction liability or convertibility into an addicting drug. No new basic class shall be added unless with respect to any drug or drugs falling within such class the Secretary or his delegate shall have determined that such drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or has caused a finding or decision to be published in the Federal Register pursuant to section 5 of this Act. For purposes of this section, the Secretary or his delegate may consider changes in classification established by the World Health Organization or its successor in function.

RESTRICTIONS ON THE MANUFACTURE OF NARCOTIC DRUGS

Sec. 7. (a) Except as otherwise provided in this Act, it shall be unlawful for any person to manufacture any narcotic drug unless—

(1) such narcotic drug falls within a basic class of narcotic drugs established by or pursuant to this Act, and

(2) such person holds a currently effective license and manufacturing quota with respect to such basic class of narcotic drug issued pursuant to section 8 of this Act.

(b) The omission of a narcotic drug from the classification established pursuant to section 3(g) shall not be construed to permit the manufacture of such narcotic drug, the intent of this Act being to limit the manufacture of narcotic drugs in the United States to those narcotic drugs established under this Act as a basic class of narcotic drugs or as a member of a basic class of narcotic drugs. The fact that the Secretary or his delegate shall have—

(1) determined that a drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or

(2) caused a finding or decision with respect to any drug or other substance to be published in the Federal Register pursuant to section 5 of this Act,

shall not require the Secretary or his delegate to add such narcotic drug to the classifications set forth in section 3(g) or to grant a manufacturing quota for such narcotic drug, if the Secretary or his delegate shall determine that it is contrary to the public health and safety to permit the manufacture of such drug within the United States.

(c) It shall be unlawful for any person (1) to manufacture or attempt to manufacture any narcotic drug, or (2) to knowingly permit the manufacture of any narcotic drug, in or upon any place owned, leased, occupied, used or controlled by him unless he (or the lessee, tenant, or other occupant as the case may be) is the holder of a license and quota for the manufacture during the period in question of such narcotic drug in accordance with the provisions of sections 3(g), 8, and 11 of this Act; and it shall be unlawful for the holder of any such

quota to manufacture during the period for which the quota is applicable any quantity of such narcotic drug in excess of the amount authorized by such quota.

LICENSES TO MANUFACTURE NARCOTIC DRUGS

SEC. 8. (a) Every person who manufactures a basic class or classes of narcotic drug shall, on or before January 1, 1961, if then already engaged in such manufacture, or otherwise before engaging in such manufacture, obtain from the Secretary or his delegate a license or licenses for the appropriate basic class or classes of narcotic drug. There shall be a separate license for the manufacture of each basic class of narcotic drug. In determining whether to issue a license for a particular basic class of narcotic drug to a particular applicant, the Secretary or his delegate shall be governed by the following factors—

(1) maintenance of effective controls against the diversion of the particular basic class of narcotic drug and of narcotic drugs compounded therefrom into other than legitimate medical and scientific channels through limitation of manufacture of the particular basic class of narcotic drug to the smallest number of establishments which will produce an adequate and uninterrupted supply of narcotic drugs of or derived from such basic class of narcotic drugs for medical and scientific purposes, consistent with the public interest; and

(2) compliance with the obligations undertaken by the United States pursuant to the 1931 convention and the 1948 protocol; and

(3) promotion of technical advances in the art of manufacturing narcotic drugs and the development of new narcotic drug products; and

(4) the applicant's education, moral character and reputation, the applicant's past drug manufacturing experience and the quality of his products, his technical competence, the existence in the applicant's establishment of adequate safeguards against diversion of narcotic drugs into other than legitimate medical and scientific channels; and

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

26 USC 4722. (b) Registration pursuant to section 4722 of the Internal Revenue Code of 1954, shall be a prerequisite to the issuance of any license under this section. Licenses shall be in such form as the Secretary or his delegate shall prescribe and shall continue in effect subject only to annual renewal of registration unless revoked pursuant to section 9 of this Act or voluntarily surrendered. Issuance of a license pursuant to this section shall not entitle the licensee to perform any act with respect to narcotic drugs as to which the consent or approval of the Secretary or his delegate is required by the provisions of this or any other Act.

(c) Issuance of a license for the manufacture of any one basic class of narcotic drug shall not entitle the holder thereof to manufacture for sale, distribution, or other use any other basic class of narcotic drug.

26 USC 4722. (d) Notwithstanding the foregoing provisions of this section, the Secretary or his delegate shall authorize any person registered as a manufacturer or as a person engaged in research under section 4722 of the Internal Revenue Code of 1954, who meets the standards for licensing under subsection (a) (4) of this section 8, whether or not such person actually holds a license under subsection (a), to produce such limited quantities as the Secretary or his delegate may specify of any narcotic drug, except crude opium or coca leaves, whether or

not a basic class for such drug has been established under section 3 (g) of this Act, exclusively for research in the development of manufacturing processes for the drug, or for chemical, pharmacological or medical testing of such drugs, for fitness for medical or scientific use and for determination of its suitability for general manufacture and distribution for medical or scientific use. Such person shall make such reports as the Secretary or his delegate may require relating to the quantities of narcotic drug manufactured and to use and disposal of such quantities of such narcotic drug. Such quantities of such narcotic drug may be disposed of only in accordance with the regulations of the Secretary or his delegate. Any authorization made under this subsection (d) shall be subject to revocation or suspension in accordance with the procedure set forth in section 9 of this Act.

(e) In issuing or refusing to issue manufacturing licenses pursuant to this section, the Secretary or his delegate shall act in conformity with the procedure prescribed by section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. Each licensee of the basic class of narcotic drug with respect to which a license is sought to be obtained shall be deemed a person entitled to notice within the meaning of section 5(a) of the Administrative Procedure Act.

60 Stat. 239,
5 USC 1004,
1006, 1007.

REVOCATION OR SUSPENSION OF LICENSES

SEC. 9. (a) Any license issued pursuant to section 8 of this Act may be revoked by the Secretary or his delegate if the licensee—

(1) has been convicted of violating or conspiring to violate any law of the United States or of any State where the offense involves any activity or transaction with respect to narcotic drugs; or

(2) has violated or failed to comply with any duly promulgated regulation of the Secretary or his delegate relating to narcotic drugs, and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to narcotic drugs.

In the case of a licensee holding more than one license issued pursuant to section 8 of this Act, revocation may be in the discretion of the Secretary or his delegate extended to all licenses held by such licensee.

(b) Before revoking any license pursuant to subsection (a), the Secretary or his delegate shall serve upon the licensee an order to show cause why an order of revocation should not be issued. Any such order to show cause shall contain a statement of the basis thereof, and shall call upon such licensee to appear before the Secretary or his delegate at a time and place stated in the order, but in no event less than thirty days after the date of receipt of such order, and give evidence upon the matter specified therein. The Secretary or his delegate may in his discretion suspend any license simultaneously with the issuance of an order to show cause, in cases where he finds that the public health, safety, or interest require such suspension. Such suspension shall continue in effect until the conclusion of any revocation proceeding, including judicial review thereof, unless sooner withdrawn by the Secretary or his delegate, or dissolved by a court of competent jurisdiction. Every hearing held pursuant to this section shall be conducted in accordance with section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. If after hearing, default, or waiver thereof by the licensee, the Secretary or his delegate determines that an order of revocation should issue, he shall issue such order, which

5 USC 1004,
1006, 1007.

shall include a statement of his findings and the grounds and reasons therefor and shall specify the effective date of the order, and he shall cause such order to be served on the licensee. In any case where a hearing is conducted pursuant to the provisions of this section both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Secretary or his delegate. Proceedings under this section shall be independent of, and not in lieu of, criminal prosecution or other proceedings under this Act or any other law of the United States.

AUTHORITY TO SEIZE NARCOTIC DRUGS, ORDER FORMS, AND TAX STAMPS

SEC. 10. In the event of the suspension or revocation of a license obtained under section 8, all narcotic drugs owned or possessed by such person at the time of suspension or at the effective date of the revocation order, as the case may be, whether or not taxes have been paid on such narcotic drugs, together with all unused order forms or narcotic tax stamps owned or possessed by such person, may at the discretion of the Secretary or his delegate be placed under seal and no disposition made until the time for taking an appeal has elapsed or until all appeals have been concluded. Upon a suspension or revocation order becoming final all narcotic drugs, tax stamps, and order forms shall be forfeited to the Government.

MANUFACTURING QUOTAS FOR BASIC CLASSES OF NARCOTIC DRUGS

SEC. 11. (a) For the purpose of fixing manufacturing quotas under this section and in order to carry out the treaty obligations of the United States, the Secretary or his delegate shall make determinations of the total quantity of each basic class of narcotic drug necessary to be manufactured during each calendar year to provide for the estimated medical and scientific needs of the United States, for lawful export requirements, and for establishment and maintenance of reserve stocks.

(b) In fixing individual manufacturing quotas for any basic class of narcotic drug for a calendar year pursuant to this section, or at any time after fixing such individual quotas, the Secretary or his delegate shall limit or reduce such individual quotas to the extent necessary to prevent the aggregate of such individual quotas from exceeding the amount of the determination of the Secretary or his delegate under subsection (a). In any such limitation or reduction pursuant to this subsection the quota of each licensed manufacturer of such basic class of drug shall be limited or reduced in the same proportion as the limitation or reduction of the aggregate of such quotas. However, if any licensee, before the issuance of a limitation or reduction in quota, has manufactured in excess of his quota so limited or reduced, the amount of such excess shall be subtracted from such licensee's manufacturing quota for the following year.

(c) On or before June 1 of each year, upon application therefor by a person having a license to manufacture a basic class of narcotic drug, the Secretary or his delegate shall fix a manufacturing quota for such calendar year for such basic class of narcotic drug for such person. Subject to the provisions of subsections (a) and (b), such quota shall be sufficient to cover the applicant's estimated disposal, inventory, and other requirements for the calendar year as determined by the Secretary or his delegate, who shall take into account the applicant's current disposal rate, the trend of such disposal rate during the preceding calendar year, the applicant'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. Subject to the provisions of subsections (a) and (b), such quota shall not be less than the sum of—

(1) such licensed manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year or the average of the three immediately preceding calendar years in which such manufacturer produced such basic class of narcotic drug, whichever is greater; and

(2) one-half of such manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year;

less such manufacturer's inventory of such basic class of narcotic drug on December 31 of the preceding calendar year.

(d) During the period from January 1 until a manufacturing quota for such calendar year is fixed pursuant to subsection (c), any licensed manufacturer entitled to receive a quota for any basic class of narcotic drug under subsection (c) may manufacture a provisional quota of not more than 75 per centum of whichever of the following is greater—

(1) such manufacturer's net disposal of such basic class of narcotic drug during the twelve months immediately preceding September 30 of the preceding calendar year; or

(2) twelve times such manufacturer's average monthly net disposal of such basic class of narcotic drug for the thirty-three months immediately preceding September 30 of the preceding calendar year;

or such higher or lower percentage as the Secretary or his delegate may from time to time for good cause direct. Any higher or lower percentage so directed shall apply to the provisional quotas of all licensed manufacturers for such basic class of narcotic drug.

(e) The Secretary or his delegate shall, on application therefor, and subject to the provisions of subsections (a) and (b), fix a quota for any licensed manufacturer of a basic class of narcotic drug who has not manufactured such basic class of narcotic drug during one or more of the three immediately preceding calendar years, in an amount adequate to cover such manufacturer's reasonably anticipated requirements for the current calendar year.

(f) At any time during the calendar year any licensed manufacturer who has applied for or received a manufacturing quota for a basic class of narcotic drug may apply for an increase in such quota, to meet his estimated disposal, inventory, and other requirements during the remainder of such calendar year. In passing upon such application the Secretary or his delegate shall take into consideration any occurrences since the filing of such manufacturer's initial quota application that may require an increased manufacturing rate by such manufacturer during the balance of such calendar year. In passing upon such application the Secretary or his delegate may also take into consideration the amount, if any, by which the determination of the Secretary or his delegate under subsection (a) exceeds the aggregate of the quotas of all manufacturers under this section, and the equitable distribution of such excess among other manufacturers.

EXCEPTION FROM APPLICABILITY OF LICENSE AND QUOTA PROVISIONS

SEC. 12. Notwithstanding any other provisions of this Act—

(1) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily result from the manufacturing process used for the manufacture of a basic class of narcotic drug duly licensed under this Act; and

(2) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily re-

74 STAT. 66.

sult from the manufacture of any substance which is not a narcotic drug.
 Unless such incidentally but necessarily resulting narcotic drug shall have been determined to be nonaddicting by the Secretary or his delegate, it may (apart from being used in the process of producing a narcotic drug for which license and quota are held) be retained or disposed of only in such manner as may be prescribed or authorized by the Secretary or his delegate.

REGULATION WITH RESPECT TO PERSONS WHO MANUFACTURE NARCOTIC PRECURSORS

SEC. 13. Persons who manufacture, compound, package, sell, deal in, or give away any narcotic precursor shall keep such records and make such reports with respect to such narcotic precursor as the Secretary or his delegate shall by regulation prescribe. The Secretary or his delegate may advise the Congress whether in his opinion the manufacture and distribution of narcotic precursors threaten to result in the diversion of narcotic drugs into other than legitimate medical and scientific channels and whether in his judgment further legislation with respect to narcotic precursors is necessary or desirable.

CERTAIN PROCEDURES FOR JUDICIAL REVIEW

SEC. 14. Every final decision of the Secretary or his delegate under sections 2(i), 6, 8, 9, 11(c), 11(e), or 11(f) of this Act shall be subject to judicial review as provided by and in the manner prescribed in Public Law 901, Eighty-first Congress, approved December 29, 1960
 64 Stat. 1129. (5 U.S.C., secs. 1031-1042).

AMENDMENT TO LAW WITH RESPECT TO EXPORTATION OF NARCOTIC DRUGS

SEC. 15. Section 6 of the Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909, as amended (21 U.S.C. 182), is amended to read as follows:
 42 Stat. 597.

"SEC. 6. (a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except—

"(1) to a country which has ratified and become a party to 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, any narcotic drugs derived directly or indirectly from crude opium or coca leaves; or

"(2) to a country which has ratified and become a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, 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 of 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, and entered into force with respect to the United States of America, September 11, 1960, any narcotic drugs not derived directly or indirectly from crude opium or coca leaves;

and in the instance of (1) and (2) then only if—

"(A) such country has instituted and maintains, in conformity with the respective conventions, a system which the Secretary of the Treasury or his delegate deems adequate, for the control of imports of narcotic drugs;

"(B) 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

"(C) there is furnished to the Secretary or his delegate proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual need for the narcotic drug for medical and scientific uses within such country.

"(b) The exceptions contained in subsection (a) shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

"(c) Notwithstanding the provisions of subsection (a), the Secretary or his delegate may authorize the exportation of any narcotic drug (including crude opium and coca leaves) to a country which has ratified and become a party either to the 1912 convention, the 1925 convention, or the 1931 convention and supplementing protocols of 1946 and 1948, 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.

"(d) The Secretary of State shall request all foreign governments to communicate through the diplomatic channels copies of the laws and regulations promulgated in their respective countries which prohibit or regulate the importation and shipment in transit of any narcotic drug and, when received, shall advise the Secretary or his delegate thereof."

AUTHORIZING IMPORTATION OF NARCOTIC DRUGS AS TO CERTAIN PERSONS

SEC. 16. Notwithstanding the provisions of this Act or any other law, the Secretary or his delegate may in his discretion authorize the importation of any narcotic drug or drugs (including crude opium or coca leaves) for delivery to officials of the United Nations, of the Government of the United States, or of any of the several States, or to any person licensed or qualified to be licensed under section 8 of this Act, for scientific purposes only.

ENFORCEMENT AND AUTHORITY TO DELEGATE FUNCTIONS

SEC. 17. It shall be the duty of the Secretary or his delegate to enforce the provisions of this Act, and he is hereby authorized to make, prescribe, and publish all necessary rules and regulations for carrying out its provisions, including but not limited to rules and regulations for the prevention of unlawful diversion of narcotic drugs, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

PENAL PROVISIONS

SEC. 18. (a) Any person who violates any of the provisions of this Act shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

74 STAT. 68.

(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application made pursuant to this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned for not more than one year, or both.

PROCEDURE AND PRESUMPTIONS

Sec. 19. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the person claiming its benefit. In the absence of proof by such person that he is the duly authorized holder of an appropriate license or quota issued under this Act, he shall be presumed not to be the holder of such license or quota and the burden of proof shall be upon him to rebut such presumption.

APPLICABILITY OF ACT

Sec. 20. The provisions of this Act shall apply to the several States, the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the other insular territories and possessions of the United States.

SEPARABILITY OF INVALID PROVISIONS

Sec. 21. If any provision of this Act, or the application of such provision to any circumstances, shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

Sec. 22. With the exception of section 8(a), this Act shall take effect on January 1 of the year following the date of its enactment. Section 8(a) shall take effect on the date of enactment of this Act.

Approved April 22, 1960.

Public Law 86-668
86th Congress, H. R. 12584
July 14, 1960

AN ACT

74 STAT. 536.

To amend the Uniform Narcotic Drug Act for the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) 70 Stat. 619, of section 10 of the Uniform Narcotic Drug Act (52 Stat. 785) is amended by striking out “, (b) not more than one-sixth of a grain of dihydrocodeinone or any of its salts”.

Approved July 14, 1960.

(149)

Public Law 87-781
87th Congress, S. 1552
October 10, 1962

An Act

76 STAT. 780.

To protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety, effectiveness, and reliability of drugs, authorize standardization of drug names, and clarify and strengthen existing inspection authority; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles and sections according to the following table of contents, may be cited as the "Drug Amendments of 1962".

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TITLE I—DRUGS

PART A—AMENDMENTS TO ASSURE SAFETY, EFFECTIVENESS, AND RELIABILITY

REQUIREMENT OF ADEQUATE CONTROLS IN MANUFACTURE

Sec. 101. Clause (2) of section 501(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(a)) is amended to read as follows: "(2) (A) if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (B) if it is a drug and the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to or are not

76 STAT. 781.

operated or administered in conformity with current good manufacturing practice to assure that such drug meets the requirements of this Act as to safety and has the identity and strength, and meets the quality and purity characteristics, which it purports or is represented to possess;"

EFFECTIVENESS AND SAFETY OF NEW DRUGS

52 Stat. 1041. SEC. 102. (a) (1) Section 201(p) (1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p) (1)), defining the term "new drug", is amended by (A) inserting therein, immediately after the words "to evaluate the safety", the words "and effectiveness", and (B) inserting therein, immediately after the words "as safe", the words "and effective".

52 Stat. 1052. (2) Section 201(p) (2) of such Act (21 U.S.C. 321(p) (2)) is amended by inserting therein, immediately after the word "safety", the words "and effectiveness".

(b) Section 505(b) of such Act (21 U.S.C. 355(b)) is amended by inserting therein, immediately after the words "is safe for use", the words "and whether such drug is effective in use".

(c) Section 505(d) of such Act (21 U.S.C. 355(d)) is amended to read as follows:

Grounds for refusing applications.

"(d) If the Secretary finds, after due notice to the applicant in accordance with subsection (c) and giving him an opportunity for a hearing, in accordance with said subsection, that (1) the investigations, reports of which are required to be submitted to the Secretary pursuant to subsection (b), do not include adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof; (2) the results of such tests show that such drug is unsafe for use under such conditions or do not show that such drug is safe for use under such conditions; (3) the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to preserve its identity, strength, quality, and purity; (4) upon the basis of the information submitted to him as part of the application, or upon the basis of any other information before him with respect to such drug, he has insufficient information to determine whether such drug is safe for use under such conditions; or (5) evaluated on the basis of the information submitted to him as part of the application and any other information before him with respect to such drug, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling thereof; or (6) based on a fair evaluation of all material facts, such labeling is false or misleading in any particular; he shall issue an order refusing to approve the application. If, after such notice and opportunity for hearing, the Secretary finds that clauses (1) through (6) do not apply, he shall issue an order approving the application. As used in this subsection and subsection (e), the term 'substantial evidence' means evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof."

Approval of application.

52 Stat. 1052.

(d) Section 505(e) of such Act (21 U.S.C. 355(e)) is amended to read as follows:

"(e) The Secretary shall, after due notice and opportunity for hearing to the applicant, withdraw approval of an application with respect to any drug under this section if the Secretary finds (1) that clinical or other experience, tests, or other scientific data show that such drug is unsafe for use under the conditions of use upon the basis of which the application was approved; (2) that new evidence of clinical experience, not contained in such application or not available to the Secretary until after such application was approved, or tests by new methods, or tests by methods not deemed reasonably applicable when such application was approved, evaluated together with the evidence available to the Secretary when the application was approved, shows that such drug is not shown to be safe for use under the conditions of use upon the basis of which the application was approved; or (3) on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof; or (4) that the application contains any untrue statement of a material fact: *Provided*, That if the Secretary (or in his absence the officer acting as Secretary) finds that there is an imminent hazard to the public health, he may suspend the approval of such application immediately, and give the applicant prompt notice of his action and afford the applicant the opportunity for an expedited hearing under this subsection; but the authority conferred by this proviso to suspend the approval of an application shall not be delegated. The Secretary may also, after due notice and opportunity for hearing to the applicant, withdraw the approval of an application with respect to any drug under this section if the Secretary finds (1) that the applicant has failed to establish a system for maintaining required records, or has repeatedly or deliberately failed to maintain such records or to make required reports, in accordance with a regulation or order under subsection (j), or the applicant has refused to permit access to, or copying or verification of, such records as required by paragraph (2) of such subsection; or (2) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of such drug are inadequate to assure and preserve its identity, strength, quality, and purity and were not made adequate within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of; or (3) that on the basis of new information before him, evaluated together with the evidence before him when the application was approved, the labeling of such drug, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary specifying the matter complained of. Any order under this subsection shall state the findings upon which it is based."

RECORDS AND REPORTS AS TO EXPERIENCE ON NEW DRUGS

SEC. 103. (a) Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end thereof the following new subsection:

"(j) (1) In the case of any drug for which an approval of an application filed pursuant to this section is in effect, the applicant shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or

Suspension of approval.

Access to records.

52 Stat. 1052.

Regulations pertaining to exemption.

52 Stat. 1052.

information, received or otherwise obtained by such applicant with respect to such drug, as the Secretary may by general regulation, or by order with respect to such application, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to determine, or facilitate a determination, whether there is or may be ground for invoking subsection (e) of this section: *Provided, however*, That regulations and orders issued under this subsection and under subsection (i) shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this section to maintain records, and every person in charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records."

(b) Section 505(i) of such Act (21 U.S.C. 355(i)) is amended (1) by inserting "the foregoing subsections of" immediately after "operation of"; (2) by inserting "and effectiveness" immediately after "safety"; and (3) by adding at the end thereof the following new sentences: "Such regulations may, within the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning such exemption upon—

"(1) the submission to the Secretary, before any clinical testing of a new drug is undertaken, of reports, by the manufacturer or the sponsor of the investigation of such drug, of preclinical tests (including tests on animals) of such drug adequate to justify the proposed clinical testing;

"(2) the manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of such investigators that patients to whom the drug is administered will be under his personal supervision, or under the supervision of investigators responsible to him, and that he will not supply such drug to any other investigator, or to clinics, for administration to human beings; and

"(3) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such drug, of data (including but not limited to analytical reports by investigators) obtained as the result of such investigational use of such drug, as the Secretary finds will enable him to evaluate the safety and effectiveness of such drug in the event of the filing of an application pursuant to subsection (b).

Such regulations shall provide that such exemption shall be conditioned upon the manufacturer, or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible or, in their professional judgment, contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of drugs."

(c) Section 301(e) of such Act (21 U.S.C. 331(e)) is amended to read as follows:

"(e) The refusal to permit access to or copying of any record as required by section 703; or the failure to establish or maintain any record, or make any report, required under section 505 (i) or (j), or the refusal to permit access to or verification or copying of any such required record."

(d) Section 302(a) of such Act (21 U.S.C. 332(a)) is amended by striking out "(e)",

NEW DRUG CLEARANCE PROCEDURE

SEC. 104. (a) Section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a)), is amended to read as follows:

"(a) No person shall introduce or deliver for introduction into interstate commerce any new drug, unless an approval of an application filed pursuant to subsection (b) is effective with respect to such drug."

(b) Section 505(c) of such Act (21 U.S.C. 355(c)) is amended to read as follows:

"(c) Within one hundred and eighty days after the filing of an application under this subsection, or such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall either—

"(1) approve the application if he then finds that none of the grounds for denying approval specified in subsection (d) applies, or

"(2) give the applicant notice of an opportunity for a hearing before the Secretary under subsection (d) on the question whether such application is approvable. If the applicant elects to accept the opportunity for hearing by written request within thirty days after such notice, such hearing shall commence not more than ninety days after the expiration of such thirty days unless the Secretary and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within ninety days after the date fixed by the Secretary for filing final briefs."

(c) Section 505(f) of such Act (21 U.S.C. 355(f)) is amended to read as follows:

"(f) Whenever the Secretary finds that the facts so require, he shall revoke any previous order under subsection (d) or (e) refusing, withdrawing, or suspending approval of an application and shall approve such application or reinstate such approval, as may be appropriate."

(d) (1) The first four sentences of section 505(h) of such Act (21 U.S.C. 355(h)) are amended to read as follows: "An appeal may be taken by the applicant from an order of the Secretary refusing or withdrawing approval of an application under this section. Such appeal shall be taken by filing in the United States court of appeals for the circuit wherein such applicant resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, within sixty days after the entry of such order, a written petition praying that the order of the Secretary be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose, and thereupon the Secretary shall certify and file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to affirm or set aside such order, except that until the filing of the record the Secretary may modify or set aside his order."

52 Stat. 1042.

21 USC 373.
21 USC 355.
Ante, p. 782.

52 Stat. 1043.

52 Stat. 1052.

Appeal.
52 Stat. 1052.

72 Stat. 941.

21 USC 355.

62 Stat. 928.

52 Stat. 1042.

52 Stat. 1051.

72 Stat. 1785.

74 Stat. 399.

59 Stat. 463.

59 Stat. 463.

(2) The ninth sentence of such section 505(h) is amended to read as follows: "The judgment of the court affirming or setting aside any such order of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code."

(3) The amendments made by this subsection shall not apply to any appeal taken prior to the date of enactment of this Act.

(e) (1) Section 301(1) of such Act (21 U.S.C. 331(1)) is amended by (1) inserting "approval of" before "an application", and (2) striking out "effective" and inserting in lieu thereof "in effect".

(2) Clause (C) of section 503(b) (1) of such Act (21 U.S.C. 353(b) (1)) is amended by striking out "effective" and inserting in lieu thereof "approved".

(f) (1) Clause (A) of paragraph (3) of section 409(c) of such Act (21 U.S.C. 348(c)) is amended by inserting before the semicolon at the end thereof the following: "except that this proviso shall not apply with respect to the use of a substance as an ingredient of feed for animals which are raised for food production, if the Secretary finds (i) that, under the conditions of use and feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and (ii) that no residue of the additive will be found by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsections (f) and (g) in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal".

(2) Subparagraph (B) of paragraph (5) of section 706(b) of such Act (21 U.S.C. 376(b)) is amended by inserting before the period at the end of the subparagraph a colon and the following proviso: "Provided, That clause (i) of this subparagraph (B) shall not apply with respect to the use of a color additive as an ingredient of feed for animals which are raised for food production, if the Secretary finds that, under the conditions of use and feeding specified in proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and that no residue of the additive will be found (by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsection (d)) in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animal".

CERTIFICATION OF ANTIBIOTICS

SEC. 105. (a) Section 507(a) of such Act (21 U.S.C. 357(a)) is amended by adding at the end thereof the following new sentence: "For purposes of this section and of section 502(1), the term 'antibiotic drug' means any drug intended for use by man containing any quantity of any chemical substance which is produced by a micro-organism and which has the capacity to inhibit or destroy micro-organisms in dilute solution (including the chemically synthesized equivalent of any such substance)."

(b) Section 507(a) of such Act (21 U.S.C. 357(a)) is further amended by striking the word "or" preceding the word "bacitracin" and by adding after the word "bacitracin" a comma and the following: "or any other antibiotic drug".

(c) Section 502(1) of such Act (21 U.S.C. 352(1)) is amended by striking the word "or" preceding the word "bacitracin" and by adding immediately after "bacitracin," the following: "or any other antibiotic drug".

(d) Section 507(c) of such Act (21 U.S.C. 357(c)) is amended by adding at the end thereof the following: "In deciding whether an antibiotic drug, or class of antibiotic drugs, is to be exempted from the requirement of certification the Secretary shall give consideration, among other relevant factors, to—

"(1) whether such drug or class of drugs is manufactured by a person who has, or hereafter shall have, produced fifty consecutive batches of such drug or class of drugs in compliance with the regulations for the certification thereof within a period of not more than eighteen calendar months, upon the application by such person to the Secretary; or

"(2) whether such drug or class of drugs is manufactured by any person who has otherwise demonstrated such consistency in the production of such drug or class of drugs, in compliance with the regulations for the certification thereof, as in the judgment of the Secretary is adequate to insure the safety and efficacy of use thereof.

When an antibiotic drug or a drug manufacturer has been exempted from the requirement of certification, the manufacturer may still obtain certification of a batch or batches of that drug if he applies for and meets the requirements for certification. Nothing in this Act shall be deemed to prevent a manufacturer or distributor of an antibiotic drug from making a truthful statement in labeling or advertising of the product as to whether it has been certified or exempted from the requirement of certification."

(e) The first sentence of section 507(e) of such Act (21 U.S.C. 357(e)) is amended to read as follows: "No drug which is subject to section 507 shall be deemed to be subject to any provision of section 505 except a new drug exempted from the requirements of this section and of section 502(1) pursuant to regulations promulgated by the Secretary: *Provided*, That, for purposes of section 505, the initial request for certification, as thereafter duly amended, pursuant to section 507, of a new drug so exempted shall be considered a part of the application filed pursuant to section 505(b) with respect to the person filing such request and to such drug as of the date of the exemption."

(f) Section 507 of such Act (21 U.S.C. 357) is further amended by adding at the end of such section the following new subsection:

"(h) In the case of a drug for which, on the day immediately preceding the effective date of this subsection, a prior approval of an application under section 505 had not been withdrawn under section 505(e), the initial issuance of regulations providing for certification or exemption of such drug under this section 507 shall, with respect to the conditions of use prescribed, recommended, or suggested in the labeling covered by such application, not be conditioned upon an affirmative finding of the efficacy of such drug. Any subsequent amendment or repeal of such regulations so as no longer to provide for such certification or exemption on the ground of a lack of efficacy of such drug for use under such conditions of use may be effected only on or after that effective date of clause (3) of the first sentence of section 505(e) which would be applicable to such drug under such conditions of use if such drug were subject to section 505(e), and then only if (1) such amendment or repeal is made in accordance with the procedure specified in subsection (f) of this section (except that such amendment or repeal may be initiated either by a proposal of the Secretary or by a petition of any interested person) and (2) the Secretary finds, on the basis of new information with respect to such drug evaluated together with the information before him when the application under section 505 became effective or was approved, that

59 Stat. 464, is
Exemption;
determinations.

59 Stat. 464.
21 USC 355.

59 Stat. 463.
Post, p. 787.

21 USC 355.

there is a lack of substantial evidence (as defined in section 505(d)) that the drug has the effect it purports or is represented to have under such conditions of use."

RECORDS AND REPORTS AS TO EXPERIENCE ON ANTIBIOTICS

59 Stat. 463.

SEC. 106. (a) Section 507 of such Act (21 U.S.C. 357) is amended by adding at the end thereof the following new subsection:

"(g) (1) Every person engaged in manufacturing, compounding, or processing any drug within the purview of this section with respect to which a certificate or release has been issued pursuant to this section shall establish and maintain such records, and make such reports to the Secretary, of data relating to clinical experience and other data or information, received or otherwise obtained by such person with respect to such drug, as the Secretary may by general regulation, or by order with respect to such certification or release, prescribe on the basis of a finding that such records and reports are necessary in order to enable the Secretary to make, or to facilitate, a determination as to whether such certification or release should be rescinded or whether any regulation issued under this section should be amended or repealed: *Provided, however*, That regulations and orders issued under this subsection and under clause (3) of subsection (d) shall have due regard for the professional ethics of the medical profession and the interests of patients and shall provide, where the Secretary deems it to be appropriate, for the examination, upon request, by the persons to whom such regulations or orders are applicable, of similar information received or otherwise obtained by the Secretary.

"(2) Every person required under this section to maintain records, and every person having charge or custody thereof, shall, upon request of an officer or employee designated by the Secretary, permit such officer or employee at all reasonable times to have access to and copy and verify such records."

(b) Section 507(d) of such Act (21 U.S.C. 357(d)) is amended by adding at the end thereof the following new sentences: "Such regulations may, within the discretion of the Secretary, among other conditions relating to the protection of the public health, provide for conditioning the exemption under clause (3) upon—

"(1) the submission to the Secretary, before any clinical testing of a new drug is undertaken, of reports, by the manufacturer or the sponsor of the investigation of such drug, of preclinical tests (including tests on animals) of such drug adequate to justify the proposed clinical testing;

"(2) the manufacturer or the sponsor of the investigation of a new drug proposed to be distributed to investigators for clinical testing obtaining a signed agreement from each of such investigators that patients to whom the drug is administered will be under his personal supervision, or under the supervision of investigators responsible to him, and that he will not supply such drug to any other investigator, or to clinics, for administration to human beings; and

"(3) the establishment and maintenance of such records, and the making of such reports to the Secretary, by the manufacturer or the sponsor of the investigation of such drug, of data (including but not limited to analytical reports by investigators) obtained as the result of such investigational use of such drug, as the Secretary finds will enable him to evaluate the safety and effectiveness of such drug in the event of the filing of an application for certification or release pursuant to subsection (a).

Access to
records.

59 Stat. 463.
Regulations
pertaining to
exemption.

Such regulations shall provide that such exemption shall be conditioned upon the manufacturer; or the sponsor of the investigation, requiring that experts using such drugs for investigational purposes certify to such manufacturer or sponsor that they will inform any human beings to whom such drugs, or any controls used in connection therewith, are being administered, or their representatives, that such drugs are being used for investigational purposes and will obtain the consent of such human beings or their representatives, except where they deem it not feasible or, in their professional judgment, contrary to the best interests of such human beings. Nothing in this subsection shall be construed to require any clinical investigator to submit directly to the Secretary reports on the investigational use of drugs."

(c) Section 301(e) of such Act (21 U.S.C. 331(e)), as amended by section 102(e) of this Act, is further amended by striking out "505 (i) or (j)" and inserting in lieu thereof "505 (i) or (j), or 507 (d) or (g)".

Ante, p. 784.
Ante, pp. 782,
787.

EFFECTIVE DATES AND APPLICATION OF PART A

SEC. 107. (a) Except as otherwise provided in this section, the amendments made by the foregoing sections of this part A shall take effect on the date of enactment of this Act.

(b) The amendments made by sections 101, 103, 105, and 106 of this part A shall, with respect to any drug, take effect on the first day of the seventh calendar month following the month in which this Act is enacted.

(c) (1) As used in this subsection, the term "enactment date" means the date of enactment of this Act; and the term "basic Act" means the Federal Food, Drug, and Cosmetic Act.

"Enactment date."
"Basic Act."
52 Stat. 1040.
21 USC 301.

(2) An application filed pursuant to section 505(b) of the basic Act which was "effective" within the meaning of that Act on the day immediately preceding the enactment date shall be deemed, as of the enactment date, to be an application "approved" by the Secretary within the meaning of the basic Act as amended by this Act.

(3) In the case of any drug with respect to which an application filed under section 505(b) of the basic Act is deemed to be an approved application on the enactment date by virtue of paragraph (2) of this subsection—

52 Stat. 1052.
21 USC 355.

(A) the amendments made by this Act to section 201(p), and to subsections (b) and (d) of section 505, of the basic Act, insofar as such amendments relate to the effectiveness of drugs, shall not, so long as approval of such application is not withdrawn or suspended pursuant to section 505(e) of that Act, apply to such drug when intended solely for use under conditions prescribed, recommended, or suggested in labeling covered by such approved application, but shall apply to any changed use, or conditions of use, prescribed, recommended, or suggested in its labeling, including such conditions of use as are the subject of an amendment or supplement to such application pending on, or filed after, the enactment date; and

Ante, p. 781.

Ante, p. 781.

(B) clause (3) of the first sentence of section 505(e) of the basic Act, as amended by this Act, shall not apply to such drug when intended solely for use under conditions prescribed, recommended, or suggested in labeling covered by such approved application (except with respect to such use, or conditions of use, as are the subject of an amendment or supplement to such approved application, which amendment or supplement has been approved after the enactment date under section 505 of the basic Act as amended by this Act) until whichever of the following first

Ante, p. 782.

Ante, p. 781.

21 USC 321.

21 USC 355.

Ante, p. 781.

occurs: (i) the expiration of the two-year period beginning with the enactment date; (ii) the effective date of an order under section 505(e) of the basic Act, other than clause (3) of the first sentence of such section 505(e), withdrawing or suspending the approval of such application.

(4) In the case of any drug which, on the day immediately preceding the enactment date, (A) was commercially used or sold in the United States, (B) was not a new drug as defined by section 201(p) of the basic Act as then in force, and (C) was not covered by an effective application under section 505 of that Act, the amendments to section 201(p) made by this Act shall not apply to such drug when intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on that day.

PART B—STANDARDIZATION OF DRUG NAMES

REVIEW AND DESIGNATION OF OFFICIAL NAMES

SEC. 111. (a) The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.), as amended by this Act, is further amended by adding at the end of chapter V the following new section:

"AUTHORITY TO DESIGNATE OFFICIAL NAMES

"SEC. 508. (a) The Secretary may designate an official name for any drug if he determines that such action is necessary or desirable in the interest of usefulness and simplicity. Any official name designated under this section for any drug shall be the only official name of that drug used in any official compendium published after such name has been prescribed or for any other purpose of this Act. In no event, however, shall the Secretary establish an official name so as to infringe a valid trademark.

"(b) Within a reasonable time after the effective date of this section, and at such other times as he may deem necessary, the Secretary shall cause a review to be made of the official names by which drugs are identified in the official United States Pharmacopoeia, the official Homoeopathic Pharmacopoeia of the United States, and the official National Formulary, and all supplements thereto, to determine whether revision of any of those names is necessary or desirable in the interest of usefulness and simplicity.

Review of names.

"(c) Whenever he determines after any such review that (1) any such official name is unduly complex or is not useful for any other reason, (2) two or more official names have been applied to a single drug, or to two or more drugs which are identical in chemical structure and pharmacological action and which are substantially identical in strength, quality, and purity, or (3) no official name has been applied to a medically useful drug, he shall transmit in writing to the compiler of each official compendium in which that drug or drugs are identified and recognized his request for the recommendation of a single official name for such drug or drugs which will have usefulness and simplicity. Whenever such a single official name has not been recommended within one hundred and eighty days after such request, or the Secretary determines that any name so recommended is not useful for any reason, he shall designate a single official name for such drug or drugs. Whenever he determines that the name so recommended is useful, he shall designate that name as the official name of such drug or drugs. Such designation shall be made as a regulation upon public notice and in accordance with the procedure set forth in section 4 of the Administrative Procedure Act (5 U.S.C. 1003).

60 Stat. 238.

"(d) After each such review, and at such other times as the Secretary may determine to be necessary or desirable, the Secretary shall cause to be compiled, published, and publicly distributed a list which shall list all revised official names of drugs designated under this section and shall contain such descriptive and explanatory matter as the Secretary may determine to be required for the effective use of those names.

"(e) Upon a request in writing by any compiler of an official compendium that the Secretary exercise the authority granted to him under section 508(a), he shall upon public notice and in accordance with the procedure set forth in section 4 of the Administrative Procedure Act (5 U.S.C. 1003) designate the official name of the drug for which the request is made."

(b) This section shall take effect on the date of its enactment.

NAME TO BE USED ON DRUG LABEL

SEC. 112. (a) Section 502(e) of such Act (21 U.S.C. 352(e)) is amended by—

(1) inserting the subparagraph designation "(1)" after "(e)";

(2) striking out the words "If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient", and inserting in lieu thereof "If it is a drug, unless (A) its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula), (i) the established name (as defined in subparagraph (2)) of the drug, if such there be, and (ii), in case it is fabricated from two or more ingredients, the established name and quantity of each active ingredient";

(3) striking out the words "the name" and inserting in lieu thereof the words "the established name";

(4) inserting therein, immediately after the colon following the words "contained therein"; the following: "Provided, That the requirement for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs; and (B) for any prescription drug the established name of such drug or ingredient, as the case may be, on such label (and on any labeling on which a name for such drug or ingredient is used) is printed prominently and in type at least half as large as that used thereon for any proprietary name or designation for such drug or ingredient.";

(5) striking out the words "clause (2) of this paragraph" in the proviso to such paragraph and inserting in lieu thereof "clause (A) (ii) or clause (B) of this subparagraph"; and

(6) adding at the end of such paragraph the following new subparagraph:

"(2) As used in this paragraph (e), the term 'established name', with respect to a drug or ingredient thereof, means (A) the applicable official name designated pursuant to section 508, or (B), if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium, or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient: *Provided further*, That where clause (B) of this subparagraph applies to an article recognized in the United States

Ante, p. 789.

Pharmacopoeia and in the Homoeopathic Pharmacopoeia under different official titles, the official title used in the United States Pharmacopoeia shall apply unless it is labeled and offered for sale as a homoeopathic drug, in which case the official title used in the Homoeopathic Pharmacopoeia shall apply."

52 Stat. 1050. (b) Section 502(g) of such Act (21 U.S.C. 352(g)) is amended by inserting immediately before the period at the end thereof a colon and the following proviso: "*Provided further*, That, in the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail".

(c) This section shall take effect on the first day of the seventh calendar month following the month in which this Act is enacted.

EXCLUSION OF COSMETICS

SEC. 113. Chapter V of the Federal Food, Drug, and Cosmetic Act, as amended by section 111 of this Act, is further amended by adding at the end thereof the following:

"NONAPPLICABILITY TO COSMETICS

"SEC. 509. This chapter, as amended by the Drug Amendments of 1962, shall not apply to any cosmetic unless such cosmetic is also a drug or device or component thereof."

INFORMATION TO PHYSICIANS

52 Stat. 1042. SEC. 114. (a) Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(o) In the case of a prescription drug distributed or offered for sale in interstate commerce, the failure of the manufacturer, packer, or distributor thereof to maintain for transmittal, or to transmit, to any practitioner licensed by applicable State law to administer such drug who makes written request for information as to such drug, true and correct copies of all printed matter which is required to be included in any package in which that drug is distributed or sold, or such other printed matter as is approved by the Secretary. Nothing in this paragraph shall be construed to exempt any person from any labeling requirement imposed by or under other provisions of this Act."

(b) This section shall take effect on the first day of the seventh calendar month following the month in which this Act is enacted.

PART C—AMENDMENTS AS TO ADVERTISING

PRESCRIPTION DRUG ADVERTISEMENTS

52 Stat. 1050. SEC. 131. (a) Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is further amended by adding at the end thereof the following new paragraph:

"(n) In the case of any prescription drug distributed or offered for sale in any State, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of (1) the established name as defined in section 502(e), printed prominently and in type at least half as large as that used for any trade or brand name thereof, (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under section 502(e), and (3) such other information in brief summary relating to side effects,

Ante, p. 790.

76 STAT. 792.

contraindications, and effectiveness as shall be required in regulations which shall be issued by the Secretary in accordance with the procedure specified in section 701(e) of this Act: *Provided*, That (A) except in extraordinary circumstances, no regulation issued under this paragraph shall require prior approval by the Secretary of the content of any advertisement, and (B) no advertisement of a prescription drug, published after the effective date of regulations issued under this paragraph applicable to advertisements of prescription drugs, shall, with respect to the matters specified in this paragraph or covered by such regulations, be subject to the provisions of sections 12 through 17 of the Federal Trade Commission Act, as amended (15 U.S.C. 52-57). This paragraph (n) shall not be applicable to any printed matter which the Secretary determines to be labeling as defined in section 201(m) of this Act."

(b) No drug which was being commercially distributed prior to the date of enactment of this Act shall be deemed to be misbranded under paragraph (n) of section 502 of the Federal Food, Drug, and Cosmetic Act, as added by this section, until the earlier of the following dates: (1) the first day of the seventh month following the month in which this Act is enacted; or (2) the effective date of regulations first issued under clause (3) of such paragraph (n) in accordance with the procedure specified in section 701(e) of the Federal Food, Drug, and Cosmetic Act.

TITLE II—FACTORY INSPECTION AND EFFECT ON STATE LAWS

FACTORY INSPECTION

Sec. 201. (a) Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended to read as follows:

"(a) For purposes of enforcement of this Act, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment in which food, drugs, devices, or cosmetics are manufactured, processed, packed, or held, for introduction into interstate commerce or after such introduction, or to enter any vehicle being used to transport or hold such food, drugs, devices, or cosmetics in interstate commerce; and (2) to inspect, at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials; containers, and labeling therein. In the case of any factory, warehouse, establishment, or consulting laboratory in which prescription drugs are manufactured, processed, packed, or held, the inspection shall extend to all things therein (including records, files, papers, processes, controls, and facilities) bearing on whether prescription drugs which are adulterated or misbranded within the meaning of this Act, or which may not be manufactured, introduced into interstate commerce, or sold, or offered for sale by reason of any provision of this Act, have been or are being manufactured, processed, packed, transported, or held in any such place, or otherwise bearing on violation of this Act. No inspection authorized for prescription drugs by the preceding sentence shall extend to (A) financial data, (B) sales data other than shipment data, (C) pricing data, (D) personnel data (other than data as to qualifications of technical and professional personnel performing functions subject to this Act), and (E) research data (other than data, relating to new drugs and antibiotic drugs, subject to reporting

70 Stat. 919.
21 USC 371.

52 Stat. 114.

52 Stat. 1041.
21 USC 321.

67 Stat. 477.

Ante, pp. 783,
782, 787.

67 Stat. 477.

52 Stat. 1043.

52 Stat. 1040.
21 USC 301.

76 STAT. 793.

and inspection under regulations lawfully issued pursuant to section 505 (i) or (j) or section 507 (d) or (g) of this Act, and data, relating to other drugs, which in the case of a new drug would be subject to reporting or inspection under lawful regulations issued pursuant to section 505 (j) of this Act). A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection. Each such inspection shall be commenced and completed with reasonable promptness. The provisions of the second sentence of this subsection shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, upon prescriptions of practitioners licensed to administer such drugs to patients under the care of such practitioners in the course of their professional practice, and which do not, either through a subsidiary or otherwise, manufacture, prepare, propagate, compound, or process drugs for sale other than in the regular course of their business of dispensing or selling drugs at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and who manufacture, prepare, propagate, compound, or process drugs solely for use in the course of their professional practice;

"(3) persons who manufacture, prepare, propagate, compound, or process drugs solely for use in research, teaching, or chemical analysis and not for sale;

"(4) such other classes of persons as the Secretary may by regulation exempt from the application of this section upon a finding that inspection as applied to such classes of persons in accordance with this section is not necessary for the protection of the public health."

(b) Section 704(b) of such Act (21 U.S.C. 374(b)) is amended by inserting after "warehouse," the words "consulting laboratory,"

(c) Section 302(a) of such Act (21 U.S.C. 332(a)) is amended by striking out "(f)."

(d) Nothing in the amendments made by subsections (a) and (b) of this section shall be construed to negate or derogate from any authority of the Secretary existing prior to the enactment of this Act.

EFFECT ON STATE LAWS

Sec. 202. Nothing in the amendments made by this Act to the Federal Food, Drug, and Cosmetic Act shall be construed as invalidating any provision of State law which would be valid in the absence of such amendments unless there is a direct and positive conflict between such amendments and such provision of State law.

EFFECTIVE DATE

Sec. 203. The amendments made by this title shall take effect on the date of enactment of this Act.

TITLE III—REGISTRATION OF DRUG ESTABLISHMENTS AND PATENT INFORMATION

FINDINGS AND DECLARATION

Sec. 301. The Congress hereby finds and declares that in order to make regulation of interstate commerce in drugs effective, it is necessary to provide for registration and inspection of all establishments in which drugs are manufactured, prepared, propagated, compounded,

or processed; that the products of all such establishments are likely to enter the channels of interstate commerce and directly affect such commerce; and that the regulation of interstate commerce in drugs without provision for registration and inspection of establishments that may be engaged only in intrastate commerce in such drugs would discriminate against and depress interstate commerce in such drugs, and adversely burden, obstruct, and affect such interstate commerce.

REGISTRATION OF PRODUCERS OF DRUGS

SEC. 302. Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following section:

Ante, pp. 789,
791.

"REGISTRATION OF PRODUCERS OF DRUGS

"SEC. 510. (a) As used in this section—

"(1) the term 'manufacture, preparation, propagation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer;

"(2) the term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

"(b) On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs shall register with the Secretary his name, places of business, and all such establishments.

"(c) Every person upon first engaging in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs in any establishment which he owns or operates in any State shall immediately register with the Secretary his name, place of business, and such establishment.

"(d) Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs.

"(e) The Secretary may assign a registration number to any person or any establishment registered in accordance with this section.

"(f) The Secretary shall make available for inspection, to any person so requesting, any registration filed pursuant to this section.

"(g) The foregoing subsections of this section shall not apply to—

"(1) pharmacies which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs, upon prescriptions of practitioners licensed to administer such drugs to patients under the care of such practitioners in the course of their professional practice, and which do not manufacture, prepare, propagate, compound, or process drugs for sale other than in the regular course of their business of dispensing or selling drugs at retail;

"(2) practitioners licensed by law to prescribe or administer drugs and who manufacture, prepare, propagate, compound, or process drugs solely for use in the course of their professional practice;

"(3) persons who manufacture, prepare, propagate, compound, or process drugs solely for use in research, teaching, or chemical analysis and not for sale;

"(4) such other classes of persons as the Secretary may by regulation exempt from the application of this section upon a finding that registration by such classes of persons in accordance with this section is not necessary for the protection of the public health.

"(h) Every establishment in any State registered with the Secretary pursuant to this section shall be subject to inspection pursuant to section 704 and shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the two-year period beginning with the date of registration of such establishment pursuant to this section and at least once in every successive two-year period thereafter.

"(i) Any establishment within any foreign country engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs shall be permitted to register under this section pursuant to regulations promulgated by the Secretary. Such regulations shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether drugs manufactured, prepared, propagated, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a) of this Act."

67 Stat. 477;
Ante, p. 792.
21 USC 374.

Post, p. 796.

TRANSITIONAL PROVISIONS

SEC. 303. Any person who, on the day immediately preceding the date of enactment of this Act, owned or operated any establishment in any State (as defined in section 201 of the Federal Food, Drug, and Cosmetic Act as amended by this Act) engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs, shall, if he first registers in accordance with subsection (b) of section 510 of that Act (as added thereto by this Act) prior to the first day of the seventh calendar month following the month in which this Act is enacted, be deemed to have complied with that subsection for the calendar year 1962. Such registration, if made within such period and effected in 1963, shall also be deemed to be in compliance with such subsection for that calendar year.

Post, p. 796.

Ante, p. 794.

FAILURE TO REGISTER

SEC. 304. Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end thereof the following new paragraph:

"(p) The failure to register as required by section 510."

Ante, p. 791.

DRUGS FROM NONREGISTERED ESTABLISHMENTS MISBRANDED

SEC. 305. Section 502 of such Act (21 U.S.C. 352) is amended by adding at the end thereof the following new paragraph:

"(o) If it is a drug and was manufactured, prepared, propagated, compounded, or processed in an establishment in any State not duly registered under section 510."

Ante, p. 791.

76 STAT. 796.

SAMPLES OF IMPORTED DRUGS

SEC. 306. Section 801(a) of such Act (21 U.S.C. 381(a)) is amended by inserting, after the first sentence thereof, the following new sentence: "The Secretary of Health, Education, and Welfare shall furnish to the Secretary of the Treasury a list of establishments registered pursuant to subsection (i) of section 510 and shall request that if any drugs manufactured, prepared, propagated, compounded, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such drugs be delivered to the Secretary of Health, Education, and Welfare, with notice of such delivery to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony."

52 Stat. 1058.
21 USC 381.
Ante, p. 795.

DEFINITIONS

SEC. 307. (a) Section 201(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)) is amended to read as follows:

52 Stat. 1041.

"(a) (1) The term 'State', except as used in the last sentence of section 702(a), means any State or Territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) The term 'Territory' means any Territory or possession of the United States, including the District of Columbia, and excluding the Commonwealth of Puerto Rico and the Canal Zone."

(b) The second sentence of section 702(a) of such Act (21 U.S.C. 372(a)) is amended by inserting before the words "a Territory" the words "the Commonwealth of Puerto Rico or".

INFORMATION ON PATENTS FOR DRUGS

SEC. 308. Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by adding at the end thereof the following new subsection:

52 Stat. 1056.

"(d) The Secretary is authorized and directed, upon request from the Commissioner of Patents, to furnish full and complete information with respect to such questions relating to drugs as the Commissioner may submit concerning any patent application. The Secretary is further authorized, upon receipt of any such request, to conduct or cause to be conducted, such research as may be required."

Approved October 10, 1962.

Public Law 89-74
89th Congress, H. R. 2
July 15, 1965

An Act

To protect the public health and safety by amending the Federal Food, Drug, and Cosmetic Act to establish special controls for depressant and stimulant drugs and counterfeit drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Drug Abuse Control Amendments of 1965".

Drug Abuse Control Amendments of 1965.

FINDINGS AND DECLARATION

SEC. 2. The Congress hereby finds and declares that there is a widespread illicit traffic in depressant and stimulant drugs moving in or otherwise affecting interstate commerce; that the use of such drugs, when not under the supervision of a licensed practitioner, often endangers safety on the highways (without distinction of interstate and intrastate traffic thereon) and otherwise has become a threat to the public health and safety, making additional regulation of such drugs necessary regardless of the intrastate or interstate origin of such drugs; that in order to make regulation and protection of interstate commerce in such drugs effective, regulation of intrastate commerce is also necessary because, among other things, such drugs, when held for illicit sale, often do not bear labeling showing their place of origin and because in the form in which they are so held or in which they are consumed a determination of their place of origin is often extremely difficult or impossible; and that regulation of interstate commerce without the regulation of intrastate commerce in such drugs, as provided in this Act, would discriminate against and adversely affect interstate commerce in such drugs.

79 STAT. 226.
79 STAT. 227.

CONTROL OF DEPRESSANT AND STIMULANT DRUGS

SEC. 3. (a) Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end thereof the following:

52 Stat. 1040.

"(v) The term 'depressant or stimulant drug' means—

"Depressant or stimulant drug."

"(1) any drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative of barbituric acid which has been designated by the Secretary under section 502(d) as habit forming;

21 USC 352.

"(2) any drug which contains any quantity of (A) amphetamine or any of its optical isomers; (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (C) any substance which the Secretary, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

"(3) any drug which contains any quantity of a substance which the Secretary, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect; except that the Secretary shall not designate under this paragraph, or under clause (C) of subpara-

graph (2), any substance that is now included, or is hereafter included, within the classifications stated in section 4731, and marihuana as defined in section 4761, of the Internal Revenue Code of 1954 (26 U.S.C. 4731, 4761).

68A Stat. 557, 565; 74 Stat. 57. The provisions of subsections (e), (f), and (g) of section 701 shall apply to and govern proceedings for the issuance, amendment, or repeal of regulations under subparagraph (2)(C) or (3) of this paragraph."

52 Stat. 1055; 70 Stat. 919. 21 USC 371. (b) Chapter V of such Act (21 U.S.C., chap. 9, subch. V) is amended by adding at the end thereof the following new section:

21 USC 351-360. 79 STAT. 227. 79 STAT. 228.

"DEPRESSANT AND STIMULANT DRUGS

Manufacture, etc., prohibition.

"SEC. 511. (a) No person shall manufacture, compound, or process any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any such drug are solely as specified in this subsection:

Exceptions. 76 Stat. 794. 21 USC 360.

"(1) (A) Manufacturers, compounders, and processors registered under section 510 who are regularly engaged, and are otherwise qualified, in conformance with local laws, in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment, (i) to pharmacies or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or (ii) to laboratories or research or educational institutions for their use in research, teaching, or chemical analysis.

"(B) Suppliers (otherwise qualified in conformance with local laws) of manufacturers, compounders, and processors referred to in subparagraph (A).

"(2) Wholesale druggists registered under section 510 who maintain establishments in conformance with local laws and are regularly engaged in supplying prescription drugs (A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their professional practice, or (B) to laboratories or research or educational institutions for their use in research, teaching, or clinical analysis.

"(3) Pharmacies, hospitals, clinics, and public health agencies, which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs upon prescriptions of practitioners licensed to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

"(4) Practitioners licensed by law to prescribe or administer depressant or stimulant drugs, while acting in the course of their professional practice.

"(5) Persons who use depressant or stimulant drugs in research, teaching, or chemical analysis and not for sale.

"(6) Officers and employees of the United States, a State government, or a political subdivision of a State, while acting in the course of their official duties.

"(7) An employee or agent of any person described in paragraph (1) through paragraph (5), and a nurse or other medical technician under the supervision of a practitioner licensed by law to administer depressant or stimulant drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

"(b) No person, other than—

Sale, etc., prohibition.

"(1) a person described in subsection (a), while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment, or

"(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant or stimulant drug is in the usual course of his business or employment as such, shall sell, deliver, or otherwise dispose of any depressant or stimulant drug to any other person.

"(c) No person, other than a person described in subsection (a) or subsection (b)(2), shall possess any depressant or stimulant drug otherwise than (1) for the personal use of himself or of a member of his household, or (2) for administration to an animal owned by him or a member of his household. In any criminal prosecution for possession of a depressant or stimulant drug in violation of this subsection (which is made a prohibited act by section 301(q)(3)), the United States shall have the burden of proof that the possession involved does not come within the exceptions contained in clauses (1) and (2) of the preceding sentence.

Possession, restriction.

Post, p. 232.

"(d) (1) Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this section, prepare a complete and accurate record of all stocks of each such drug on hand and shall keep such record for three years. On and after the effective date of this section, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each such drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address of the person, and the registration number, if any, assigned to such person by the Secretary pursuant to section 510(e), from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction. No separate records, nor set form or forms for any of the foregoing records, shall be required as long as records containing the required information are available.

Records.

76 Stat. 794. 21 USC 360.

"(2) (A) Every person required by paragraph (1) of this subsection to prepare or obtain, and keep, records, and any carrier maintaining records with respect to any shipment containing any depressant or stimulant drug, and every person in charge, or having custody, of such records, shall, upon request of an officer or employee designated by the Secretary permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and of enforcement of this section, officers or employees

Inspection.

designated by the Secretary are authorized, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, to enter, at reasonable times, any factory, warehouse, establishment, or vehicle in which any depressant or stimulant drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished material, containers and labeling therein, and all things therein (including records, files, papers, processes, controls, and facilities) bearing on violation of this section or section 301(q); and to inventory any stock of any such drug therein and obtain samples of any such drug. If a sample is thus obtained, the officer or employee making the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the sample obtained.

Post, p. 232.

"(B) No inspection authorized by subparagraph (A) shall extend to (i) financial data, (ii) sales data other than shipment data, (iii) pricing data, (iv) personnel data, or (v) research data, which are exempted from inspection under the third sentence of section 704(a) of this Act.

76 Stat. 792.
21 USC 374.
Practitioners,
exception.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to a licensed practitioner described in subsection (a) (4) with respect to any depressant or stimulant drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.

Prescriptions,
restrictions.

"(e) No prescription (issued before or after the effective date of this section) for any depressant or stimulant drug may be filled or refilled more than six months after the date on which such prescription was issued and no such prescription which is authorized to be refilled may be refilled more than five times, except that any prescription for such a drug after six months after the date of issue or after being refilled five times may be renewed by the practitioner issuing it either in writing, or orally (if promptly reduced to writing and filed by the pharmacist filling it).

Certain drugs,
exemption.

"(f) (1) The Secretary may by regulation exempt any depressant or stimulant drug from the application of all or part of this section when he finds that regulation of its manufacture, compounding, processing, possession, and disposition, as provided in this section or in such part thereof, is not necessary for the protection of the public health.

"(2) The Secretary shall by regulation exempt any depressant or stimulant drug from the application of this section, if—

"(A) such drug may, under the provisions of this Act, be sold over the counter without a prescription; or

"(B) he finds that such drug includes one or more substances not having a depressant or stimulant effect on the central nervous system or a hallucinogenic effect and such substance or substances are present therein in such combination, quantity, proportion, or concentration as to prevent the substance or substances therein which do have such an effect from being ingested or absorbed in sufficient amounts or concentrations as, within the meaning of section 201(v), to—

Ante, p. 227.

"(i) be habit forming because of their stimulant effect on the central nervous system, or

"(ii) have a potential for abuse because of their depressant or stimulant effect on the central nervous system or their hallucinogenic effect.

"(g) (1) The Secretary may, from time to time, appoint a committee of experts to advise him with regard to any of the following matters involved in determining whether a regulation under subparagraph (2)(C) or (3) of section 201(v) should be proposed, issued, amended, or repealed: (A) whether or not the substance involved has a depressant or stimulant effect on the central nervous system or a hallucinogenic effect, (B) whether the substance involved has a potential for abuse because of its depressant or stimulant effect on the central nervous system, and (C) any other scientific question (as determined by the Secretary) which is pertinent to the determination of whether such substance should be designated by the Secretary pursuant to subparagraph (2)(C) or (3) of section 201(v). The Secretary may establish a time limit for submission of the committee's report. The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsections (b) (5) (D), and the admissibility of their reports, recommendations, and testimony at any hearing involving such matters shall be determined in accordance with subsection (d) (2), of section 706. The appointment of such a committee after publication of an order acting on a proposal pursuant to section 701(e) (1) shall not suspend the running of the time for filing objections to such order and requesting a hearing unless the Secretary so directs.

Advisory committee.

Ante, p. 227.

"(2) Where such a matter is referred to an expert advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulations.

74 Stat. 399.
21 USC 376.
70 Stat. 919.
21 USC 371.

Referral fees.

"(h) As used in this section and in sections 301 and 304, the term 'manufacture, compound, or process' shall be deemed to refer to 'manufacture, preparation, propagation, compounding, or processing' as defined in section 510(a), and the term 'manufacturers, compounders, and processors' shall be deemed to refer to persons engaged in such defined activities."

52 Stat. 1042.
21 USC 331, 334.

REGISTRATION OF PRODUCERS AND WHOLESALERS OF DEPRESSANT AND STIMULANT DRUGS

SEC. 4. (a) Section 510(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended by redesignating paragraph (2) thereof as paragraph (3) and by inserting immediately after paragraph (1) the following new paragraph:

76 Stat. 794.

"(2) the term 'wholesaling, jobbing, or distributing of depressant or stimulant drugs' means the selling or distribution of any depressant or stimulant drug to any person who is not the ultimate user or consumer or such drug;"

Definition.

(b) Subsection (b) of section 510 of such Act is amended (1) by inserting immediately after "drug or drugs" the following: "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug", and (2) by adding at the end thereof the following: "If any such establishment is engaged in the manufacture, preparation, propa-

gation, compounding, or processing of any depressant or stimulant drug, such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe."

76 Stat. 794.
21 USC 360.

(c) Subsection (c) of section 510 of such Act is amended (1) by inserting immediately after "drug or drugs" the following: "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug", and (2) by adding at the end thereof the following: "If such establishment is engaged in the manufacture, preparation, propagation, compounding, or processing of any depressant or stimulant drug such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe."

(d) Subsection (d) of section 510 of such Act is amended by inserting "(1)" immediately after "(d)" and by striking out the period at the end thereof and inserting in lieu thereof the following: "or the wholesaling, jobbing, or distributing of any depressant or stimulant drug. If any depressant or stimulant drug is manufactured, prepared, propagated, compounded, or processed in such additional establishment, such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe."

"(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) or (c) or paragraph (1) of this subsection, but to whom the second sentence of subsection (b) or (c) or of paragraph (1) of this subsection did not apply at the time of such registration, shall, if any depressant or stimulant drug is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact, in such manner as the Secretary may by regulation prescribe."

(e) The heading of such section 510 is amended by inserting "and Certain Wholesalers" immediately after "of Producers".

PROHIBITED ACTS

52 Stat. 1042.

Sec. 5. Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end thereof the following new paragraph:

Ante, p. 228.

"(q) (1) The manufacture, compounding, or processing of a drug in violation of section 511(a); (2) the sale, delivery, or other disposition of a drug in violation of section 511(b); (3) the possession of a drug in violation of section 511(c); (4) the failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by section 511(d); (5) the refusal to permit access to or copying of any record as required by section 511(d); (6) the refusal to permit entry or inspection as authorized by section 511(d); or (7) the filling or refilling of any prescription in violation of section 511(e)."

GROUND AND JURISDICTION FOR JUDICIAL SEIZURE AND CONDEMNATION

52 Stat. 1044.

Sec. 6. (a) Subsection (a) of section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by inserting "(1)" after "(a)" and redesignating clauses (1) and (2) of the proviso thereto as "(A)" and "(B)", respectively; and by adding at the end of such subsection the following new paragraph:

"(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of

the United States within the jurisdiction of which they are found:

(A) Any depressant or stimulant drug with respect to which a prohibited act within the meaning of section 301 (p) or (q) by any person has occurred, (B) Any drug that is a counterfeit drug, (C) Any container of such depressant or stimulant drug or of a counterfeit drug, (D) Any equipment used in manufacturing, compounding, or processing a depressant or stimulant drug with respect to which drug a prohibited act within the meaning of section 301 (p) or (q), by the manufacturer, compounder, or processor thereof, has occurred, and (E) Any punch, die, plate, stone, labeling, container, or other thing used or designed for use in making a counterfeit drug or drugs."

76 Stat. 795.
21 USC 331;
Ante, p. 232.

(b) (1) The first sentence of subsection (b) of such section 304 is amended by inserting "equipment, or other thing proceeded against" after "article".

(2) Subsection (d) of such section 304 is amended by inserting "(1)" after "(d)" and redesignating clauses (1) and (2) of the second sentence of such subsection as "(A)" and "(B)", respectively; and by adding at the end of such subsection the following new paragraphs:

52 Stat. 1044.
21 USC 334.

"(2) The provisions of paragraph (1) of this subsection shall, to the extent deemed appropriate by the court, apply to any equipment or other thing which is not otherwise within the scope of such paragraph and which is referred to in paragraph (2) of subsection (a).

"(3) Whenever in any proceeding under this section, involving paragraph (2) of subsection (a), the condemnation of any equipment or thing (other than a drug) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (i) that he has not committed or caused to be committed any prohibited act referred to in such paragraph (2) and has no interest in any drug referred to therein, (ii) that he has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by him in good faith, and (iii) that he at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to depressant or stimulant drugs or counterfeit drugs."

Ante, p. 232.
Claim for
remission.

PENALTIES

SEC. 7. (a) Section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)) is amended by inserting after the final word "fine" and before the period the following: "Provided, however, That any person who, having attained his eighteenth birthday, violates section 301(q) (2) by selling, delivering, or otherwise disposing of any depressant or stimulant drug to a person who has not attained his twenty-first birthday shall, if there be no previous conviction of such person under this section which has become final, be subject to imprisonment for not more than two years, or a fine of not more than \$5,000, or both such imprisonment and fine, and for the second or any subsequent conviction for such a violation shall be subject to imprisonment for not more than six years, or a fine of not more than \$15,000, or both such imprisonment and fine."

52 Stat. 1043.

(b) Section 303(b) of such Act (21 U.S.C. 333(b)) is amended by inserting after the word "shall" the following: "(except in the case of an offense which is subject to the provisions of the proviso to subsection (a) relating to second or subsequent offenses)".

79 STAT. 234.

POWERS AND PROTECTION OF ENFORCEMENT PERSONNEL

52 Stat. 1056;
76 Stat. 796. SEC. 8. (a) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by adding at the end thereof the following new subsection:

"(e) Any officer or employee of the Department designated by the Secretary to conduct examinations, investigations, or inspections under this Act relating to depressant or stimulant drugs or to counterfeit drugs may, when so authorized by the Secretary—

- "(1) carry firearms;
- "(2) execute and serve search warrants and arrest warrants;
- "(3) execute seizure by process issued pursuant to libel under section 304;

21 USC 334.

"(4) make arrests without warrant for offenses under this Act with respect to such drugs if the offense is committed in his presence or, in the case of a felony, if he has probable cause to believe that the person so arrested has committed, or is committing, such offense; and

Ante, p. 232.

"(5) make, prior to the institution of libel proceedings under section 304(a) (2), seizures of drugs or containers or of equipment, punches, dies, plates, stones, labeling, or other things, if they are, or he has reasonable grounds to believe that they are, subject to seizure and condemnation under such section 304(a) (2). In the event of seizure pursuant to this paragraph (5), libel proceedings under section 304(a) (2) shall be instituted promptly and the property seized be placed under the jurisdiction of the court."

65 Stat. 721;
78 Stat. 610.

(b) Section 1114 of title 18 of the United States Code is amended by striking out "or any security officer of the Department of State or the Foreign Service" and by inserting in lieu thereof the following: "any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare to conduct investigations or inspections under the Federal Food, Drug, and Cosmetic Act".

52 Stat. 1040.
21 USC 301.

COUNTERFEITING OF DRUGS

21 USC 352.

SEC. 9. (a) The Congress finds and declares that there is a substantial traffic in counterfeit drugs simulating the brand or other identifying mark or device of the manufacturer of the genuine article; that such traffic poses a serious hazard to the health of innocent consumers of such drugs because of the lack of proper qualifications, facilities, and manufacturing controls on the part of the counterfeiter, whose operations are clandestine; that, while such drugs are deemed misbranded within the meaning of section 502(i) of the Federal Food, Drug, and Cosmetic Act, the controls for the suppression of the traffic in such drugs are inadequate because of the difficulty of determining the place of interstate origin of such drugs and, if that place is discovered, the fact that the implements for counterfeiting are not subject to seizure, and that these factors require enactment of additional controls with respect to such drugs without regard to their interstate or intrastate origins.

(b) Paragraph (g) of section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended (1) by inserting "(1)" immediately after "(g)", (2) by redesignating clauses (1), (2), (3), and (4) thereof as clauses (A), (B), (C), and (D), respectively, (3) by striking out "clause (1), (2), or (3)" and inserting in lieu

79 STAT. 235.

thereof "clause (A), (B), or (C)", and (4) by adding at the end thereof the following:

"(2) The term 'counterfeit drug' means a drug which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, or device, or any likeness thereof, of a drug manufacturer, processor, packer, or distributor other than the person or persons who in fact manufactured, processed, packed, or distributed such drug and which thereby falsely purports or is represented to be the product of, or to have been packed or distributed by, such other drug manufacturer, processor, packer, or distributor."

"Counterfeit drug."

(c) Paragraph (i) of section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(c)) is amended by inserting "(1)" immediately after "(i)" and by adding at the end thereof the following new subparagraphs:

52 Stat. 1042.

"(2) Making, selling, disposing of, or keeping in possession, control, or custody, or concealing 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 drug.

"(3) The doing of any act which causes a drug to be a counterfeit drug, or the sale or dispensing, or the holding for sale or dispensing, of a counterfeit drug."

(d) Section 303 of such Act (21 U.S.C. 333(c)) is amended by inserting immediately before the period at the end thereof the following: "; or (5) for having violated section 301(i) (2) if such person acted in good faith and had no reason to believe that use of the punch, die, plate, stone, or other thing involved would result in a drug being a counterfeit drug, or for having violated section 301(i) (3) if the person doing the act or causing it to be done acted in good faith and had no reason to believe that the drug was a counterfeit drug".

APPLICATION OF STATE LAW

SEC. 10. (a) Nothing in this Act shall be construed as authorizing the manufacture, compounding, processing, possession, sale, delivery, or other disposal of any drug in any State in contravention of the laws of such State.

(b) No provision of this Act nor any amendment made by it shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision or amendment operates to the exclusion of any State law on the same subject matter, unless there is a direct and positive conflict between such provision or amendment and such State law so that the two cannot be reconciled or consistently stand together.

(c) No amendment made by this Act shall be construed to prevent the enforcement in the courts of any State of any statute of such State prescribing any criminal penalty for any act made criminal by any such amendment.

EFFECTIVE DATE

SEC. 11. The foregoing provisions of this Act shall take effect on the first day of the seventh calendar month following the month in which this Act is enacted; except that (1) the Secretary shall permit persons, owning or operating any establishment engaged in manufacturing, preparing, propagating, compounding, processing, whole-

79 STAT. 236.

saling, jobbing, or distributing any depressant or stimulant drug, as referred to in the amendments made by section 4 of this Act to section 510 of the Federal Food, Drug, and Cosmetic Act, to register their names, places of business, and establishments, and other information prescribed by such amendments, with the Secretary prior to such effective date, and (2) sections 201(v) and 511(g) of the Federal Food, Drug, and Cosmetic Act, as added by this Act, and the provisions of sections 8 and 10 shall take effect upon the date of enactment of this Act.

Approved July 15, 1965.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 130 (Comm. on Interstate & Foreign Commerce).

SENATE REPORT No. 337 (Comm. on Labor & Public Welfare).

CONGRESSIONAL RECORD, Vol. 111 (1965):

Mar. 9: Considered in House.

Mar. 10: Considered and passed House.

June 23: Considered and passed Senate, amended.

July 8: House concurred in Senate amendments.

Public Law 89-464
89th Congress, H. R. 13773
June 21, 1966

An Act

80 STAT. 213

To authorize the disposal of opium from the national stockpile.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty-seven thousand two hundred and ninety pounds (morphine content) of stockpile grade gum opium and approximately two thousand two hundred pounds (morphine content) of nonstockpile grade material in various dosage forms now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98-98h). Such disposition may be made without regard to the provisions of section 3 of the Strategic and Critical Materials Stock Piling Act: *Provided,* That the time and method of disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

Opium.
Disposal.

60 Stat. 596.

Approved June 21, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 1530 (Comm. on Armed Services).

SENATE REPORT No. 1222 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 112 (1966):

May 18: Considered and passed House.

June 9: Passed Senate.

Public Law 89-793
89th Congress, H. R. 9167
November 8, 1966

An Act

To amend title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addiction, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That titles I, II, III, and IV of this Act may be cited as the "Narcotic Addict Rehabilitation Act of 1966".

DECLARATION OF POLICY

SEC. 2. It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

TITLE I—CIVIL COMMITMENT IN LIEU OF PROSECUTION

SEC. 101. Title 28 of the United States Code is amended by adding after chapter 173 thereof the following new chapter: 62 Stat. 869.

Chapter 175. Civil Commitment and Rehabilitation of Narcotic Addicts

- "Sec.
- "2901. Definitions.
- "2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment.
- "2903. Authority and responsibilities of the Surgeon General; institutional custody; aftercare; maximum period of civil commitment; credit toward sentence.
- "2904. Civil commitment not a conviction; use of test results.
- "2905. Delegation of functions by Surgeon General; use of Federal, State, and private facilities.
- "2906. Absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment, not reviewable on appeal or otherwise.

§ 2901. Definitions

"As used in this chapter—
"(a) 'Addict' means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

"(b) 'Surgeon General' means the Surgeon General of the Public Health Service.

"(c) 'Crime of violence' includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable

Narcotic Addict
Rehabilitation
Act of 1966.

10 STAT. 1439

80 STAT. 1438

62 Stat. 684.

as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

"(d) 'Treatment' includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

"(e) 'Felony' includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

"(f) 'Conviction' and 'convicted' mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but do not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

"(g) 'Eligible individual' means any individual who is charged with an offense against the United States, but does not include—

- "(1) an individual charged with a crime of violence.
- "(2) an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug.
- "(3) an individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

"(4) an individual who has been convicted of a felony on two or more occasions.

"(5) an individual who has been civilly committed under this Act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions.

§ 2902. Discretionary authority of court; examination, report, and determination by court; termination of civil commitment

"(a) If the United States district court believes that an eligible individual is an addict, the court may advise him at his first appearance or thereafter at the sole discretion of the court that the prosecution of the criminal charge will be held in abeyance if he elects to submit to an immediate examination to determine whether he is an addict and is likely to be rehabilitated through treatment. In offering an individual an election, the court shall advise him that if he elects to be examined, he will be confined during the examination for a period not to exceed sixty days; that if he is determined to be an addict who is likely to be rehabilitated, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from the examination or any treatment which may follow; that the treatment may last for thirty-six months; that during treatment, he will be confined in an institution and, at the discretion of the Surgeon General, he may be conditionally released for supervised aftercare treatment in the community; and that if he successfully completes treatment the charge will be dismissed, but if he does not, prosecution on the charge will be resumed. An individual upon being advised

68A Stat. 557;
74 Stat. 57.
26 USC 4731.

that he may elect to submit to an examination shall be permitted a maximum of five days within which to make his election. Except on a showing that a timely election could not have been made, an individual shall be barred from an election after the prescribed period. An individual who elects civil commitment shall be placed in the custody of the Attorney General or the Surgeon General, as the court directs, for an examination by the Surgeon General during a period not to exceed thirty days. This period may, upon notice to the court and the appropriate United States attorney, be extended by the Surgeon General for an additional thirty days.

"(b) The Surgeon General shall report to the court the results of the examination and recommend whether the individual should be civilly committed. A copy of the report shall be made available to the individual and the United States attorney. If the court, acting on the report and other information coming to its attention, determines that the individual is not an addict or is an addict not likely to be rehabilitated through treatment, the individual shall be held to answer the abeyant charge. If the court determines that the individual is an addict and is likely to be rehabilitated through treatment, the court shall commit him to the custody of the Surgeon General for treatment, except that no individual shall be committed under this chapter if the Surgeon General certifies that adequate facilities or personnel for treatment are unavailable.

"(c) Whenever an individual is committed to the custody of the Surgeon General for treatment under this chapter the criminal charge against him shall be continued without final disposition and shall be dismissed if the Surgeon General certifies to the court that the individual has successfully completed the treatment program. On receipt of such certification, the court shall discharge the individual from custody and dismiss the charge against him. If prior to such certification the Surgeon General determines that the individual cannot be further treated as a medical problem, he shall advise the court. The court shall thereupon terminate the commitment, and the pending criminal proceeding shall be resumed.

"(d) An individual committed for examination or treatment shall not be released on bail or on his own recognizance.

"(e) Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

"§ 2903. Authority and responsibilities of the Surgeon General: institutional custody; aftercare; maximum period of civil commitment; credit toward sentence

"(a) An individual who is committed to the custody of the Surgeon General for treatment under this chapter shall not be conditionally released from institutional custody until the Surgeon General determines that he has made sufficient progress to warrant release to a supervisory aftercare authority. If the Surgeon General is unable to make such a determination at the expiration of twenty-four months after the commencement of institutional custody, he shall advise the court and the appropriate United States attorney whether treatment should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

"(b) An individual who is conditionally released from institutional custody shall, while on release, remain in the legal custody of the Surgeon General and shall report for such supervised aftercare treatment as the Surgeon General directs. He shall be subject to home visits

62 Stat. 734;
77 Stat. 834.

and to such physical examination and reasonable regulation of his conduct as the supervisory aftercare authority establishes, subject to the approval of the Surgeon General. The Surgeon General may, at any time, order a conditionally released individual to return for institutional treatment. The Surgeon General's order shall be a sufficient warrant for the supervisory aftercare authority, a probation officer, or any Federal officer authorized to serve criminal process within the United States to apprehend and return the individual to institutional custody as directed. If it is determined that an individual has returned to the use of narcotics, the Surgeon General shall inform the court of the conditions under which the return occurred and make a recommendation as to whether treatment should be continued. The court may affirm the commitment or terminate it and resume the pending criminal proceeding.

"(c) The total period of treatment for any individual committed to the custody of the Surgeon General shall not exceed thirty-six months. If, at the expiration of such maximum period, the Surgeon General is unable to certify that the individual has successfully completed his treatment program the pending criminal proceeding shall be resumed.

"(d) Whenever a pending criminal proceeding against an individual is resumed under this chapter, he shall receive full credit toward the service of any sentence which may be imposed for any time spent in the institutional custody of the Surgeon General or the Attorney General or any other time spent in institutional custody in connection with the matter for which sentence is imposed.

"§ 2904. Civil commitment not a conviction; use of test results

"The determination of narcotic addiction and the subsequent civil commitment under this chapter shall not be deemed a criminal conviction. The results of any tests or procedures conducted by the Surgeon General or the supervisory aftercare authority to determine narcotic addiction may only be used in a further proceeding under this chapter. They shall not be used against the examined individual in any criminal proceeding except that the fact that he is a narcotic addict may be elicited on his cross-examination as bearing on his credibility as a witness.

"§ 2905. Delegation of functions by Surgeon General; use of Federal, State, and private facilities

"(a) The Surgeon General may from time to time make such provision as he deems appropriate authorizing the performance of any of his functions under this chapter by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

"(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals who elect civil commitment under this chapter.

"§ 2906. Absence of offer by the court to a defendant of an election under section 2902(a) or any determination as to civil commitment, not reviewable on appeal or otherwise

"The failure of a court to offer a defendant an election under section 2902(a) of this chapter, or a determination relative to civil commitment under this chapter shall not be reviewable on appeal or otherwise."

TITLE II—SENTENCING TO COMMITMENT FOR TREATMENT

Sec. 201. Title 18 of the United States Code is amended by adding 62 Stat. 683.
after chapter 813 thereof the following new chapter:

“CHAPTER 314—NARCOTIC ADDICTS

- “Sec.
“4251. Definitions.
“4252. Examination.
“4253. Commitment.
“4254. Conditional release.
“4255. Supervision in the community.

“§ 4251. Definitions

“As used in this chapter—

“(a) ‘Addict’ means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction. 68A Stat. 557;
74 Stat. 57.
26 USC 4731.

“(b) ‘Crime of violence’ includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

“(c) ‘Treatment’ includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

“(d) ‘Felony’ includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

“(e) ‘Conviction’ and ‘convicted’ mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, and do not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

“(f) ‘Eligible offender’ means any individual who is convicted of an offense against the United States, but does not include—

- “(1) an offender who is convicted of a crime of violence.
- “(2) an offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.
- “(3) an offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an offender on probation, parole, or

mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

“(4) an offender who has been convicted of a felony on two or more prior occasions.

“(5) an offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

Inte, p. 1438.

“§ 4252. Examination

“If the court believes that an eligible offender is an addict, it may place him in the custody of the Attorney General for an examination to determine whether he is an addict and is likely to be rehabilitated through treatment. The Attorney General shall report to the court within thirty days; or any additional period granted by the court, the results of such examination and make any recommendations he deems desirable. An offender shall receive full credit toward the service of his sentence for any time spent in custody for an examination.

“§ 4253. Commitment

“(a) Following the examination provided for in section 4252, if the court determines that an eligible offender is an addict and is likely to be rehabilitated through treatment, it shall commit him to the custody of the Attorney General for treatment under this chapter, except that no offender shall be committed under this chapter if the Attorney General certifies that adequate facilities or personnel for treatment are unavailable. Such commitment shall be for an indeterminate period of time not to exceed ten years, but in no event shall it exceed the maximum sentence that could otherwise have been imposed.

“(b) If, following the examination provided for in section 4252, the court determines that an eligible offender is not an addict, or is an addict not likely to be rehabilitated through treatment, it shall impose such other sentence as may be authorized or required by law.

“§ 4254. Conditional release

“An offender committed under section 4253(a) may not be conditionally released until he has been treated for six months following such commitment in an institution maintained or approved by the Attorney General for treatment. The Attorney General may then or at any time thereafter report to the Board of Parole whether the offender should be conditionally released under supervision. After receipt of the Attorney General’s report, and certification from the Surgeon General of the Public Health Service that the offender has made sufficient progress to warrant his conditional release under supervision, the Board may in its discretion order such a release. In determining suitability for release, the Board may make any investigation it deems necessary. If the Board does not conditionally release the offender, or if a conditional release is revoked, the Board may thereafter grant a release on receipt of a further report from the Attorney General.

“§ 4255. Supervision in the community

“An offender who has been conditionally released shall be under the jurisdiction of the Board as if on parole under the established rules of the Board and shall remain, while conditionally released, in the legal custody of the Attorney General. The Attorney General may contract with any appropriate public or private agency or any person for supervisory aftercare of a conditionally released offender. Upon receiving information that such an offender has violated his conditional release, the Board, or a member thereof, may issue and cause to be executed a

warrant for his apprehension and return to custody. Upon return to custody, the offender shall be given an opportunity to appear before the Board, a member thereof, or an examiner designated by the Board, after which the Board may revoke the order of conditional release."

TITLE III—CIVIL COMMITMENT OF PERSONS NOT CHARGED WITH ANY CRIMINAL OFFENSE

SEC. 301. For the purposes of this title, the term—

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 302 of this title.

(f) "Posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 307 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

SEC. 302. (a) Except as otherwise provided in section 311 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

Definitions.

68A Stat. 557;
74 Stat. 57.
26 USC 4731.

Petition for
treatment.

Commitment.

(b) After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this title. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General, and other appropriate State or local officials.

Examination
of patient.

(c) Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 303 of this title and for a hearing, if required, under section 304 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal.

Right to
counsel, etc.

SEC. 303. The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 302 of his right to have (1) counsel at every stage of the judicial proceedings under this title and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event shall such physician be entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this title, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this title. Copies of such reports shall be made available to the patient and his counsel.

SEC. 304. (a) If both examining physicians (referred to in section 303) conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court shall immediately enter an order discharging the patient and dismissing the proceedings under this title. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

(b) In conducting any hearing under this title, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 303. Any patient with respect to whom a hearing is held under this title shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this title shall be subject to review in conformity with the provisions of sections 1254 and 1291 of title 28 of the United States Code.

(c) Any patient with respect to whom a hearing has been set under this title may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

(d) Witnesses subpoenaed by either party under the provisions of this title shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States.

SEC. 305. If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written reports with respect to such patient at such times as the court may direct. Such reports shall include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

SEC. 306. Any patient committed to the care and custody of the Surgeon General pursuant to section 305 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 307 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

SEC. 307. (a) Whenever any patient under the care and custody of the Surgeon General pursuant to this title is to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's

Hearing.

Judicial review.

62 Stat. 928,
929.

Witness fees.

Commitment by
court order.

Release.

Posthospitaliza-
tion treatment.
Recommendations
of Surgeon-
General.

release, promptly return him to that court. The court, after considering the recommendations of the Surgeon General with respect to post-hospitalization treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

(b) If, at any time during such three-year period, any patient (1) fails or refuses to comply with the directions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section.

SEC. 308. The court, upon the petition of any patient after his confinement pursuant to this title for a period in excess of three months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 307 of this title.

SEC. 309. Any determination by the court pursuant to this title that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic addiction of any patient under this title shall not be used against such patient in any criminal proceeding.

SEC. 310. Any physician conducting an examination under this title shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this title and the physician-patient privilege shall not be applicable.

SEC. 311. The provisions of this title shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

SEC. 312. Notwithstanding any other provision of this title, no patient shall be committed to a hospital of the Service under this title if the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable.

SEC. 313. Physicians appointed by the court to examine any person pursuant to this title and counsel assigned by the court to represent any person in judicial proceedings under this title shall be entitled to reasonable compensation, in an amount to be determined by the court, to

Petition by
patient.Physician, com-
pellable witness.Appointed phy-
sicians and
counsel, com-
pensation.

80 STAT. 1448

80 STAT. 1449

be paid, upon order of the court, out of such funds as may be provided by law.

Sec. 314. (a) The Surgeon General may from time to time make such provisions as he deems appropriate authorizing the performance of any of his functions under this title by any other officer or employee of the Public Health Service, or with the consent of the head of the Department or Agency concerned, by any Federal or other public or private agency or officer or employee thereof.

(b) The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this title.

Sec. 315. Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this title, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of title 18, United States Code.

Sec. 316. Any person who knowingly makes any false statement to the United States attorney in any petition under section 302(a) of this title shall be subject to the penalty prescribed in section 1001 of title 18, United States Code.

TITLE IV—REHABILITATION AND POSTHOSPITALIZATION CARE PROGRAMS AND ASSISTANCE TO STATES AND LOCALITIES

Sec. 401. The Surgeon General is authorized to establish, as an integral part of the program of treatment for narcotic addiction authorized by section 341 of the Public Health Service Act, outpatient services to (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies, and (2) assist States and municipalities in developing treatment programs and facilities for individuals so addicted, including posthospitalization treatment programs and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General shall take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound program for the care, treatment, and rehabilitation of narcotic addicts.

Sec. 402. (a) There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1966, and for the succeeding fiscal year, the sum of \$15,000,000 to enable the Surgeon General (1) to make grants to States and political subdivisions thereof and to private organizations and institutions (A) for the development of field testing and demonstration programs for the treatment of narcotic addiction, (B) for the development of specialized training programs or materials relating to the provision of public health services for the treatment of narcotic addiction, or the development of in-service training or short-

Delegation of functions.

Penalties.

62 Stat. 734;
77 Stat. 834.

62 Stat. 749.

Post, p. 1449.

Appropriation

70 Stat. 569.
26 USC 7237.

70 Stat. 570,
571.
21 USC 174,
176a, 176b.
55 Stat. 584;
70 Stat. 571.
21 USC 184a.

65 Stat. 150.

Board of Parole, review of sentences.

Care and treatment.
59 Stat. 698;
66 Stat. 80;
70 Stat. 622.

term or refresher courses with respect to the provision of such services, (C) for training personnel to operate, supervise, and administer such services, and (D) for the conducting of surveys evaluating the adequacy of the programs for the treatment of narcotic addiction within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (2) to enter into jointly financed cooperative arrangements with State and local governments and public and private organizations and institutions with a view toward the developing, constructing, operating, staffing, and maintaining of treatment centers and facilities (including post-hospitalization treatment centers and facilities) for narcotic addicts within the States.

(b) Payments under this section may be made in advance or by way of reimbursement, as determined by the Surgeon General, and shall be made on such conditions as the Surgeon General determines to be necessary to carry out the purposes of this title.

(c) The Surgeon General is authorized to issue appropriate rules and regulations to carry out the provisions of this title.

TITLE V—SENTENCING AFTER CONVICTION FOR VIOLATION OF LAW RELATING TO NARCOTIC DRUGS OR MARIHUANA

Sec. 501. Section 7237(d) of the Internal Revenue Code of 1954, as amended, is amended to read as follows:

“(d) No SUSPENSION OF SENTENCE; No PROBATION; ETC.—Upon conviction—

“(1) of any offense the penalty for which is provided in subsection (b) of this section, subsection (c), (h), or (i) of section 2 of the Narcotic Drugs Import and Export Act, as amended, or such Act of July 11, 1941, as amended, or

“(2) of any offense the penalty for which is provided in subsection (a) of this section, if it is the offender's second or subsequent offense,

the imposition or execution of sentence shall not be suspended, probation shall not be granted and in the case of a violation of a law relating to narcotic drugs, section 4202 of title 18, United States Code, and the Act of July 15, 1932 (47 Stat. 696; D.C. Code 24-201 and following), as amended, shall not apply.”

Sec. 502. The Board of Parole is hereby directed to review the sentence of any prisoner who, before the enactment of this Act, was made ineligible for parole by section 7237(d) of the Internal Revenue Code of 1954, as amended, and who was convicted of a violation of a law relating to marihuana. After conducting such review the Board of Parole may authorize the release of such prisoner on parole pursuant to section 4202 of title 18, United States Code. Action taken by the Board of Parole under this section shall not cause any prisoner to serve a longer term than would be served under his original sentence.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Section 341 of the Public Health Service Act, as amended (42 U.S.C. § 257), is amended to read as follows:

“Sec. 341. (a) The Surgeon General is authorized to provide for the confinement, care, protection, treatment, and discipline of persons addicted to the use of habit-forming narcotic drugs who are civilly committed to treatment or convicted of offenses against the United

States and sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, addicts who are committed to the custody of the Attorney General pursuant to the provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code), addicts who voluntarily submit themselves for treatment, and addicts convicted of offenses against the United States and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966, including persons convicted by general courts-martial and consular courts. Such care and treatment shall be provided at hospitals of the Service especially equipped for the accommodation of such patients or elsewhere where authorized under other provisions of law, and shall be designed to rehabilitate such persons; to restore them to health, and, where necessary, to train them to be self-supporting and self-reliant; but nothing in this section or in this part shall be construed to limit the authority of the Surgeon General under other provisions of law to provide for the conditional release of patients and for aftercare under supervision.

"(b) Upon the admittance to, and departure from, a hospital of the Service of a person who voluntarily submitted himself for treatment pursuant to the provisions of this section, and who at the time of his admittance to such hospital was a resident of the District of Columbia, the Surgeon General shall furnish to the Commissioners of the District of Columbia or their designated agent, the name, address, and such other pertinent information as may be useful in the rehabilitation to society of such person."

SEC. 602. The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

SEC. 603. The table of contents to "PART III.—PRISONS AND PRISONERS" of title 18, United States Code, is amended by inserting after "313. Mental defectives..... 4241"

a new chapter reference as follows:

"314. Narcotic addicts..... 4251".

and the table of contents to "PART VI.—PARTICULAR PROCEEDINGS" of title 28, United States Code, is amended by inserting after

"173. Attachment in postal suits..... 2710"

a new chapter reference as follows:

"175. Civil commitment and rehabilitation of narcotic addicts..... 2901".

SEC. 604. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 605. Title I of this Act shall take effect three months after the date of its enactment, and shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to such effective date. Titles II and V of this Act shall take effect three months after the date of its enactment and shall apply to

80 STAT. 1449
80 STAT. 1450

64 Stat. 1085.
18 USC 5005-
5026.

Separability.

Effective dates.

80 STAT. 1450

31 F.R. 8855.
Appropriation.

any case pending in any court of the United States in which sentence has not yet been imposed as of such effective date. Title III of this Act shall take effect three months after the date of its enactment.

SEC. 606. The provisions of this Act shall be subject to the provisions of Reorganization Plan No. 3 of 1966.

SEC. 607. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Approved November 8, 1966.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1486 (Comm. on the Judiciary) and No. 2316 (Comm. of Conference).

SENATE REPORT No. 1667 accompanying S. 2191 (Comm. on the Judiciary), CONGRESSIONAL RECORD, Vol. 112 (1966):

May 31: Considered in House.

June 1: Considered and passed House.

Oct. 6: Considered and passed Senate, amended, in lieu of S. 2191.

Oct. 19: Senate agreed to conference report.

Oct. 21: House agreed to conference report.



Public Law 90-574
90th Congress, H. R. 15758
October 15, 1968

An Act

82 STAT., 1005

To amend the Public Health Service Act so as to extend and improve the provisions relating to regional medical programs, to extend the authorization of grants for health of migratory agricultural workers, to provide for specialized facilities for alcoholics and narcotic addicts, and for other purposes.

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

Public Health
Service Act,
amendment.

TITLE I—REGIONAL MEDICAL PROGRAMS

EXTENSION OF REGIONAL MEDICAL PROGRAMS

SEC. 101. Section 901(a) of the Public Health Service Act (42 U.S.C. 299a) is amended by striking out "and" before "\$200,000,000" and by inserting after "June 30, 1968," the following: "\$65,000,000 for the fiscal year ending June 30, 1969, and \$120,000,000 for the next fiscal year,".

Appropriations.
79 Stat. 926.

EVALUATION OF REGIONAL MEDICAL PROGRAMS

SEC. 102. Section 901(a) of the Public Health Service Act is further amended by inserting at the end thereof the following new sentence: "For any fiscal year ending after June 30, 1969, such portion of the appropriations pursuant to this section as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the program authorized by this title."

INCLUSION OF TERRITORIES

SEC. 103. Section 902(a) (1) of the Public Health Service Act (42 U.S.C. 299b) is amended by inserting after "States" the following: "(which for purposes of this title includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands)".

COMBINATIONS OF REGIONAL MEDICAL PROGRAM AGENCIES

SEC. 104. Section 903(a) and section 904(a) of the Public Health Service Act (42 U.S.C. 299c, 299d) are each amended by inserting after "other public or nonprofit private agencies and institutions" the following: ", and combinations thereof,".

ADVISORY COUNCIL MEMBERS

SEC. 105. (a) Section 905(a) of the Public Health Service Act (42 U.S.C. 299e) is amended by striking out "twelve" and inserting in lieu thereof "sixteen".

(b) Section 905(b) of such Act is amended by striking out "and four at the end of the third year" and inserting in lieu thereof "four at the end of the third year, and four at the end of the fourth year".

Term of
office.

MULTIPROGRAM SERVICES

SEC. 106. Title IX of the Public Health Service Act is further amended by adding at the end thereof the following new section:

42 USC 900-
909.

82 STAT., 1006

"PROJECT GRANTS FOR MULTIPROGRAM SERVICES

"SEC. 910. Funds appropriated under this title shall also be available for grants to any public or nonprofit private agency or institution for services needed by, or which will be of substantial use to, any two or more regional medical programs."

CLARIFYING AND TECHNICAL AMENDMENTS

79 Stat. 926.
42 USC 299a.

SEC. 107. (a) Section 901(c) of the Public Health Service Act is amended by inserting before the period at the end thereof "or, where appropriate, a practicing dentist".

(b) Section 901 of such Act is further amended by adding at the end thereof the following new subsection:

"(d) Grants under this title to any agency or institution, or combination thereof, for a regional medical program may be used by it to assist in meeting the cost of participation in such program by any Federal hospital."

TITLE II—MIGRATORY WORKERS

EXTENSION OF SPECIAL GRANTS FOR HEALTH OF MIGRATORY WORKERS

Appropriations.
79 Stat. 436.

SEC. 201. Section 310 of the Public Health Service Act (42 U.S.C. 242h) is amended by striking out "and \$9,000,000 for the fiscal year ending June 30, 1968" and inserting in lieu thereof "\$9,000,000 each for the fiscal year ending June 30, 1968, and the next fiscal year, and \$15,000,000 for the fiscal year ending June 30, 1970".

Alcoholic and
Narcotic Addict
Rehabilitation
Amendments of
1968.

TITLE III—ALCOHOLIC AND NARCOTIC ADDICT REHABILITATION

SEC. 300. This title may be cited as the "Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968".

PART A—ALCOHOLIC REHABILITATION

77 Stat. 290;
79 Stat. 428.

SEC. 301. The Community Mental Health Centers Act (42 U.S.C. 2681, et seq.) is amended by adding after part B the following new part:

"PART C—ALCOHOLISM

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 240. (a) The Congress hereby finds that—

"(1) Alcoholism is a major health and social problem afflicting a significant proportion of the public, and much more needs to be done by public and private agencies to develop effective prevention and control.

"(2) Alcoholism treatment and control programs should whenever possible: (A) be community based, (B) provide a comprehensive range of services, including emergency treatment, under proper medical auspices on a coordinated basis, and (C) be integrated with and involve the active participation of a wide range of public and nongovernmental agencies.

"(3) The handling of chronic alcoholics within the system of criminal justice perpetuates and aggravates the broad problem of alcoholism whereas treating it as a health problem permits early detection and prevention of alcoholism and effective treatment and rehabilitation, relieves police and other law enforcement agencies of an inap-

appropriate burden that impedes their important work, and better serves the interests of the public.

"(b) It is the purpose of this part to help prevent and control alcoholism through authorization of Federal aid in the construction and staffing of facilities for the prevention and treatment of alcoholism.

"(c) The Congress further declares that, in addition to the funds provided for under this part, other Federal legislation providing for Federal or federally assisted research, prevention, treatment, or rehabilitation programs in the fields of health should be utilized to help eradicate alcoholism as a major health problem.

"CONSTRUCTION GRANTS

"SEC. 241. (a) Grants from appropriations under section 261 may be made for projects for construction of any facilities (including post-hospitalization treatment facilities) for the prevention and treatment of alcoholism, but only to a public or nonprofit private agency or organization and only upon an application (1) which meets the requirements for approval under clauses (1) through (5) and clauses (A) and (B) of section 205 (a), and (2) which contains—

"(A) a showing of the need, in the area to be served by the applicant, for special facilities for the inpatient or outpatient treatment, or both, of alcoholism;

"(B) satisfactory assurance that the services for prevention and treatment of alcoholism to be provided through the facility to be constructed, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated or having an arrangement with the applicant, will be part of a program providing, principally for persons residing in or near the particular community or communities in which such facility is situated, at least those essential elements of comprehensive mental health services and services for the prevention and treatment of alcoholism, including post-institutional aftercare and rehabilitation, that are prescribed by the Secretary;

"(C) satisfactory assurance that the application has been approved and recommended by the single State agency designated by the State as being the agency primarily responsible for care and treatment of alcoholics in the State, and, in case this agency is different from the agency designated pursuant to section 204(a) (1), a showing that the application has also been approved and recommended by the agency designated pursuant to section 204(a) (1), and, in case neither of these is the State mental health authority, a showing that the application has been approved and recommended by such authority;

"(D) a showing that under regulations of the Secretary prescribing the manner of determining priorities the project is entitled to priority over other projects for treatment of alcoholism, if any, within the State, and is in accordance with such criteria, including the willingness and ability to provide satisfactory alternatives to custodial care, as the Secretary may determine to be appropriate for purposes of this section; and

"(E) a showing that adequate provision has been made for compliance with regulations of the Secretary prescribed under section 203(4) relating to furnishing needed services for persons unable to pay therefor and for compliance with State standards for operation and maintenance.

"(b) The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66 $\frac{2}{3}$ per centum, as the Secretary may determine.

Post, p. 1010.

77 Stat. 292.

42 USC 2685.

Application, conditions for approval.

42 USC 2684.

42 USC 2683.

Federal share of costs.

"STAFFING GRANTS

Post, p. 1010.

Duration;
Federal share
of costs.

Application,
conditions
for approval.
79 Stat. 428.
42 USC 2688a.
Ante, p. 1007.

Duration;
Federal share
of costs.

"SEC. 242. (a) Grants from appropriations under section 261 may be made to any public or nonprofit private agency or organization to assist it in meeting, for the temporary periods specified in this section, a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the initial operation of new facilities for the prevention and treatment of alcoholism or of new services in existing facilities for the prevention or treatment of alcoholism.

"(b) Grants for such costs for any facility under this section may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of four years and three months after such first day; and such grants with respect to any facility may not exceed 75 per centum of such costs for the period ending with the close of the fifteenth month following such first day, 60 per centum of such costs for the first year thereafter, 45 per centum of such costs for the second year thereafter, and 30 per centum of such costs for the third year thereafter.

"(c) In making such grants, the Secretary shall take into account the relative needs of the several States for alcoholism programs, the relative financial needs of the applicants, and the relative populations of the areas to be served by the applicants.

"(d) A grant under this section may be made only upon an application which meets the requirements for approval under section 221(a), other than paragraph (3) thereof, and only if (1) a grant was made under part A or section 241 to assist in financing the construction of the facility, or (2) the type of service to be provided with the aid of a grant under this section was not previously being provided by the facility with respect to which such application is made.

"SPECIALIZED FACILITIES

"SEC. 243. (a) Grants from appropriations under section 261 may also be made to public or nonprofit private agencies or organizations for projects for the construction of specialized facilities (including post-hospitalization treatment facilities) for the treatment of alcoholics requiring care in such facilities, and for the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this section or of new services in existing specialized facilities for the treatment of alcoholics.

"(b) Grants may be made under subsection (a) only with respect to (1) facilities which are a part of or affiliated with a community mental health center providing at least those essential elements of comprehensive community mental health services which are prescribed by the Secretary, or (2) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of alcoholism.

"(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

"(d) Before a grant may be made under subsection (a) for a project for the construction of a facility for the treatment of alcoholics the Secretary must find that the application for such grant meets the requirement of section 205 (a) (5) (relating to the payment of prevailing wages). The amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66 2/3 per centum, as the Secretary may determine.

77 Stat. 292.
42 USC 2685.

"PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

"SEC. 244. Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the prevention and treatment of alcoholism.

42 USC 2681-2688d.

"PAYMENTS

"SEC. 245. Payments of grants under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine.

"SHORT TITLE

"SEC. 246. This part may be cited as the 'Alcoholic Rehabilitation Act of 1968'."

Citation of part.

PART B—NARCOTIC ADDICTION

SEC. 302. The Community Mental Health Centers Act (42 U.S.C. 2681, et seq.) is further amended by inserting after part C (added by section 301 of this Act) the following new part:

"PART D—NARCOTIC ADDICT REHABILITATION

"GRANTS FOR TREATMENT FACILITIES

"SEC. 251. (a) Grants from appropriations under section 261 may be made to public or nonprofit private agencies and organizations to assist them in meeting the costs of construction of treatment facilities (including posthospitalization treatment facilities) for narcotic addicts within the States, and to assist them in meeting the costs, determined pursuant to regulations of the Secretary, of compensation of professional and technical personnel for the initial operation of such facilities constructed with grants made under part A or this part or of new services in existing treatment facilities for narcotic addicts.

Post, p. 1010.

"(b) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A except to the extent, in the judgment of the Secretary, special considerations make differences appropriate; but (1) before the Secretary may make a grant under such subsection for the construction of a treatment facility for narcotic addicts he must find that the application for such grant meets the requirement of section 205 (a) (5) (relating to the payment of prevailing wages), and (2) the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66 2/3 per centum, as the Secretary may determine.

Federal share of costs.

"(c) Grants made under subsection (a) for the costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

Ante, p. 1006.

"TRAINING AND EVALUATION

"SEC. 252. The Secretary is authorized, during the period beginning July 1, 1968, and ending with the close of June 30, 1970, to make grants to any public or nonprofit private agencies and organizations to cover part or all of the cost of (A) developing specialized training programs or materials relating to the provision of public health services for the prevention and treatment of narcotic addiction, or developing in-service training or short-term or refresher courses with respect to the provision of such services; (B) training personnel to operate, supervise, and administer such services; and (C) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of narcotic addiction within the several States with a view to determining ways and means of improving, extending, and expanding such programs.

"PROJECTS ELIGIBLE UNDER REGULAR PROGRAM

"SEC. 253. Nothing in this part shall be construed to preclude approval under part A or B of a grant for a project for the construction or initial staffing of a facility for the treatment of narcotic addicts.

42 USC 2681-2688d.

"PAYMENTS

"SEC. 254. Payments under this part may be made in advance or by way of reimbursement, and on such terms and conditions and in such installments, as the Secretary may determine."

PART C—GENERAL

AUTHORIZATION OF APPROPRIATIONS; AND PROGRAM EVALUATION

SEC. 303. (a) The Community Mental Health Centers Act (42 U.S.C. 2681, et seq.) is further amended by inserting after part D (added by section 302 of this Act) the following new part:

"PART E—GENERAL PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS FOR REHABILITATION OF ALCOHOLICS AND NARCOTIC ADDICTS

"SEC. 261. (a) There are authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1969, and \$25,000,000 for the next fiscal year for project grants for construction and staffing of facilities for the prevention and treatment of alcoholism under part C or the prevention and treatment of narcotic addiction under part D and for grants under section 252. Sums so appropriated for any fiscal year shall remain available for obligation until the close of the next fiscal year.

Ante, p. 1006.

"(b) There are also authorized to be appropriated for the fiscal year ending June 30, 1971, and each of the next three fiscal years such sums as may be necessary to continue to make grants for staffing with respect to any project under part C or D for which a staffing grant was made from appropriations under subsection (a) of this section for the fiscal year ending June 30, 1969, or the fiscal year ending June 30, 1970.

"PROGRAM EVALUATION

"SEC. 262. Such portion (as the Secretary may determine) of any appropriation under this title for any fiscal year ending after June 30, 1968, but not exceeding 1 per centum thereof, shall be available to the Secretary for evaluation (directly or by grants or contracts) of the programs authorized by this title.

"PROTECTION OF PERSONAL RIGHTS OF ALCOHOLICS AND NARCOTIC ADDICTS

"SEC. 263. In making grants to carry out the purposes of parts C and D, the Secretary shall take such steps as may be necessary to assure that no individual shall be made the subject of any research which is carried out (in whole or in part) with funds provided from appropriations under this part unless such individual explicitly agrees to become a subject of such research."

Ante, pp. 1006, 1009.

(b) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make grants to continue the projects for which commitments were made under section 402(a) of the Narcotic Addict Rehabilitation Act of 1966, but such grants may be made only for the periods specified in such commitments for such projects. Such section 402 is repealed.

Existing programs, continuation.

80 Stat. 1448, 42 USC 2442. Repeal.

NONDUPLICATION

SEC. 304. Title IV of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended by adding at the end thereof the following new section:

77 Stat. 296; 74 Stat. 429, 42 USC 2691-2697.

"NONDUPLICATION

"SEC. 409. In determining the amount of any grant under this Act for the costs of any project there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant."

TITLE IV—HEALTH FACILITY CONSTRUCTION AND MODERNIZATION

SEC. 401. This title may be cited as the "Hospital and Medical Facilities Construction and Modernization Assistance Amendments of 1968".

SEC. 402. (a) Section 601 of the Public Health Service Act is amended—

Hospital and Medical Facilities Construction and Modernization Assistance Amendments of 1968.

Appropriations for construction grants. 78 Stat. 448, 42 USC 291a.

(1) by striking out "next four" in subsection (a) and inserting in lieu thereof "next five", and

(2) by striking out "and \$180,000,000 each for the next two fiscal years" in subsection (b) and inserting in lieu thereof "\$180,000,000 each for the next two fiscal years, and \$195,000,000 for the fiscal year ending June 30, 1970".

(b) (1) Section 602(a) (1) of such Act is amended by inserting immediately before the period at the end of the second sentence thereof the following: ", and two-thirds thereof in the case of the fifth fiscal year thereafter".

State allotments. 42 USC 291b.

(2) Section 602(e) (2) of such Act is amended (A) by striking out "and" at the end of clause (C), (B) by striking out the period at the end of clause (D) and inserting in lieu thereof "; and", and (C) by inserting after and below clause (D) the following new clause:

Percentages.

"(E) in the case of an allotment thereunder for the fiscal year ending June 30, 1970, one-half of such allotment."

TITLE V—MISCELLANEOUS

SPECIALLY QUALIFIED SCIENTIFIC, PROFESSIONAL, AND ADMINISTRATIVE PERSONNEL

SEC. 501. The proviso of the first sentence of section 208(g) of the Public Health Service Act (42 U.S.C. 210(g)) is amended by inserting "(1)" after "nor more than", and by striking out "and" following the last comma and inserting in lieu thereof "or (2) in the case of two such positions, the rate specified, at the time the service in the position is performed, for level II of the Executive Schedule (5 U.S.C. 5313); and such rates of compensation for all positions included in this proviso".

76 Stat. 864.

80 Stat. 460.

USE OF ALLOTMENTS FOR COST OF ADMINISTRATION

SEC. 502. Section 403 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2603) is amended by adding at the end thereof the following new subsection:

77 Stat. 297.

"(c) (1) At the request of any State, a portion of any allotment or allotments of such State under part A of title II shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration during such year of the State plan approved under such part; except that not more than 2 per centum of the total of the allotments of such State for a year, or \$50,000, whichever is less, shall be available for such purpose for such year. Payments of amounts due under this paragraph may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

42 USC 2681-2687.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from State sources for such year for administration of the State plan approved under such part A not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1968."

ACKNOWLEDGMENTS

SEC. 503. (a) Title V of the Public Health Service Act is further amended by adding at the end thereof the following new section:

58 Stat. 709, 42 USC 219-229.

"MEMORIALS AND OTHER ACKNOWLEDGMENTS

"SEC. 512. The Secretary may provide for suitably acknowledging, within the Department (whether by memorials, designations, or other suitable acknowledgments), (1) efforts of persons who have contributed substantially to the health of the Nation and (2) gifts for use in activities of the Department related to health."

Repeal. 60 Stat. 425.

(b) Section 501(e) of such Act is repealed.

DUPLICATION OF BENEFITS

SEC. 504. No grant, award, or loan of assistance to any student under any Act amended by this Act shall be considered a duplication of benefits for the purposes of section 1781 of title 38, United States Code.

80 Stat. 21.

GORGAN MEMORIAL LABORATORY

82 STAT. 1013

SEC. 505. For the fiscal year ending June 30, 1970, the appropriation authorization contained in the first section of the Act entitled "An Act to authorize a permanent annual appropriation for the maintenance and operation of the Gorgas Memorial Laboratory", approved May 7, 1928 (22 U.S.C. 278), is increased by \$500,000.

Appropriation.
79 Stat. 679.

ONE YEAR EXTENSION OF SOLID WASTE DISPOSAL AUTHORIZATION

SEC. 506. Section 210 of the Solid Waste Disposal Act (42 U.S.C. 3259) is amended—

79 Stat. 1001.

(1) by striking out "and not to exceed \$20,000,000 for the fiscal year ending June 30, 1969" in subsection (a) and inserting in lieu thereof "not to exceed \$20,000,000 for the fiscal year ending June 30, 1969, and not to exceed \$19,750,000 for the fiscal year ending June 30, 1970"; and

(2) by striking out "and not to exceed \$12,500,000 for the fiscal year ending June 30, 1969" in subsection (b) and inserting in lieu thereof "not to exceed \$12,500,000 for the fiscal year ending June 30, 1969, and not to exceed \$12,250,000 for the fiscal year ending June 30, 1970".

SECRETARY

SEC. 507. As used in the amendments made by this Act, the term "Secretary" means the Secretary of Health, Education, and Welfare.

Approved October 15, 1968.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1536 (Comm. on Interstate & Foreign Commerce) and No. 1924 (Comm. of Conference).
SENATE REPORT No. 1454 (Comm. on Labor & Public Welfare).
CONGRESSIONAL RECORD, Vol. 114 (1968):
July 12: Considered and passed House.
July 27: Considered and passed Senate, amended.
Sept. 27: Senate agreed to conference report.
Oct. 1: House agreed to conference report.

Public Law 90-639
90th Congress, H. R. 14096
October 24, 1968

An Act

To amend the Federal Food, Drug, and Cosmetic Act to increase the penalties for unlawful acts involving lysergic acid diethylamide (LSD) and other depressant and stimulant drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 (v) (3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by striking out "any drug" and inserting in lieu thereof "lysergic acid diethylamide and any other drug".

SEC. 2. (a) Section 511 (c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360a (c)) is amended to read as follows:

"(c) No person, other than a person described in subsection (a) or (b) (2) of this section, shall—

"(1) possess any depressant or stimulant drug for sale, delivery, or other disposal to another, or

"(2) otherwise possess any such drug unless such drug was obtained directly, or pursuant to a valid prescription, from a practitioner (licensed by law to prescribe or administer such drug) while acting in the course of his professional practice."

(b) Clause (3) of paragraph (q) of section 301 of such Act (21 U.S.C. 331 (q) (3)) is amended to read as follows: "(3) (A) the possession of a drug in violation of section 511 (c) (1), or (B) the possession of a drug in violation of section 511 (c) (2)";

SEC. 3. Section 303 of such Act (21 U.S.C. 333) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"SEC. 303. (a) Any person who violates a provision of section 301 (other than a provision referred to in subsection (b) of this section) shall be imprisoned for not more than one year or fined not more than \$1,000, or both; except that if any person commits such a violation after a conviction of him under this subsection has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than \$10,000, or both.

"(b) (1) Any person who violates clause (1), (2), or (3) (A) of section 301 (q), or violates, with respect to a depressant or stimulant drug, any of the provisions of paragraph (3) of section 301 (i), shall, except as otherwise provided in paragraph (2) of this subsection, be imprisoned for not more than five years or fined not more than \$10,000, or both.

"(2) Any person eighteen or older who violates clause (2) of section 301 (q) by selling, delivering, or otherwise disposing of any depressant or stimulant drug to a person who is under twenty-one, shall be imprisoned for not more than ten years or fined not more than \$15,000, or both, except that if any person commits such a violation after a conviction of him under this paragraph has become final, he shall be imprisoned for not more than fifteen years or fined not more than \$20,000, or both.

"(3) (A) Except as otherwise provided in this subparagraph or in subparagraph (B), any person who violates clause (3) (B) of section 301 (q) shall be imprisoned for not more than one year or fined not more than \$1,000, or both. If any person commits such a violation after two prior convictions of him for violation of such clause have become final, he shall be imprisoned for not more than three years or fined not more than \$10,000, or both.

"(B) In the case of any person who is convicted for the first time of violating a provision of section 301 (q) and whose conviction was

LSD and other depressant and stimulant drugs.
79 Stat. 227.
Possession, restriction.
79 Stat. 229.

79 Stat. 232.

Penalties.
52 Stat. 1043;
79 Stat. 233.

79 Stat. 235.

82 STAT. 1361

82 STAT. 1362

82 STAT. 1362

for violating clause (3)(B) of such section, the court may suspend the imposition or execution of sentence and place such person on probation subject to such conditions as the court may impose and for such period, not to exceed one year, as the court may prescribe. The court may, in its discretion, unconditionally discharge such person from probation prior to the expiration of the maximum period prescribed for such person's probation. Such discharge shall automatically set aside the conviction, and the court shall issue to such person a certificate to that effect. If during the period of his probation such person does not violate any of the conditions of his probation, his conviction shall at the expiration of such period be automatically set aside, and the court shall issue to such person a certificate to that effect."

Canal Zone, applicability. 76 Stat. 796.

SEC. 4. (a) Section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; except that such term includes the Canal Zone for the purposes of sections 201, 301(i), 301(p), 301(q), 302, 303, 304 (other than paragraph (1) of subsection (a)), 307, 510, 511, 702, 703, 704, and 705 as they apply to depressant or stimulant drugs, containers thereof and equipment used in manufacturing, compounding or processing any such drug."

52 Stat. 1044; 79 Stat. 232.

(b) Section 304(a) of such Act (21 U.S.C. 334(a)) is amended by inserting "or United States court of a Territory" after "district court of the United States" wherever these words occur.

Public information programs, priority.

SEC. 5. It is the sense of the Congress that, because of the inadequate knowledge on the part of the people of the United States of the substantial adverse effects of misuse of depressant and stimulant drugs, and of other drugs liable to abuse, on the individual, his family, and the community, the highest priority should be given to Federal programs to disseminate information which may be used to educate the public, particularly young persons, regarding the dangers of drug abuse.

SEC. 6. The amendments made by this Act shall apply only with respect to violations of the Federal Food, Drug, and Cosmetic Act committed after the date of the enactment of this Act.

National Institute of Neurological Diseases and Blindness. Name change. Ante, p. 772.

SEC. 7. The last sentence of Public Law 90-489 is amended to read as follows: "The name of the National Institute of Neurological Diseases and Blindness is hereby changed to the 'National Institute of Neurological Diseases and Stroke'."

Approved October 24, 1968.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 1546 (Comm. on Interstate & Foreign Commerce) and No. 1959 (Comm. of Conference).

SENATE REPORT No. 1609 (Comm. on Labor & Public Welfare).

CONGRESSIONAL RECORD, Vol. 114 (1968):

July 12: Considered and passed House.

Oct. 4: Considered and passed Senate, amended.

Oct. 11: House and Senate agreed to conference report.

Public Law 91-211
91st Congress, S. 2523
March 13, 1970

An Act

84 Stat. 54

To amend the Community Mental Health Centers Act to extend and improve the program of assistance under that Act for community mental health centers and facilities for the treatment of alcoholics and narcotic addicts, to establish programs for mental health of children, and for other purposes.

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Community Mental Health Centers Amendments of 1970"

Community Mental Health Centers Amendments of 1970.

TITLE I—EXTENSION OF GRANTS FOR CONSTRUCTION OF COMMUNITY MENTAL HEALTH CENTERS; TRUST TERRITORY; STATE PLAN ADMINISTRATION; FEDERAL SHARE

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Section 201 of the Community Mental Health Centers Act (42 U.S.C. 2681) is amended (1) by striking out "and" immediately before "\$70,000,000", and (2) by inserting immediately before the period at the end thereof the following: ", \$80,000,000 for the fiscal year ending June 30, 1971, \$90,000,000 for the fiscal year ending June 30, 1972, and \$100,000,000 for the fiscal year ending June 30, 1973".

77 Stat. 290; 81 Stat. 79.

(b) Section 207 of such Act (42 U.S.C. 2687) is amended by striking out "1970" and inserting in lieu thereof "1973".

ALLOTMENTS TO STATES; INCLUSION OF TRUST TERRITORY

SEC. 102. (a)(1) The first sentence of subsection (a) of section 202 of such Act (42 U.S.C. 2682) is amended by striking out "and Guam," and inserting in lieu thereof "Guam, and the Trust Territory of the Pacific Islands."

77 Stat. 290.

(2) The second sentence of such subsection (a) is amended by inserting after "State" the first time it appears "other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands."

(3) Such subsection (a) is further amended by adding at the end thereof the following new sentence: "Sums so allotted to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year and remaining unobligated at the end of such year shall remain available to it for such purpose for the next two fiscal years (and for such years only), in addition to the sums allotted to it for such purpose for each of such next two fiscal years."

(b) Section 401(a) of such Act (42 U.S.C. 2691(a)) is amended by inserting immediately before the period at the end thereof the following: "; and, for purposes of this title and title II only, includes the Trust Territory of the Pacific Islands".

(c) The amendments made by this section shall be effective with respect to allotments under section 202 from funds appropriated for fiscal years beginning after June 30, 1970.

Effective date.

PERCENTAGE OF ALLOTMENTS AVAILABLE FOR STATE PLAN ADMINISTRATION

82 Stat. 1012.

SEC. 103. (a) Effective with respect to expenditures referred to in the first sentence of section 403(c)(1) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (42 U.S.C. 2693) made after June 30, 1970, such section is amended by striking out "2 per centum" and inserting in lieu thereof "5 per centum".

(b)(1) The first sentence of such section 403(c)(1) is further amended—

(A) by inserting "for any fiscal year" immediately after "title II";

(B) by striking out "during such year";

(C) by striking out "for a year" and inserting in lieu thereof "for any fiscal year"; and

(D) by striking out "for such year".

(2) Section 403(c)(1) of such Act is further amended by inserting immediately after the first sentence thereof the following new sentence: "Amounts made available to any State under this paragraph from its allotment or allotments under part A of title II for any fiscal year shall be available only for such expenditures (referred to in the preceding sentence) during such fiscal year or the following fiscal year."

FEDERAL SHARE; HIGHER SHARE FOR DISADVANTAGED AREAS

Repeal.
77 Stat. 296.
"Federal share."

77 Stat. 286,
290; 79 Stat.
427,
42 USC 2671,
2681.

SEC. 104. Effective with respect to projects approved after June 30, 1970, under part C of title I or part A of title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, section 402 of such Act (42 U.S.C. 2692) is repealed and section 401(h) of such Act is amended to read as follows:

"(h)(1) The term 'Federal share' with respect to any project means the portion of the cost of construction of such project to be paid by the Federal Government under part C of title I or part A of title II.

"(2) The Federal share with respect to any project in the State shall be the amount determined by the State agency designated in the State plan, but except as provided in paragraph (3), the Federal share for any project may not exceed 66 2/3 per centum of the cost of construction of such project or the State's Federal percentage, whichever is the lower. Prior to the approval of the first such project in the State during any fiscal year, such State agency shall give the Secretary written notification of the maximum Federal share established pursuant to this paragraph for such projects in such State to be approved by the Secretary during such fiscal year and the method for determining the actual Federal share to be paid with respect to such projects; and such maximum Federal share and such method of determination for such projects in such State approved during such fiscal year shall not be changed after the approval of the first such project in the State during such fiscal year.

"(3) In the case of any facility or center which provides or will, upon completion of the project for which application has been made under part C of title I or under part A of title II, provide services for persons in an area designated by the Secretary as an urban or rural poverty area, the maximum Federal share determined under paragraph (2) may not exceed 90 per centum of the costs of construction of the project."

PERIOD FOR PROMULGATING FEDERAL PERCENTAGES

SEC. 105. Section 401(j)(1) of such Act is amended by striking out "August 31" and inserting in lieu thereof "September 30".

77 Stat. 297.
42 USC 2691.

TITLE II—PROGRAMS OF GRANT ASSISTANCE FOR COMMUNITY MENTAL HEALTH SERVICE

FEDERAL SHARE OF STAFFING GRANTS

SEC. 201. (a) Effective with respect to costs of compensation of professional and technical personnel of any community mental health center for any period after June 30, 1970, for which a grant has been or is made under subsection (a) of section 220 of the Community Mental Health Centers Act (42 U.S.C. 2688), subsection (b) of such section is amended to read as follows:

79 Stat. 428.

"(b)(1) Grants under this section for such costs for any center may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any center may not exceed 75 per centum of such costs for each of the first two years after such first day, 60 per centum of such costs for the third year after such first day, 45 per centum of such costs for the fourth year after such first day, and 30 per centum of such costs for each of the next four years after such first day.

"(2) In the case of any such center providing services for persons in an area designated by the Secretary as an urban or rural poverty area, grants under this section for such costs for any such center may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day."

(b) In the case of any community mental health center for which a staffing grant was made under section 220 of the Community Mental Health Centers Act before July 1, 1970, the provisions of subsection (b) of section 220 of such Act (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b) had been in effect on the date a staffing grant for such center was initially made.

GRANTS OF INITIATION AND DEVELOPMENT OF SERVICES

SEC. 202. Section 224 of such Act (42 U.S.C. 2688d) is amended (1) by inserting "(a)" immediately after "Sec. 224.", and (2) by adding at the end thereof the following new subsection (b):

79 Stat. 429;
81 Stat. 79.

"(b) Not to exceed 5 per centum of the amount appropriated for grants pursuant to subsection (a) for any fiscal year shall be available to the Secretary to make grants to local public or nonprofit private organizations to cover up to 100 per centum of the costs (but in no case to exceed \$50,000) of projects, in areas designated by the Secretary as rural or urban poverty areas, for assessing local needs for mental health services, designing mental health service programs, obtaining local financial and professional assistance and support for community health services, and fostering community involvement in initiating and developing community mental health services. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project."

REQUIREMENTS FOR GRANTS

79 Stat. 428. SEC. 203. (a) Paragraph (4) of such subsection (a) of section 221 of the Community Mental Health Centers Act (42 U.S.C. 2688a) is amended to read as follows:

"(4) the Secretary determines that there is satisfactory assurance that (A) the services to be provided will constitute an addition to, or a significant improvement in quality (as determined in accordance with criteria of the Secretary) in, services that would otherwise be provided, and (B) Federal funds made available under this part for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds, including third party health insurance payments, that would in the absence of such Federal funds be made available for the program described in paragraph (2) of this subsection and will in no event supplant such State, local, and other non-Federal funds; and"

(b) Section 221(a) of such Act (42 U.S.C. 2688a) is further amended by adding after and below paragraph (5) the following new sentence: "Notwithstanding the provisions of paragraph (2) of this subsection, the requirement therein with respect to essential elements of comprehensive mental health services shall not apply, in the case of an application for a grant to any center which will provide services in an area designated by the Secretary as an urban or rural poverty area, for the eighteen-month period commencing on the date such application is filed, if the Secretary is satisfied that such center will meet such requirement prior to the end of such period; however, if such center has not by the end of such eighteen-month period met such requirement, payments under any grant (made under such application) to such center shall be suspended until the Secretary determines that the center has met such requirement."

AUTHORIZATION OF APPROPRIATIONS

Ante, p. 56.

SEC. 204. (a) The first sentence of section 224(a) of such Act (42 U.S.C. 2688d), as amended by section 202(a) of this Act, is amended (1) by striking out "and" immediately after "1969", and (2) by inserting immediately after "1970," the following: "\$45,000,000 for the fiscal year ending June 30, 1971, \$50,000,000 for the fiscal year ending June 30, 1972, and \$60,000,000 for the fiscal year ending June 30, 1973."

(b) The second sentence of section 224(a) of such Act (42 U.S.C. 2688d), as amended by section 202(a) of this Act, is amended by striking out "seven" and inserting in lieu thereof "thirteen".

(c) Section 221(b) of such Act (42 U.S.C. 2688a) is amended by striking out "1970" each place it appears and inserting in lieu thereof "1973".

TITLE III—ALCOHOLISM AND NARCOTIC ADDICT REHABILITATION

EXTENSION OF PROGRAMS FOR FACILITIES FOR ALCOHOLICS AND NARCOTIC ADDICTS

82 Stat. 1010.

SEC. 301. (a) Section 261(a) of such Act (42 U.S.C. 2688e) is amended by striking out "and \$25,000,000 for the next fiscal year" and inserting in lieu thereof "\$15,000,000 for the fiscal year ending June 30, 1970, \$30,000,000 for the fiscal year ending June 30, 1971, \$35,000,000 for the fiscal year ending June 30, 1972, and \$40,000,000 for the fiscal year ending June 30, 1973."

82 Stat. 1010.
42 USC 2688e. (b) Subsection (a) of such section 261 is further amended by inserting before the period at the end of the first sentence the following: "and section 246".

(c) Section 261 of such Act is further amended by adding at the end thereof the following new subsection (c):

"(c) Not to exceed 5 per centum of the amount appropriated pursuant to the preceding provisions of this section for any fiscal year shall be available to the Secretary to make grants to local public or non-profit private organizations to cover up to 100 per centum of the costs (but in no case to exceed \$50,000) of projects for assessing local needs for programs of services for alcoholics or narcotic addicts, designing such programs, obtaining local financial and professional assistance and support for such programs in the community, and fostering community involvement in initiating and developing such programs in the community. In no case shall a grant under this subsection be for a period in excess of one year; nor shall any grant be made under this subsection with respect to any project if, for any preceding year, a grant under this subsection has been made with respect to such project."

(d) Subsection (b) of such section 261 is amended by striking out "three" and inserting in lieu thereof "nine", and by striking out "for the fiscal year ending June 30, 1969, or the fiscal year ending June 30, 1970" and inserting in lieu thereof "for any fiscal year ending before July 1, 1973".

MAXIMUM FEDERAL SHARE OF CONSTRUCTION PROJECTS FOR FACILITIES FOR ALCOHOLICS OR NARCOTIC ADDICTS IN DISADVANTAGED AREAS

SEC. 302. Effective with respect to projects approved after June 30, 1970, under part C or part D of the Community Mental Health Centers Act, section 241(b) of such Act (42 U.S.C. 2688f), section 243(d) of such Act (42 U.S.C. 2688h), and section 251(b) of such Act (42 U.S.C. 2688k) are each amended by inserting immediately after "66 2/3 per centum" the following: "(or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area)".

82 Stat. 1007.

82 Stat. 1009.

FEDERAL SHARE OF STAFFING GRANTS

SEC. 303. (a) Effective with respect to costs of compensation of professional and technical personnel of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts for any period after June 30, 1970, for which a grant has been or is made under section 242, 243, or 251 of the Community Mental Health Centers Act (42 U.S.C. 2688g, 2688h, 2688k), subsection (b) of section 242 of such Act is amended to read as follows:

"(b) (1) Grants under this part for such costs for any facility may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and, except as provided in paragraph (2), such grants with respect to any facility may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day.

"(2) In the case of any such facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants with respect to any such facility may not exceed 90 per

centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day."

(b) In the case of any alcoholism prevention and treatment facility, specialized facility for alcoholics, or treatment facility for narcotic addicts, for which a staffing grant was made under section 242, 243, or 251 of the Community Mental Health Centers Act before July 1, 1970, the provisions of subsection (b) of section 242 of such Act (as amended by subsection (a) of this section) shall, with respect to costs incurred after June 30, 1970, apply to the same extent as if such subsection (b) had been in effect on the date a staffing grant for such center or facility was initially made.

82 Stat. 1008.
42 USC 2688g,
2688h, 2688k.

DIRECT GRANTS FOR SPECIAL PROJECTS; ALCOHOLISM

SEC. 304. Part C of the Community Mental Health Centers Act is amended by redesignating section 246 as section 247, and by adding after section 245 a new section 246 as follows:

"DIRECT GRANTS FOR SPECIAL PROJECTS

"SEC. 246. The Secretary is authorized during the period beginning July 1, 1970, and ending June 30, 1973, to make grants to any public or nonprofit private agency or organization to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of public health services for the prevention or treatment of alcoholism, or developing inservice training or short-term or refresher courses with respect to the provision of such services; (2) training personnel to operate, supervise, and administer such services; (3) conducting surveys and field trials to evaluate the adequacy of the programs for the prevention and treatment of alcoholism within the several States with a view to determining ways and means of improving, extending, and expanding such programs; and (4) programs for treatment and rehabilitation of alcoholics which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such alcoholics."

DIRECT GRANTS FOR SPECIAL PROJECTS; NARCOTIC ADDICTS

SEC. 305. (a) Section 252 of the Community Mental Health Centers Act is amended (1) by striking out "1970" and inserting in lieu thereof "1973", (2) by striking out "and" at the end of clause (B), and (3) by adding immediately before the period at the end thereof the following: "; and (D) programs for treatment and rehabilitation of narcotic addicts which the Secretary determines are of special significance because they demonstrate new or relatively effective or efficient methods of delivery of services to such narcotic addicts".

(b) The heading to such section 252 is amended to read as follows: "DIRECT GRANTS FOR SPECIAL PROJECTS".

82 Stat. 1010.
42 USC 2688l.

TITLE IV—MENTAL HEALTH OF CHILDREN

GRANTS FOR CONSTRUCTION AND STAFFING OF TREATMENT FACILITIES AND FOR TRAINING AND PROGRAM EVALUATION

SEC. 401. The Community Mental Health Centers Act is amended by adding at the end thereof the following new part:

77 Stat. 290;
82 Stat. 1006.
42 USC 2681
note.

"PART F—MENTAL HEALTH OF CHILDREN

"GRANTS FOR TREATMENT FACILITIES

"SEC. 271. (a) Grants from appropriations under section 272(a) may be made to public or nonprofit private agencies and organizations (1) to assist them in meeting the costs of construction of facilities to provide mental health services for children within the States, and (2) to assist them in meeting a portion of the costs (determined pursuant to regulations of the Secretary) of compensation of professional and technical personnel for the operation of a facility for mental health of children constructed with a grant made under part A or this part or for the operation of new services for mental health of children in an existing facility.

"(b) (1) Grants may be made under this section only with respect to (A) facilities which are part of or affiliated with a community mental health center providing at least those essential services which are prescribed by the Secretary, or (B) where there is no such center serving the community in which such facilities are to be situated, facilities with respect to which satisfactory provision (as determined by the Secretary) has been made for appropriate utilization of existing community resources needed for an adequate program of prevention and treatment of mental health problems of children.

Conditions.

"(2) No grant shall be made under this section with respect to any facility unless the applicant for such grant provides assurances satisfactory to the Secretary that such facility will make available a full range of treatment, liaison, and follow-up, services (as prescribed by the Secretary) for all children and their families in the service area of such facility who need such services, and will, when so requested, provide consultation and education for personnel of all schools and other community agencies serving children in such area.

"(3) The grant program for construction of facilities authorized by subsection (a) shall be carried out consistently with the grant program under part A, except that the amount of any such grant with respect to any project shall be such percentage of the cost thereof, but not in excess of 66 $\frac{2}{3}$ per centum (or 90 per centum in the case of a facility providing services for persons in an area designated by the Secretary as an urban or rural poverty area), as the Secretary may determine.

"(c) Grants made under this section for costs of compensation of professional and technical personnel may not exceed the percentages of such costs, and may be made only for the periods, prescribed for grants for such costs under section 242.

"(d) (1) There are authorized to be appropriated \$12,000,000 for the fiscal year ending June 30, 1971, \$20,000,000 for the fiscal year ending June 30, 1972, and \$30,000,000 for the fiscal year ending June 30, 1973, for grants under this part for construction and for initial grants under this part for compensation of professional and technical personnel, and for training and evaluation grants under section 272.

Appropriations.

"(2) There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and each of the next eight fiscal years such sums as may be necessary to continue to make grants with respect to any

84 Stat. 61

project under this part for which an initial staffing grant was made from appropriations under paragraph (1) for any fiscal year ending before July 1, 1973.

"TRAINING AND EVALUATION

"Sec. 272. The Secretary is authorized, during the period beginning July 1, 1971, and ending with the close of June 30, 1973, to make grants to public or nonprofit private agencies or organizations to cover part or all of the cost of (1) developing specialized training programs or materials relating to the provision of services for the mental health of children, or developing inservice training or short-term or refresher courses with respect to the provisions of such services; (2) training personnel to operate, supervise, and administer such services; and (3) conducting surveys and field trials to evaluate the adequacy of the programs for the mental health of children within the several States with a view to determining ways and means of improving, extending, and expanding such programs."

TITLE V—MISCELLANEOUS

GRANTS FOR CONSULTATION SERVICES

82 Stat. 1010.
42 USC 2688c-
2688q.

SEC. 501. Part E of the Community Mental Health Centers Act is amended by adding at the end thereof the following new section:

"GRANTS FOR CONSULTATION SERVICES

"Sec. 264. (a) In the case of any community mental health center, alcoholism prevention and treatment facility, specialized facility for alcoholics, treatment facility for narcotic addicts, or facility for mental health of children, to which a grant under part B, C, D, or F, as the case may be, is made from appropriations for any fiscal year beginning after June 30, 1970, to assist it in meeting a portion of the costs of compensation of professional and technical personnel who provide consultation services, the Secretary may, with respect to such center or facility, make a grant under this section in addition to such other staffing grant for such center or facility.

"(b) A grant under subsection (a) with respect to a center or facility referred to in that subsection—

"(1) may be made only for the period applicable to the staffing grant made under part B, C, D, or F, as the case may be, with respect to such center or facility, and

"(2) may not exceed whichever of the following is the lower: (A) 15 per centum of the costs with respect to which such other staffing grant is made, or (B) that percentage of such costs which when added to the percentage of such costs covered by such other staffing grant equals 100 per centum.

Appropriations.

"(c) For purposes of making initial grants under this section, there

are authorized to be appropriated \$5,000,000 for each of the fiscal years ending June 30, 1971, June 30, 1972, and June 30, 1973. There are also authorized to be appropriated for the fiscal year ending June 30, 1972, and for each of the next eight fiscal years such sums as may be necessary to continue to make grants under this section for projects which received initial grants under this section from appropriations authorized for any fiscal year ending before July 1, 1973."

84 Stat. 61
84 Stat. 62

DEFINITION OF TECHNICAL PERSONNEL

SEC. 502. Part E of such Act is further amended by adding after the section added by section 501 the following new section:

82 Stat. 1010.
42 USC 2688c-
2688q.

"DEFINITION OF TECHNICAL PERSONNEL

"Sec. 265. For purposes of this title, the term 'technical personnel' includes accountants, financial counselors, medical transcribers, allied health professions personnel, dietary and culinary personnel, and any other personnel whose background and education would indicate that they are to perform technical functions in the operation of centers or facilities for which assistance is provided under this title; but such term does not include minor clerical personnel or maintenance or housekeeping personnel."

APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

SEC. 503. (a) Part E of such Act is further amended by adding after the section added by section 502 the following new section:

"APPROVAL BY NATIONAL ADVISORY MENTAL HEALTH COUNCIL

"Sec. 266. Grants made under this title for the cost of construction and for the cost of compensation of professional and technical personnel may be made only upon recommendation of the National Advisory Mental Health Council established by section 217(a) of the Public Health Service Act."

(b) The amendment made by subsection (a) shall apply with respect to grants initially made under the Community Mental Health Centers Act from appropriations made for fiscal years beginning after June 30, 1970.

58 Stat. 691.
42 USC 218.
Applicability.

DETERMINATION OF POVERTY AREA

SEC. 504. Title IV of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended by adding at the end thereof the following new section:

77 Stat. 296.
42 USC 2691-
2697a.

"DETERMINATION OF POVERTY AREA

"SEC. 410. For purposes of any determination by the Secretary under this Act as to whether any urban or rural area is a poverty area, any such area which would not otherwise be determined to be a poverty area shall, nevertheless, be deemed to be a poverty area if—

"(1) such area contains one or more subareas which are characterized as subareas of poverty;

"(2) the population of such subarea or subareas constitutes a significant portion of the population of such rural or urban area; and

"(3) the project, facility, or activity, in connection with which such determination is made, does, or (when completed or put into operation) will, serve the needs of the residents of such subarea or subareas."

Approved March 13, 1970.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-735 accompanying H.R. 14086 (Comm. on Interstate & Foreign Commerce) and No. 91-856 (Comm. of Conference).

SENATE REPORT No. 91-583 (Comm. on Labor & Public Welfare).

CONGRESSIONAL RECORD:

Vol. 115 (1969): Dec. 11, Considered and passed Senate.
Dec. 16, Considered and passed House, amended, in lieu of H.R. 14086.
Vol. 116 (1970): Feb. 26, House and Senate agreed to conference report.

Public Law 91-513
91st Congress, H. R. 18583
October 27, 1970

An Act

84 STAT. 1236

To amend the Public Health Service Act and other laws to provide increased research into, and prevention of, drug abuse and drug dependence; to provide for treatment and rehabilitation of drug abusers and drug dependent persons; and to strengthen existing law enforcement authority in the field of drug abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Drug Abuse Prevention and Control Act of 1970".

Comprehensive
Drug Abuse Pre-
vention and
Control Act of
1970.

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TITLE I—REHABILITATION PROGRAMS RELATING TO DRUG ABUSE

PROGRAMS UNDER COMMUNITY MENTAL HEALTH CENTERS ACT RELATING TO DRUG ABUSE

SECTION 1. (a) Part D of the Community Mental Health Centers Act is amended as follows:

(1) Sections 251, 252, and 253 of such part (42 U.S.C. 2688k, 2688l, and 2688m) are each amended by inserting "and other persons with drug abuse and drug dependence problems" immediately after "narcotic addicts" each place those words appear in those sections. 82 Stat. 1009.

(2) Clauses (A) and (C) of section 252 of such part are each amended by inserting "drug abuse, and drug dependence" immediately after "narcotic addiction".

(3) The heading for such part is amended to read as follows:

"PART D—NARCOTIC ADDICTION, DRUG ABUSE, AND DRUG DEPENDENCE PREVENTION AND REHABILITATION".

(b) Part E of such Act is amended as follows:

(1) Section 261(a) of such part (42 U.S.C. 2688o) is amended by striking out "\$30,000,000 for the fiscal year ending June 30, 1971, \$35,000,000 for the fiscal year ending June 30, 1972, and \$40,000,000 for the fiscal year ending June 30, 1973" and inserting in lieu thereof "\$40,000,000 for the fiscal year ending June 30, 1971, \$60,000,000 for the fiscal year ending June 30, 1972, and \$80,000,000 for the fiscal year ending June 30, 1973". 82 Stat. 1010; Ante, p. 57.

(2) Section 261(a) of such part is further amended by inserting "drug abuse, and drug dependence" immediately after "narcotic addiction".

(3) Sections 261(c) and 264 are each amended by inserting "and other persons with drug abuse and drug dependence problems" immediately after "narcotic addicts". Ante, pp. 58, 61.

(4) The section headings for sections 261 and 263 are each amended by striking out "AND NARCOTIC ADDICTS" and inserting in lieu thereof "NARCOTIC ADDICTS, AND OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS".

(c) Part D of such Act is further amended by redesignating sections 253 and 254 as sections 254 and 255, respectively, and by adding after section 252 the following new section:

"DRUG ABUSE EDUCATION

"Sec. 253. (a) The Secretary is authorized to make grants to States and political subdivisions thereof and to public or nonprofit private agencies and organizations, and to enter into contracts with other private agencies and organizations, for—

(1) the collection, preparation, and dissemination of educational materials dealing with the use and abuse of drugs and the prevention of drug abuse, and

(2) the development and evaluation of programs of drug abuse education directed at the general public, school-age children, and special high-risk groups.

(b) The Secretary, acting through the National Institute of Mental Health, shall (1) serve as a focal point for the collection and dissemination of information related to drug abuse; (2) collect, prepare, and disseminate materials (including films and other educational devices) dealing with the abuse of drugs and the prevention of drug

Grants.
Contract au-
thority.

abuse; (3) provide for the preparation, production, and conduct of programs of public education (including those using films and other educational devices); (4) train professional and other persons to organize and participate in programs of public education in relation to drug abuse; (5) coordinate activities carried on by such departments, agencies, and instrumentalities of the Federal Government as he shall designate with respect to health education aspects of drug abuse; (6) provide technical assistance to State and local health and educational agencies with respect to the establishment and implementation of programs and procedures for public education on drug abuse; and (7) undertake other activities essential to a national program for drug abuse education.

Personnel training.

"(c) The Secretary, acting through the National Institute of Mental Health, is authorized to develop and conduct workshops, institutes, and other activities for the training of professional and other personnel to work in the area of drug abuse education.

Appropriation.

"(d) To carry out the purposes of this section, there are authorized to be appropriated \$3,000,000 for the fiscal year ending June 30, 1971, \$12,000,000 for the fiscal year ending June 30, 1972, and \$14,000,000 for the fiscal year ending June 30, 1973."

82 Stat. 1009; Ante, p.1238, 42 USC 2688k.

(d) Such part D is further amended by adding at the end thereof the following new section:

"SPECIAL PROJECTS FOR NARCOTIC ADDICTS AND DRUG DEPENDENT PERSONS

Grants, treatment and rehabilitation.

"Sec. 256. (a) The Secretary is authorized to make grants to public or nonprofit private agencies and organizations to cover a portion of the costs of programs for treatment and rehabilitation of narcotic addicts or drug dependent persons which include one or more of the following: (1) Detoxification services or (2) institutional services (including medical, psychological, educational, or counseling services) or (3) community-based aftercare services.

Conditions.

"(b) Grants under this section for the costs of any treatment and rehabilitation program—

Limitation.

"(1) may be made only for the period beginning with the first day of the first month for which such a grant is made and ending with the close of eight years after such first day; and

"(2) (A) except as provided in subparagraph (B), may not exceed 80 per centum of such costs for each of the first two years after such first day, 75 per centum of such costs for the third year after such first day, 60 per centum of such costs for the fourth year after such first day, 45 per centum of such costs for the fifth year after such first day, and 30 per centum of such costs for each of the next three years after such first day; and

"(B) in the case of any such program providing services for persons in an area designated by the Secretary as an urban or rural poverty area, such grants may not exceed 90 per centum of such costs for each of the first two years after such first day, 80 per centum of such costs for the third year after such first day, 75 per centum of such costs for the fourth and fifth years after such first day, and 70 per centum of such costs for each of the next three years after such first day.

"(c) No application for a grant authorized by this section shall be approved by the Secretary unless such application is forwarded through the State agency responsible for administering the plan submitted pursuant to section 204 of this Act or, if there be a separate State agency, designated by the Governor as responsible for planning, coordinating, and executing the State's efforts in the treatment and

77 Stat. 291; 81 Stat. 79, 42 USC 2684.

rehabilitation of narcotic addicts and drug dependent persons, through such latter agency, which shall submit to the Secretary such comments as it deems appropriate. No application for a grant under this section for a program to provide services for persons in an area in which is located a facility constructed as a new facility after the date of enactment of this section with funds provided under a grant under part A or this part shall be approved unless such application contains satisfactory assurance that, to the extent feasible, such program will be included as part of the programs conducted in or through such facility.

"(d) The Secretary shall make grants under this section for projects within the States in accordance with criteria determined by him designed to provide priority for grant applications in States, and in areas within the States, having the higher percentages of population who are narcotic addicts or drug dependent persons.

Criteria.

"(e) There are authorized to be appropriated to carry out this section not to exceed \$20,000,000 for the fiscal year ending June 30, 1971; \$30,000,000 for the fiscal year ending June 30, 1972; and \$35,000,000 for the fiscal year ending June 30, 1973."

Appropriation.

BROADER TREATMENT AUTHORITY IN PUBLIC HEALTH SERVICE HOSPITALS FOR PERSONS WITH DRUG ABUSE AND OTHER DRUG DEPENDENCE PROBLEMS

SEC. 2. (a) Part E of title III of the Public Health Service Act is amended as follows:

(1) Section 341 (a) of such part is amended by adding immediately after "addicts" the second time it appears the following: "and other persons with drug abuse and drug dependence problems"

80 Stat. 1449, 42 USC 257.

(2) (A) Sections 342, 343, 344, and 346 of such part are each amended by inserting "or other persons with drug abuse and drug dependence problems" immediately after "addicts" each place it appears in those sections.

58 Stat. 699; 68 Stat. 79, 42 USC 258-260, 251.

(B) The section heading of section 342 of such part is amended by inserting "OR OTHER PERSONS WITH DRUG ABUSE AND DRUG DEPENDENCE PROBLEMS" after "ADDICTS".

(3) Sections 343 and 344 of such part are each amended by inserting "or other person with a drug abuse or other drug dependence problem" immediately after "addict" each place it appears in those sections.

(4) Sections 343, 344, and 347 of such part are each amended by inserting "drug abuse, or drug dependence" immediately after "addiction" each place it appears in those sections.

42 USC 261a.

(5) Section 346 of such part is amended by inserting "or substance controlled under the Controlled Substances Act" immediately after "habit-forming narcotic drug".

Post, p. 1242.

(6) The heading for such part is amended to read as follows:

"PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS".

(b) Section 2 of the Public Health Service Act (42 U.S.C. 201) is amended by adding after paragraph (p) the following new paragraph:

58 Stat. 682; 74 Stat. 34.

"(q) The term 'drug dependent person' means a person who is using a controlled substance (as defined in section 102 of the Controlled Substances Act) and who is in a state of psychic or physical dependence, or both, arising from the use of that substance on a continuous basis. Drug dependence is characterized by behavioral and other responses which include a strong compulsion to take the substance on a continuous basis in order to experience its psychic effects or to avoid the discomfort caused by its absence."

Post, p. 1243.

RESEARCH UNDER THE PUBLIC HEALTH SERVICE ACT IN DRUG USE,
ABUSE, AND ADDICTION

Research popu-
lations, pro-
tection of
identity.
70 Stat. 929.

SEC. 3. (a) Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) is amended by adding after and below paragraph (2) the following:

"The Secretary may authorize persons engaged in research on the use and effect of drugs to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals."

80 Stat. 1184.
42 USC 246.

(b) Section 314(d)(2) of the Public Health Service Act is amended—

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

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by adding after subparagraph (J) the following new subparagraph:

"(K) provide for services for the prevention and treatment of drug abuse and drug dependence, commensurate with the extent of the problem."

81 Stat. 79.

(c) Section 507 of the Public Health Service Act (42 U.S.C. 220a) is amended—

(1) by striking out "available for research, training, or demonstration project grants pursuant to this Act" and inserting in lieu thereof "available under this Act for research, training, or demonstration project grants or for grants to expand existing treatment and research programs and facilities for alcoholism, narcotic addiction, drug abuse, and drug dependence, and appropriations available under the Community Mental Health Centers Act for the construction and staffing of community mental health centers, alcoholism and narcotic addiction, drug abuse, and drug dependence facilities"; and

(2) by inserting immediately before the period at the end thereof the following: "except that grants to such Federal institutions may be funded at 100 per centum of the costs".

MEDICAL TREATMENT OF NARCOTIC ADDICTION

SEC. 4. The Secretary of Health, Education, and Welfare, after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, shall determine the appropriate method of professional practice in the medical treatment of the narcotic addiction of various classes of narcotic addicts, and shall report thereon from time to time to the Congress.

Report to
Congress.

TITLE II—CONTROL AND ENFORCEMENT

PART A—SHORT TITLE; FINDINGS AND DECLARATION; DEFINITIONS

SHORT TITLE

SEC. 100. This title may be cited as the "Controlled Substances Act". Citation of title.

FINDINGS AND DECLARATIONS

SEC. 101. The Congress makes the following findings and declarations:

(1) Many of the drugs included within this title 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, 1961, and other international conventions designed to establish effective control over international and domestic traffic in controlled substances. 18 UST 1407.

DEFINITIONS

SEC. 102. As used in this title:

(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 "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs 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 title, 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 title. 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 502(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(d)); 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 system; 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.

Post, p. 1247.

68A Stat. 595.
26 USC 5001.

52 Stat. 1050.

(12) The term "drug" has the meaning given that term by section 201(g) (1) of the Federal Food, Drug, and Cosmetic Act.

(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 administration 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.

52 Stat. 1041;
79 Stat. 234.
21 USC 321.

(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, Education, and Welfare.

(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.

INCREASED NUMBERS OF ENFORCEMENT PERSONNEL

SEC. 103. (a) During the fiscal year 1971, the Bureau of Narcotics and Dangerous Drugs is authorized to add at least 300 agents, together with necessary supporting personnel, to the number of enforcement personnel currently available to it.

Appropriation.

(b) There are authorized to be appropriated not to exceed \$6,000,000 for the fiscal year 1971 and for each fiscal year thereafter to carry out the provisions of subsection (a).

PART B—AUTHORITY TO CONTROL;

STANDARDS AND SCHEDULES

AUTHORITY AND CRITERIA FOR CLASSIFICATION OF SUBSTANCES

SEC. 201. (a) The Attorney General shall apply the provisions of this title to the controlled substances listed in the schedules established by section 202 of this title and to any other drug or other substance added to such schedules under this title. Except as provided in subsections (d) and (e), 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 202 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 of the United States Code. Proceedings for the issuance, amendment, or

Hearing opportunity. Rules. 80 Stat. 381. 5 USC 551.

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) The Attorney General shall, before initiating proceedings under subsection (a) 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) 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).

(c) In making any finding under subsection (a) of this section or under subsection (b) of section 202, 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 title.

(d) If control is required by United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part, 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 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section.

Order.

(e) The Attorney General may, without regard to the findings required by subsection (a) of this section or section 202(b) 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) 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) (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, 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 title unless controlled after the date of such enactment pursuant to the foregoing provisions of this section.

SCHEDULES OF CONTROLLED SUBSTANCES

Establishment.

SEC. 202. (a) 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 the date of enactment of this title and shall be updated and republished on an annual basis thereafter.

Placement on schedules, findings required.

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on the effective date of this part, 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) Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 201, 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:

Opiates.

- (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) Levophenacylmorphin.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.

- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

Opium deriva-
tives.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, 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) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.
- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphanol.
- (12) Methyl-desorphine.
- (13) Methylhydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myrophine.
- (18) Nicocodeine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

Hallucinogenic
substances.

(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) Marijuana.
- (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:

Substances,
vegetable origin
or 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, ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

Opiates.

- (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-dimethyl-amino-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.

Methampheta-
mine.

SCHEDULE III

Stimulants.

(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.

Depressants.

(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) Chorhexadol.
- (3) Glutethimide.
- (4) Lysergic acid.
- (5) Lysergic acid amide.
- (6) Methypylon.
- (7) Phenacyclidine.
- (8) Sulfondiethylmethane.
- (9) Sulfonethylmethane.
- (10) Sulfonmethane.

Nalorphine.

Narcotic drugs.

(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, nonnarcotic 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) 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 title 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.

Narcotic drugs containing non-narcotic active medicinal ingredients.

Stimulants or depressants containing active medicinal ingredients, exception.

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

RULES AND REGULATIONS

Rules and regulations.

Sec. 301. 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.

PERSONS REQUIRED TO REGISTER

Annual registration.

Sec. 302. (a) 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) Persons registered by the Attorney General under this title 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 title.

Registration, exceptions.

(c) The following persons shall not be required to register and may lawfully possess any controlled substance under this title:

(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.

Ante, p. 1245.

(3) An ultimate user who possesses such substance for a purpose specified in section 102(25).

Waiver.

(d) 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.

Separate registration.

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

Inspection.

(f) 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.

REGISTRATION REQUIREMENTS

Factors consistent with public interest.

Sec. 303. (a) 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 the effective date of this part. In determining the public interest, the following factors shall be considered:

Controls. Importation and bulk manufacture, limitation.

(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 com-

petitive 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) 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) 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 306.

(d) 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) 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:

Compliance. Technology.

Applicants, prior conviction record, Experience.

Factors consistent to public interest.

Prohibition.

Post, p. 1257.

(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.

Research.

(f) 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 304(a).

Pharmacies.

Research applications.

DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION

SEC. 304. (a) A registration pursuant to section 303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the Attorney General upon a finding that the registrant—

(1) has materially falsified any application filed pursuant to or required by this title or title III;

(2) has been convicted of a felony under this title or title III or any other law of the United States, or of any State, relating to any substance defined in this title 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.

(b) 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) Before taking action pursuant to this section, or pursuant to a denial of registration under section 303, 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

Post, p. 1285.

Service of order.

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 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

(d) 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. 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.

(e) The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 306.

(f) In the event the Attorney General suspends or revokes a registration granted under section 303, 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 511(e).

80 Stat. 381.
5 USC 551.

Registration,
suspension.

LABELING AND PACKAGING REQUIREMENTS

SEC. 305. (a) 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 201(k) of the Federal Food, Drug, and Cosmetic Act) 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) It shall be unlawful for the manufacturer of any controlled substance to distribute such substance unless the labeling (as defined in section 201(m) of the Federal Food, Drug, and Cosmetic Act) of such substance contains, when and as required by regulations of the Attorney General, the identifying symbol required under subsection (a).

(c) The Secretary shall prescribe regulations under section 503(b) of the Federal Food, Drug, and Cosmetic Act 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) 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.

Post, p. 1277.

Symbol.

52 Stat. 1041.
21 USC 321.

55 Stat. 648.
21 USC 353.

Unlawful
distribution.

QUOTAS APPLICABLE TO CERTAIN SUBSTANCES

Production
quotas.

SEC. 306. (a) 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) 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). 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.

Manufacturing
quotas.

(c) On or before July 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) 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.

Quota,
increase.

(e) 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.

Controlled
substances,
incidental
production,
exception.

(f) Notwithstanding any other provisions of this title, 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 title. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances.

Restrictions.

RECORDS AND REPORTS OF REGISTRANTS

SEC. 307. (a) Except as provided in subsection (c)—

Inventory.

(1) every registrant under this title shall, on the effective date of this section, 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 title manufacturing, distributing, or dispensing such substance shall make a complete and accurate record of all stocks thereof on hand; and

(3) on and after the effective date of this section, every registrant under this title 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) 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.

Availability.

(c) The foregoing provisions of this section shall not apply—

Nonapplicability.

(1) (A) with respect to narcotic controlled substances in schedule II, III, IV, or V, to the prescribing or administering of such substances by a practitioner in the lawful course of his professional practice; 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 title which keep records with respect to such substances, in research conducted in conformity with an exemption granted under section 505(i) or 512(j) of the Federal Food, Drug, and Cosmetic Act;

52 Stat. 1052;
76 Stat. 783.
82 Stat. 343.
21 USC 355,
360b.

84 STAT. 1259

(B) to the use of controlled substances, at establishments registered under this title 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 title.

(d) Every manufacturer registered under section 303 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 title the person or establishment (unless exempt from registration under section 302(d)) to whom such sale, delivery, or other disposal was made.

(e) Regulations under sections 505(i) and 512(j) of the Federal Food, Drug, and Cosmetic Act, 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.

ORDER FORMS

SEC. 308. (a) 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 distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section.

Unlawful distribution.

Nonapplicability.

Post, p. 1285.

Preservation and availability.

Duplicate, preservation and availability.

(b) Nothing in subsection (a) shall apply to—

(1) the exportation of such substances from the United States in conformity with title III;

(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).

(c) (1) Every person who in pursuance of an order required under subsection (a) 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) 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) 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.

84 STAT. 1260

(d) (1) The Attorney General shall issue forms pursuant to subsections (a) and (c) (2) only to persons validly registered under section 303 (or exempted from registration under section 302(d)). 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.

Forms, issuance.

(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.

Fees.

(e) 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.

Unlawful act.

PRESCRIPTIONS

SEC. 309. (a) 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, 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. Prescriptions shall be retained in conformity with the requirements of section 507 of this title. No prescription for a controlled substance in schedule II may be refilled.

52 Stat. 1040.
21 USC 301.

65 Stat. 648.
21 USC 353.

(b) 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, may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act. 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) No controlled substance in schedule V which is a drug may be distributed or dispensed other than for a medical purpose.

(d) 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 should be so considered because of its abuse potential, he shall so advise the Secretary and furnish to him all available data relevant thereto.

PART D—OFFENSES AND PENALTIES

PROHIBITED ACTS A—PENALTIES

SEC. 401. (a) Except as authorized by this title, 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.

Post, p. 1265.

Penalties.

Post, p. 1265.

Special parole term.

(b) Except as otherwise provided in section 405, 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 title or title III 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, 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 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 title or title III 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 title or title III 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 title or title III 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 404.

(c) A special parole term imposed under this section or section 405 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 405 shall be in addition to, and not in lieu of, any other parole provided for by law.

Marihuana, simple possession.

Special parole term.

PROHIBITED ACTS B—PENALTIES

Sec. 402. (a) 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 309;

(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 305 of this title;

(4) to remove, alter, or obliterate a symbol or label required by section 305 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 title or title III;

(6) to refuse any entry into any premises or inspection authorized by this title or title III;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 304 (f) or 511 or to remove or dispose of substances so placed under seal; or

(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 title or title III, any information acquired in the course of an inspection authorized by this title concerning any method or process which as a trade secret is entitled to protection.

(b) 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 306; or

(2) in excess of a quota assigned to him pursuant to section 306.

(c) (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 of the United States Code to enforce this paragraph.

Post, p. 1265.

Ante, p. 1256.
Post, p. 1276.

Penalty.

Jurisdiction of courts.

(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.

Penalty.

(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 title or title III 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.

Post, p.1285.

Penalty.

(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.

Exception.

PROHIBITED ACTS C—PENALTIES

SEC. 403. (a) 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 308 of this title;

Ante, p. 1259.

(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) 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 title or title III; 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) 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 title or title III. 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.

"Communication facility."

(c) 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 title or title III or other law of the United States relating to narcotic drugs,

Penalty.

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.

Penalty.

PENALTY FOR SIMPLE POSSESSION; CONDITIONAL DISCHARGE AND EXPUNGING OF RECORDS FOR FIRST OFFENSE

SEC. 404. (a) 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 title or title III. 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.

Post, p. 1285.

(b) (1) If any person who has not previously been convicted of violating subsection (a) of this section, any other provision of this title or title III, 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.

Nonpublic record, retention.

(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.

First offense, expunging of records, 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.

DISTRIBUTION TO PERSONS UNDER AGE TWENTY-ONE

Sec. 405. (a) Any person at least eighteen years of age who violates section 401(a) (1) by distributing a controlled substance to a person under twenty-one years of age is (except as provided in subsection (b)) punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b), and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule.

(b) Any person at least eighteen years of age who violates section 401(a) (1) 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 303(b) (2) of the Federal Food, Drug, and Cosmetic Act as in effect prior to the effective date of section 701(b) of this Act) have become final, is punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b), and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule.

82 Stat. 1361.
21 USC 333.

ATTEMPT AND CONSPIRACY

Sec. 406. Any person who attempts or conspires to commit any offense defined in 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.

ADDITIONAL PENALTIES

Sec. 407. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

CONTINUING CRIMINAL ENTERPRISE

Sec. 408. (a) (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).

Penalty.

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

Forfeiture.

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

(1) he violates any provision of this title or title III the punishment for which is a felony, and

Post, p. 1285.

(2) such violation is a part of a continuing series of violations of this title or title III—

(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) 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 of the United States Code and the Act of July 15, 1932 (D.C. Code, secs. 24-203-24-207), shall not apply.

65 Stat. 150,
47 Stat. 697;
61 Stat. 378;
67 Stat. 91;
79 Stat. 113.
Jurisdiction
of courts.

(d) The district courts of the United States (including courts in the territories or possessions of the United States having jurisdiction under subsection (a)) 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.

DANGEROUS SPECIAL DRUG OFFENDER SENTENCING

Sec. 409. (a) 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 title or title III 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 for 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.

Notice.

Prohibition.

(b) 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.

Hearing
without jury.

Notice.

Presentence
report,
inspection.

Penalty.

Sentence.

Conditions.

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, diagnostic 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) 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) 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) 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 crimi-

nal 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 6(a)(1) of the Fair Labor Standards Act of 1938 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 the Internal Revenue Code of 1954. For purposes of paragraph (2) of this subsection, special skill or expertise in such dealing includes unusual knowledge, judgment or ability, including manual dexterity, 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) 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) 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) 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

Substantial
source of
income.80 Stat. 838.
29 USC 206.68A Stat. 17;
83 Stat. 655.
26 USC 62.
Dealing.Defendant,
dangerous.

Appeal.

Sentence,
review.

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.

INFORMATION FOR SENTENCING

SEC. 410. Except as otherwise provided in this title or section 303 (a) of the Public Health Service Act, 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 title or title III.

PROCEEDINGS TO ESTABLISH PRIOR CONVICTIONS

SEC. 411. (a) (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.

70 Stat. 929.
42 USC 242a.

Post, p. 1285.

Prohibition.

(b) 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) (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). 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) (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) 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.

PART E—ADMINISTRATIVE AND ENFORCEMENT PROVISIONS

PROCEDURES

SEC. 501. (a) The Attorney General may delegate any of his functions under this title to any officer or employee of the Department of Justice.

Previous conviction, affirmation or denial.

Denial, written response.
Hearing.

Court without jury.
Evidence, introduction.

Constitution of U.S., violation.

Sentence, imposition.

Statute of limitations.

Attorney General, functions, delegation.

Regulations.

(b) 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 title.

Gifts, etc., acceptance.

(c) The Attorney General may accept in the name of the Department of Justice any form of devise, 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.

EDUCATION AND RESEARCH PROGRAMS OF THE ATTORNEY GENERAL

SEC. 502. (a) 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 title. 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 title, 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 201 of this title.

Ante, p. 1245.

(b) The Attorney General may enter into contracts for such educational and research activities without performance bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

Research populations, identification, prohibition.

(c) 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.

Controlled substances, exception.

(d) 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.

COOPERATIVE ARRANGEMENTS

SEC. 503. (a) 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) 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 title; 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.

Assistance.

Prohibition.

ADVISORY COMMITTEES

SEC. 504. 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, United States Code.

Appointment.

Compensation.

Travel expenses, etc.

80 Stat. 498;
83 Stat. 190.
5 USC 5701.

ADMINISTRATIVE HEARINGS

SEC. 505. (a) In carrying out his functions under this title, 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) Except as otherwise provided in this title, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5, title 5, United States Code.

80 Stat. 381.
5 USC 551.

SUBPENAS

SEC. 506. (a) In any investigation relating to his functions under this title 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

Exception.

Fees.

Service.

Refusal to obey subpoena.

Order.

Failure to obey order, penalty. Jurisdiction.

or other place subject to the jurisdiction of the United States at a 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) 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 on a true copy thereof by the person serving it shall be proof of service.

(c) 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.

JUDICIAL REVIEW

SEC. 507. All final determinations, findings, and conclusions of the Attorney General under this title 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.

POWERS OF ENFORCEMENT PERSONNEL

SEC. 508. Any officer or employee of the Bureau of Narcotics and Dangerous Drug 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 title; and
- (5) perform such other law enforcement duties as the Attorney General may designate.

SEARCH WARRANTS

SEC. 509. (a) 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.

(b) Any officer authorized to execute a search warrant relating to offenses involving controlled substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States magistrate issuing the warrant (1) is satisfied that there is probable cause to believe that (A) the property sought may and, if such notice is given, will be easily and quickly destroyed or disposed of, or (B) the giving of such notice will immediately endanger the life or safety of the executing officer or another person, and (2) has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

Authority to break and enter under certain conditions.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 510. (a) As used in this section, the term "controlled premises" means—

- (1) places where original or other records or documents required under this title are kept or required to be kept, and
- (2) places, including factories, warehouses, or other establishments, and conveyances, where persons registered under section 303 (or exempted from registration under section 302(d)) may lawfully hold, manufacture, or distribute, dispense, administer, or otherwise dispose of controlled substances.

(b) (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 title and otherwise facilitating the carrying out of his functions under this title, 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 title;
- (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

"Controlled premises."

graph (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 title; 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) 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 506, 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) 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 title 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 title 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) 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.

Administrative inspection warrants, issuance and execution.

"Probable cause."

(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 to 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.

Warrants, filing.

FORFEITURES

SEC. 511. (a) 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 title.
- (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 title.
- (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 title or title III; 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 title.

Post, p. 1285.

(b) Any property subject to forfeiture to the United States under this title 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 title;

(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 title.

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) Property taken or detained under this section shall not be releasable, 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 title, 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) All 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 and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, 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 title 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) Whenever property is forfeited under this title 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, but the proceeds from any such sale 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;

(3) require that the General Services Administration take custody of the property and remove it for disposition in accordance with law; or

Property,
custody of
Attorney
General.

(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).

(f) All controlled substances in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this title 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.

Controlled
substances,
forfeiture.

(g) (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 title, 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.

INJUNCTIONS

Sec. 512. (a) 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 title.

Jurisdiction
of courts.

(b) 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.

ENFORCEMENT PROCEEDINGS

28 USC app.

Sec. 513. Before any violation of this title is reported by the Director of the Bureau of Narcotics and Dangerous Drugs to any United States attorney for institution of a criminal proceeding, the Director may require that the person against whom such proceeding is contemplated be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

Notice.

IMMUNITY AND PRIVILEGE

Sec. 514. (a) 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 title, 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.

Refusal to
testify,
prohibition.

Order.

(b) 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) 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) 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.

BURDEN OF PROOF; LIABILITIES

SEC. 515. (a) (1) It shall not be necessary for the United States to negative any exemption or exception set forth in this title in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this title, 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 404(a) with the possession of a controlled substance, any label identifying such substance for purposes of section 503(b) (2) of the Federal Food, Drug, and Cosmetic Act 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) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this title, 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) The burden of going forward with the evidence to establish that a vehicle, vessel, or aircraft used in connection with controlled substances in schedule I was used in accordance with the provisions of this title shall be on the persons engaged in such use.

(d) Except as provided in sections 2234 and 2235 of title 18, United States Code, no civil or criminal liability shall be imposed by virtue of this title upon any duly authorized Federal officer lawfully engaged in the enforcement of this title, 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.

PAYMENTS AND ADVANCES

SEC. 516. (a) The Attorney General is authorized to pay any person, from funds appropriated for the Bureau of Narcotics and Dangerous Drugs, for information concerning a violation of this title, 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.

Ante, p. 1264.

65 Stat. 648,
21 USC 353.Criminal
liability,
prohibition,
exception.
62 Stat. 803.Informers,
payment.

(b) Moneys expended from appropriations of the Bureau of Narcotics and Dangerous Drugs for purchase of controlled substances and subsequently recovered shall be reimbursed to the current appropriation for the Bureau.

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

PART F—ADVISORY COMMISSION

ESTABLISHMENT OF COMMISSION ON MARIJUANA AND DRUG ABUSE

SEC. 601. (a) There is established a commission to be known as the Commission on Marijuana 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) (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) (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 receive 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

Funds, advance-
ment, authority
of Attorney
General.

Membership.

Quorum.

Travel ex-
penses, etc.

Compensation.

Meetings.

Personnel.

80 Stat. 443,

467.

5 USC 5101,

5331.

35 F. R. 6247.

Experts and

consultants.

80 Stat. 416.

Travel expenses,

etc.

80 Stat. 499;

83 Stat. 190.

Information,

availability.

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.

Marihuana, study.

(d) (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, the number 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.

Report to President and Congress.

(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.

Drug abuse, study and investigation. Interim reports. Final report to President and Congress. Termination. Expenditures. Limitation.

(e) 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) Total expenditures of the Commission shall not exceed \$1,000,000.

PART G—CONFORMING, TRANSITIONAL AND EFFECTIVE DATE, AND GENERAL PROVISIONS

REPEALS AND CONFORMING AMENDMENTS

Repeals. 79 Stat. 227, 232, 228; 82 Stat. 1361. Penalties. 82 Stat. 1361.

SEC. 701. (a) Sections 201(v), 301(q), and 511 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(v), 331(q); 360(a) are repealed.

(b) Subsections (a) and (b) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) are amended to read as follows:

"SEC. 303. (a) Any person who violates a provision of section 301 shall be imprisoned, for not more than one year or fined not more than \$1,000, or both.

"(b) Notwithstanding the provisions of subsection (a) of this section, if any person commits such a violation after a conviction of him under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than \$10,000 or both."

79 Stat. 233.

(c) Section 304(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(a)(2)) is amended (1) by striking out clauses (A) and (D), (2) by striking out "of such depressant or stimulant

drug or" in clause (C), (3) by adding "and" after the comma at the end of clause (C), and (4) by redesignating clauses (B), (C), and (E) as clauses (A), (B), and (C), respectively.

(d) Section 304(d)(3)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(d)(3)(iii)) is amended by striking out "depressant or stimulant drugs or" 79 Stat. 233.

(e) Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended (1) in subsection (a) by striking out paragraph (2), by inserting "and" at the end of paragraph (1), and by redesignating paragraph (3) as paragraph (2); (2) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (b); (3) by striking out the last sentence of subsection (b); (4) by striking out "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug" in the first sentence of subsection (c); (5) by striking out the last sentence of subsection (c); (6) by striking out "(1)" in subsection (d) and by inserting a period after "drug or drugs" in that subsection and deleting the remainder of that subsection; and (7) by striking out "AND CERTAIN WHOLESALERS" in the section heading.

(f) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372) is amended by striking out "to depressant or stimulant drugs or" in subsection (e). 79 Stat. 234.

(g) Section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)) is amended by inserting a period after "Canal Zone" the first time these words appear and deleting all there- 76 Stat. 796; 82 Stat. 1362.

(h) The last sentence of section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) is amended (1) by striking out "This paragraph" and inserting in lieu thereof "Clause (2) of the third sentence of this paragraph," and (2) by striking out "section 2 of the Act of May 26, 1922, as amended (U.S.C. 1934, edition, title 21, sec. 173)" and inserting in lieu thereof "the Controlled Substances Import and Export Act". 52 Stat. 1058.

(i) (1) Section 1114 of title 18, United States Code, is amended by striking out "the Bureau of Narcotics" and inserting in lieu thereof "the Bureau of Narcotics and Dangerous Drugs". 65 Stat. 721.

(2) Section 1952 of such title is amended—

(A) by inserting in subsection (b)(1) "or controlled substances (as defined in section 102(6) of the Controlled Substances Act)" immediately following "narcotics"; and 75 Stat. 498. 18 USC 1952.

(B) by striking out "or narcotics" in subsection (c).

(j) Subsection (a) of section 302 of the Public Health Service Act (42 U.S.C. 242(a)) is amended to read as follows:

"Sec. 302. (a) In carrying out the purposes of section 301 with respect to drugs the use or misuse of which might result in drug abuse or dependency, the studies and investigations authorized therein shall include the use and misuse of narcotic drugs and other drugs. Such studies and investigations shall further include the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, and other drugs subject to control under the Controlled Substances Act and Controlled Substances Import and Export Act, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of narcotic drugs or other drugs subject to control under such Acts, together with reserves of such drugs, that are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be

Ante, p. 1242. Post, p. 1285. Report to Attorney General.

Drugs, study. 58 Stat. 692.

reported not later than the first day of April of each year to the Attorney General, to be used at his discretion in determining manufacturing quotas or importation requirements under such Acts."

PENDING PROCEEDINGS

SEC. 702. (a) Prosecutions for any violation of law occurring prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of section 701 shall not be affected by the repeals or amendments made by such section, or abated by reason thereof.

(c) All administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on the date of enactment of this Act shall be continued and brought to final determination in accord with laws and regulations in effect prior to such date of enactment. Where a drug is finally determined under such proceedings to be a depressant or stimulant drug, as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act, such drug shall automatically be controlled under this title by the Attorney General without further proceedings and listed in the appropriate schedule after he has obtained the recommendation of the Secretary. Any drug with respect to which such a final determination has been made prior to the date of enactment of this Act which is not listed in section 202 within schedules I through V shall automatically be controlled under this title by the Attorney General without further proceedings, and be listed in the appropriate schedule, after he has obtained the recommendations of the Secretary.

Ante, p. 1281.

Ante, p. 1247.

PROVISIONAL REGISTRATION

SEC. 703. (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; and

(B) is registered on such day under section 510 of the Federal Food, Drug, and Cosmetic Act or under section 4722 of the Internal Revenue Code of 1954,

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 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 or under such section 4722 (as the case may be) shall be his registration number for purposes of section 303 of this title.

(b) The provisions of section 304, 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 or has had his registration denied under such section, or

Ante, p. 1282.

68A Stat. 555.

(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.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

SEC. 704. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Parts A, B, E, and F of this title, section 702, this section, and sections 705 through 709, shall become effective upon enactment.

(c) Sections 305 (relating to labels and labeling), and 306 (relating to manufacturing quotas) 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.

Ante, p. 1256.

Publication in
Federal Register.

CONTINUATION OF REGULATIONS

SEC. 705. Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

SEVERABILITY

SEC. 706. If a provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

SAVING PROVISION

SEC. 707. Nothing in this Act, except this part and, to the extent of any inconsistency, sections 307(e) and 309 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.

52 Stat. 1040.
21 USC 301.

APPLICATION OF STATE LAW

SEC. 708. No provision of this title 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 title and that State law so that the two cannot consistently stand together.

APPROPRIATIONS AUTHORIZATIONS

SEC. 709. There are authorized to be appropriated for expenses of the Department of Justice in carrying out its functions under this title (except section 103) not to exceed \$60,000,000 for the fiscal year ending June 30, 1972, \$70,000,000 for the fiscal year ending June 30, 1973, and \$90,000,000 for the fiscal year ending June 30, 1974.

Ante, p. 1245.

TITLE III—IMPORTATION AND EXPORTATION; AMENDMENTS AND REPEALS OF REVENUE LAWS

SHORT TITLE

SEC. 1000. This title may be cited as the "Controlled Substances Import and Export Act".

Citation of title.

PART A—IMPORTATION AND EXPORTATION

DEFINITIONS

SEC. 1001. (a) For purposes of this part—

(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 (19 U.S.C. 1202).

(b) Each term defined in section 102 of title II shall have the same meaning for purposes of this title as such term has for purposes of title II.

77A Stat., 11. Ante, p. 1242.

IMPORTATION OF CONTROLLED SUBSTANCES

SEC. 1002. (a) 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 title II, or any narcotic drug in schedule III, IV, or V of title II, except that—

Unlawful acts.

Exceptions.

(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 303,

Ante, p. 1253.

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) 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.

(c) In addition to the amount of coca leaves authorized to be imported into the United States under subsection (a), 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.

EXPORTATION OF CONTROLLED SUBSTANCES

SEC. 1003. (a) It shall be unlawful to export from the United States any narcotic drug in schedule I, II, III, or IV unless—

Unlawful acts.

(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

38 Stat., 1912. 61 Stat., 2230.

(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 of 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

48 Stat., 1543. 62 Stat., 1796.

(C) the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961;

2 UST 1629.

(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;

18 UST 1407.

(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) Notwithstanding subsection (a), 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) 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.

Ante, p. 1248.

(c) It shall be unlawful to export from the United States any non-narcotic 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.

Ante, p. 1248.

(d) Notwithstanding subsection (c), 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) 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, and

(3) two additional copies of the invoice are forwarded to the Attorney General before the controlled substance is exported from the United States.

TRANSHIPMENT AND IN-TRANSIT SHIPMENT OF CONTROLLED SUBSTANCES

SEC. 1004. Notwithstanding sections 1002, 1003, and 1007—

(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.

POSSESSION ON BOARD VESSELS, ETC., ARRIVING IN OR DEPARTING FROM UNITED STATES

SEC. 1005. 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.

Ante, p. 1248.

EXEMPTION AUTHORITY

SEC. 1006. (a) The Attorney General may by regulation exempt from sections 1002 (a) and (b), 1003, 1004, and 1005 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) The Attorney General may by regulation exempt 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 title 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.

PERSONS REQUIRED TO REGISTER

SEC. 1007. (a) 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 1008, or unless such person is exempt from registration under subsection (b).

(b) (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 1008 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 102(25) and in conformity with an exemption granted under section 1006(a).

Ante, p. 1245.

(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.

Sec. 1008. (a) 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 the effective date of this section. In determining the public interest, the factors enumerated in paragraph (1) through (6) of section 303(a) shall be considered.

Ante, p. 1253.

(b) 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) 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 303(d) shall be considered.

(d) No registration shall be issued under this part for a period in excess of one year. Unless the regulations of the Attorney General otherwise provide, section 302(f), 304, 305, and 307 shall apply to persons registered under this section to the same extent such sections apply to persons registered under section 303.

Ante, pp. 1253-1258.

Rules and regulations.

(e) 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) 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 title and title II.

(g) A separate registration shall be required at each principal place of business where the applicant imports or exports controlled substances.

(h) Except in emergency situations as described in section 1002(a)(2)(A), 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 1002(a) 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.

MANUFACTURE OR DISTRIBUTION FOR PURPOSES OF UNLAWFUL IMPORTATION

Sec. 1009. It shall be unlawful for any person to manufacture or distribute a controlled substance in schedule I or II—

- (1) intending that such substance 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.

Sec. 1010. (a) Any person who—

- (1) contrary to section 1002, 1003, or 1007, knowingly or intentionally imports or exports a controlled substance,
- (2) contrary to section 1005, knowingly or intentionally brings or possesses on board a vessel, aircraft, or vehicle a controlled substance, or
- (3) contrary to section 1009, manufactures or distributes a controlled substance,

shall be punished as provided in subsection (b).

(b) (1) In the case of a violation under subsection (a) 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.

Ante, p. 1248.

(2) In the case of a violation under subsection (a) 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) A special parole term imposed under this section or section 1012 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. The special term provided for in this section and in section 1012 is in addition to, and not in lieu of, any other parole provided for by law.

PROHIBITED ACTS B—PENALTIES

Sec. 1011. Any person who violates section 1004 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 402 (c)(1) and (c)(3) 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.

Ante, p. 1262.

SECOND OR SUBSEQUENT OFFENSES

Sec. 1012. (a) Any person convicted of any offense under this part 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

84 STAT. 1291

punishable under section 1010(b), 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) 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 title or title II or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant drugs, have become final.

(c) Section 411 shall apply with respect to any proceeding to sentence a person under this section.

Ante, p. 1242.

Ante, p. 1269.

ATTEMPT AND CONSPIRACY

SEC. 1013. Any person who attempts or conspires to commit any offense defined in 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.

ADDITIONAL PENALTIES

SEC. 1014. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

APPLICABILITY OF PART E OF TITLE II

SEC. 1015. Part E of title II 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 title, to administrative and judicial proceedings under this title, and to violations of this title, to the same extent that such part applies to functions of the Attorney General (and such officers and employees) under title II, to such proceedings under title II, and to violations of title II. For purposes of the application of this section to section 510, any reference in such section 510 to "this title" shall be deemed to be a reference to title III, any reference to section 303 shall be deemed to be a reference to section 1008, and any reference to section 302(d) shall be deemed to be a reference to section 1007(b) (2).

Ante, p. 1270.

Ante, p. 1274.

Ante, p. 1285.

Ante, p. 1253.

AUTHORITY OF SECRETARY OF TREASURY

SEC. 1016. Nothing in this Act shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

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

REPEALS

SEC. 1101. (a) The following provisions of law are repealed:
 (1) The Act of February 23, 1887 (21 U.S.C. 191-193).
 (2) The Narcotic Drugs Import and Export Act (21 U.S.C. 171, 173, 174-184, 185).
 (3) The Act of March 28, 1928 (31 U.S.C. 529a).
 (4) Sections 2(b), 6, 7, and 8 of the Act of June 14, 1930 (21 U.S.C. 162(b), 173a, 197, 198).

24 Stat. 409.

38 Stat. 275.

53 Stat. 1262.

46 Stat. 585;

70 Stat. 575.

84 STAT. 1292

(5) The Act of July 3, 1930 (21 U.S.C. 199).
 (6) Section 6 of the Act of March 28, 1928 (31 U.S.C. 529g).
 (7) The Opium Poppy Control Act of 1942 (21 U.S.C. 188-188n).
 (8) Section 15 of the Act of August 1, 1956 (48 U.S.C. 1421m).
 (9) The Act of July 11, 1941 (21 U.S.C. 184a).
 (10) The Narcotics Manufacturing Act of 1960 (21 U.S.C. 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

46 Stat. 850.

53 Stat. 1263.

56 Stat. 1045.

70 Stat. 910.

55 Stat. 584.

74 Stat. 55.

70 Stat. 572.

18 USC 1401-1405.

62 Stat. 840.

68A Stat. 549.

26 USC 4701-4776.

"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 violation of laws relating to opium for smoking) of the Internal Revenue Code of 1954 are repealed.

(B) The table of sections of part II of subchapter A of chapter 76 of the Internal Revenue Code of 1954 is amended by striking out the items relating to 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 offenses) 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.

70 Stat. 568;

80 Stat. 1449.

26 USC 7237,

7238.

26 USC 7491.

CONFORMING AMENDMENTS

SEC. 1102. (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(d) (3) 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 of 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—

79 Stat. 149.

72 Stat. 1429.

70 Stat. 570.

84 STAT. 1293

(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.

70 Stat. 570.

(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".

72 Stat. 1450.

(h) Section 7609(a) of the Internal Revenue Code of 1954 (relating to cross references) is amended by striking out paragraphs (3) and (4).

68A Stat. 905.
26 USC 7641.

(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).

80 Stat. 1438.

(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".

58 Stat. 722;
60 Stat. 39.

(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."

Repeal.
53 Stat. 1262.

(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.

49 Stat. 880.

(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".

80 Stat. 1444.

(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".

68 Stat. 484.

(q) Paragraph (a) of the first section of the Act of July 15, 1954 (46 U.S.C. 239a) is amended to read as follows:

"(a) 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."

84 STAT. 1294

(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."

53 Stat. 1292.
"Narcotic drug."

80 Stat. 1442.

Investigations,
subpoena power.
69 Stat. 684.

62 Stat. 716.

Witnesses,
travel expenses.

PENDING PROCEEDINGS

SEC. 1103. (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.

PROVISIONAL REGISTRATION

SEC. 1104. (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 or under section 4722 of the Internal Revenue Code of 1954,

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 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.

76 Stat. 794;
79 Stat. 231.
21 USC 360.
68A Stat. 555.
26 USC 4722.

Ante, p. 1285.

84 STAT. 1295

Ante, p. 1255.

(b) The provisions of section 304, 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 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.

EFFECTIVE DATES AND OTHER TRANSITIONAL PROVISIONS

SEC. 1105. (a) Except as otherwise provided in this section, this title shall become effective on the first day of the seventh calendar month that begins after the day immediately preceding the date of enactment.

(b) Sections 1000, 1001, 1006, 1015, 1016, 1103, 1104, and this section shall become effective upon enactment.

(c) (1) If the Attorney General, pursuant to the authority of section 704(c) of title II, postpones the effective date of section 306 (relating to manufacturing quotas) for any period beyond the date specified in section 704(a) and such postponement applies to narcotic drugs, the repeal of the Narcotics Manufacturing Act of 1960 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.

(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, 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, and all references, in the Narcotics Manufacturing Act of 1960, to a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 are amended to refer to a narcotic drug as defined by such section 102(16).

(B) On and after the date prescribed by the Attorney General pursuant to clause (2) of section 703(c) of title II, the requirements of a manufacturer's license with respect to a basic class of narcotic drug under the Narcotics Manufacturing Act of 1960, and of a registration under section 4722 of the Internal Revenue Code of 1954 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.

(C) On and after the effective date of the repeal of such section 4722 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 as a prerequisite of a manufacturer's license under the Narcotics Manufacturing Act of 1960 shall be superseded by a requirement of either (i) actual registration as a manufacturer under section 303 of title II or (ii) provisional registration (by virtue of a preexisting registration under such section 4722) under section 703 of title II.

"Narcotic drug,"
Ante, p. 1244.

Ante, p. 1253.

84 STAT. 1296

(d) Any orders, rules, and regulations which have been promulgated under any law affected by this title and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed.

TITLE IV—REPORT ON ADVISORY COUNCILS

REPORT ON ADVISORY COUNCILS

SEC. 1200. (a) Not later than March 31 of each calendar year after 1970, the Secretary of the Department of Health, Education, and Welfare shall submit a report on the activities of advisory councils (established or organized pursuant to any applicable statute of the Public Health Service Act, Public Law 410, Seventy-eighth Congress, as amended, or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, as amended) to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and occupations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each advisory council.

(b) If the Secretary determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined.

(c) As used in this section, the term "statutory advisory council" means any committee, board, commission, council, or other similar group established or organized pursuant to any applicable statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter.

Approved October 27, 1970.

Reports to Congress.

58 Stat. 682.
42 USC 201 note.
77 Stat. 282.
42 USC 2661 note.

"Statutory advisory council."

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 91-1444 (pts. 1 and 2) (Comm. on Interstate and Foreign Commerce) and No. 91-1603 (Comm. of Conference).
SENATE REPORT, No. 91-613 accompanying S. 3246 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 116 (1970):
Jan. 23, 24, 26-28, S. 3246 considered and passed Senate.
Sept. 23, 24, considered and passed House.
Oct. 6, 7, considered and passed Senate, amended.
Oct. 8, 14, House agreed to conference report.
Oct. 14, Senate agreed to conference report.

Public Law 92-13
92nd Congress, H. R. 5674.
May 14, 1971

An Act

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide an increase in the appropriations authorization for the Commission on Marihuana and Drug Abuse.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601 (f) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 be amended to read as follows:

"(f) Total expenditures of the Commission shall not exceed \$4,000,000."

Approved May 14, 1971.

85 STAT. 37

Commission on
Marihuana and
Drug Abuse,
Appropriations.
84 Stat. 1281.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-121 (Comm. on Interstate and Foreign Commerce).

CONGRESSIONAL RECORD, Vol. 117 (1971):

Apr. 28, considered and passed House.
May 4, considered and passed Senate.

(274)

Public Law 92-293
92nd Congress, S. 2713
May 11, 1972

An Act

86 STAT. 136

To amend title 18 of the United States Code to authorize the Attorney General to provide care for narcotic addicts who are placed on probation, released on parole, or mandatorily released.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3651 of title 18 of the United States Code is amended by inserting the following paragraph before the last one:

"The court may require a person who is an addict within the meaning of section 4251 (a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of probation, to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of probation: *Provided,* That the Attorney General certifies a suitable program is available. If the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the court, which shall thereupon, by order, make such other provision with respect to the person on probation as it deems appropriate."

SEC. 2. Section (a) of section 4203 of such title is amended by inserting the following paragraph between the third and fourth:

"The Board may require a parolee, or a prisoner released pursuant to section 4164 of this title, who is an addict within the meaning of section 4251 (a) of this title, or a drug dependent person within the meaning of section 2(q) of the Public Health Service Act, as amended (42 U.S.C. 201), as a condition of parole or release to participate in the community supervision programs authorized by section 4255 of this title for all or part of the period of parole: *Provided,* That the Attorney General certifies a suitable program is available. If the Attorney General determines that the person's participation in the program should be terminated, because the person can derive no further significant benefits from participation or because his participation adversely affects the rehabilitation of other participants, he shall so notify the Board of Parole, which shall thereupon make such other provision with respect to the person as it deems appropriate."

SEC. 3. Subsection 343 (b) of part E of title III of the Public Health Service Act is repealed.

Approved May 11, 1972.

Narcotic addicts
on parole or pro-
bation, treat-
ment.
62 Stat. 842.
80 Stat. 1442.
84 Stat. 1240.

Parole, condi-
tion.
62 Stat. 854;
84 Stat. 1090.
65 Stat. 98.

Repeal.
58 Stat. 699;
84 Stat. 1240.
42 USC 259.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-941 (Comm. on the Judiciary).
SENATE REPORT No. 92-675 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 118 (1972):

Mar. 3, considered and passed Senate.
May 1, considered and passed House.

(275)

Public Law 92-420
92nd Congress, H. R. 9323
September 16, 1972

An Act

To amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Narcotic Addict Rehabilitation Amendments of 1971".

SEC. 2. Section 2901(d) of title 28, United States Code, is amended to read as follows:

"(d) 'Treatment' includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 3. Section 4251(c) of title 18, United States Code, is amended to read as follows:

"(c) 'Treatment' includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 4. Section 301(b) of the Narcotic Addict Rehabilitation Act of 1966 (80 Stat. 1444; 42 U.S.C. 3411(b)), is amended to read as follows:

"(b) 'Treatment' includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction."

SEC. 5. This Act shall take effect immediately upon enactment. Sections 2 and 3 shall apply to any case pending in a district court of the United States in which an appearance has not been made prior to the effective date.

Approved September 16, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-583 (Comm. on the Judiciary).
SENATE REPORT No. 92-1071 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 117 (1971): Nov. 1, considered and passed House.
Vol. 118 (1972): Sept. 5, considered and passed Senate.

Public Law 92-554
92nd Congress, H. R. 16675
October 25, 1972

An Act

To amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 to extend for one year the program of grants for State and local prevention, treatment, and rehabilitation programs for alcohol abuse and alcoholism.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by striking out "for the fiscal year ending June 30, 1973" and inserting in lieu thereof "for each of the next two fiscal years".

Approved October 25, 1972.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 92-1469 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 118 (1972):
Oct. 11, considered and passed House.
Oct. 13, 14, considered and passed Senate.
DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 8, No. 44:
Oct. 28, Presidential statement.

86 STAT. 672

Narcotic Addict
Rehabilitation
Amendments of
1971.
80 Stat. 1444

86 STAT. 1167

Alcoholism
programs.
State assistance,
extension.
84 Stat. 1849.
42 USC 4571.



Public Law 93-281
93rd Congress, S. 1115
May 14, 1974

An Act

To amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Narcotic Addict Treatment Act of 1974".

Sec. 2. Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding the following after paragraph (26):

"(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."

Sec. 3. Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding the following after subsection (f):

"(g) 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 307) 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."

Sec. 4. (a) Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended by adding after and below paragraph (3) the following: "A registration pursuant to section 303(g) 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 303(g)."

(b) Section 304(d) of such Act is amended (1) by inserting after the first sentence the following: "A failure to comply with a standard referred to in section 303(g) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section."; and (2) by striking out "Such suspension" and inserting in lieu thereof "A suspension under this subsection".

Narcotic Addict
Treatment Act
of 1974.
Definitions.
84 Stat. 1242.

Practitioners,
narcotic drug
dispensation,
annual registra-
tion.
Qualifications.
88 STAT. 124
88 STAT. 125

Suspension or
revocation.

84 Stat. 1258. Sec. 5. Section 307(c)(1)(A) of the Controlled Substances Act (21 U.S.C. 827(c)(1)(A)) is amended to read as follows:

"(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"

Approved May 14, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-884 accompanying H.R. 12503 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 93-192 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 119 (1973): June 8, considered and passed Senate.
Vol. 120 (1974): Mar. 19, considered and passed House, amended, in lieu of H.R. 12503.
May 1, Senate concurred in House amendment.



Public Law 93-282
93rd Congress, S. 1125
May 14, 1974

An Act

To extend through fiscal year 1974 certain expiring appropriations authorizations in the Public Health Service Act, the Community Mental Health Centers Act, and the Developmental Disabilities Services and Facilities Construction Act, and for other purposes.

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

TITLE I—FEDERAL ASSISTANCE FOR STATE AND LOCAL ALCOHOLISM AND ALCOHOL ABUSE PROGRAMS

PART A—SHORT TITLE; FINDINGS AND PURPOSE

SHORT TITLE

SEC. 101. This title may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974". 42 USC 4541 note.

FINDINGS AND PURPOSE

SEC. 102. (a) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after section 1 the following new section: 84 Stat. 1849,
42 USC 4551
note.

"FINDINGS AND PURPOSE

"SEC. 2. (a) The Congress finds that— 42 USC 4541.

"(1) alcohol is one of the most dangerous drugs and the drug most frequently abused in the United States;

"(2) of the Nation's estimated ninety-five million drinkers, at least nine million, or 7 per centum of the adult population, are alcohol abusers and alcoholics;

"(3) problem drinking costs the national economy at least \$15,000,000,000 annually in lost working time, medical and public assistance expenditures, and police and court costs;

"(4) alcohol abuse is found with increasing frequency among persons who are multiple-drug abusers and among former heroin users who are being treated in methadone maintenance programs;

"(5) alcohol abuse is being discovered among growing numbers of youth; and

"(6) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services, and with the cooperation of law enforcement agencies.

"(b) It is the policy of the United States and the purpose of this Act to (1) approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and (2) meet the problems of alcohol abuse and alcoholism not only through Federal assistance to the States but also through direct Federal assistance to community-based programs meeting the urgent needs of special populations and developing methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs."

(b) The Congress declares that, in addition to the programs under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, programs under other Federal laws which provide Federal or federally assisted research, prevention, 42 USC 4542.

Alcoholism and alcohol abuse programs. Appropriations authorizations, extension.

88 STAT. 125
88 STAT. 126

88 STAT. 126

88 STAT. 127

84 Stat. 1849;
86 Stat. 1167.
42 USC 4571.

42 USC 4572.

42 USC 4573.

Stat. 1849.
42 USC 4571.

treatment, or rehabilitation in the fields of health and social services should be appropriately utilized to help eradicate alcohol abuse and alcoholism as a major problem.

PART B—GRANTS TO STATES

PROGRAM EXTENSION

SEC. 105. (a) Section 301 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by inserting immediately after "for each of the next two fiscal years" the following: ", \$80,000,000 for the fiscal year ending June 30, 1975, and \$80,000,000 for the fiscal year ending June 30, 1976."

(b) The section heading for such section is amended to read as follows:

"AUTHORIZATION FOR FORMULA GRANTS".

PROGRAM IMPROVEMENTS

SEC. 106. (a) (1) Section 302 of such Act is amended by adding at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary is authorized to arrange for the assignment of officers and employees of the Department or provide equipment or supplies in lieu of a portion of the allotment of such State. The allotment may be reduced by the fair market value of any equipment or supplies furnished to such State and by the amount of the pay, allowances, traveling expenses, and any other costs in connection with the detail of an officer or employee to the State. The amount by which such payments are so reduced shall be available for payment of such costs (including the costs of such equipment and supplies) by the Secretary, but shall for purposes of determining the allotment under section 302(a), be deemed to have been paid to the State."

(2) Section 302(b) of such Act is amended (A) by striking out in the first sentence "so allotted to a State" and inserting in lieu thereof "allotted to a State in a fiscal year"; and (B) by striking out in the second sentence "for a fiscal year" and inserting in lieu thereof "in a fiscal year".

(b) Section 303(a) of such Act is amended—

(1) by striking out in paragraph (3) "or groups" and inserting in lieu thereof ", of groups to be served with attention to assuring representation of minority and poverty groups";

(2) by striking out "and" at the end of paragraph (9);

(3) by redesignating paragraph (10) as paragraph (11); and

(4) by adding after paragraph (9) the following new paragraph:

"(10) set forth, in accordance with criteria to be set by the Secretary, standards (including enforcement procedures and penalties) for (A) construction and licensing of public and private treatment facilities, and (B) for other community services or resources available to assist individuals to meet problems resulting from alcohol abuse; and".

UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

SEC. 107. Part A of title III of such Act is amended by adding at the end thereof the following new section:

"SPECIAL GRANTS FOR IMPLEMENTATION OF THE UNIFORM ALCOHOLISM AND INTOXICATION TREATMENT ACT

"SEC. 304. (a) To assist States which have adopted the basic provisions of the Uniform Alcoholism and Intoxication Treatment Act (hereinafter in this section referred to as the 'Uniform Act') to utilize fully the protections of the Uniform Act in their efforts to approach alcohol abuse and alcoholism from a community care standpoint, the Secretary, acting through the Institute, shall, during the period beginning July 1, 1974, and ending June 30, 1977, make grants to such States for the implementation of the Uniform Act. A grant under this section to any State may only be made for that State's costs (as determined in accordance with regulations which the Secretary shall promulgate not later than July 1, 1974) in implementing the Uniform Act for a period which does not exceed one year from the first day of the first month for which the grant is made. No State may receive more than three grants under this section.

"(b) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve an application of a State under this section unless he determines the following:

"(1) The State and each of its political subdivisions are committed to the concept of care for alcoholism and alcohol abuse through community health and social service agencies, and, in accordance with the purposes of sections 1 and 19 of the Uniform Act, have repealed those portions of their criminal statutes and ordinances under which drunkenness is the gravamen of a petty criminal offense, such as loitering, vagrancy, or disturbing the peace.

"(2) The laws of the State respecting acceptance of individuals into alcoholism and intoxication treatment programs are in accordance with the following standards of acceptance of individuals for such treatment (contained in section 10 of the Uniform Act):

"(A) A patient shall, if possible, be treated on a voluntary rather than an involuntary basis.

"(B) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

"(C) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

"(D) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

"(E) Provision shall be made for a continuum of coordinated treatment services so that a person who leaves a facility or a form of treatment will have available and utilize other appropriate treatment.

"(3) The laws of the State respecting involuntary commitment of alcoholics are consistent with the provisions of section 14 of the Uniform Act which protect individual rights.

"(4) The application of the State contains such assurances as the Secretary may require to carry out the purposes of this section. For purposes of subsection (a), the term 'basic provisions of the Uniform Alcoholism and Intoxication Treatment Act' shall not in the

42 USC 4574.

Applications.

Treatment programs, acceptance standards.

84 Stat. 1850.
42 USC 4573.

case of a State which has a State plan approved under section 303 include any provision of the Uniform Act respecting the organization of such State's treatment programs (as defined in the Uniform Act) which are inconsistent with the requirements of such State plan.

42 USC 4572.

"(c) The amount of any grant under this section to any State for any fiscal year may not exceed the sum of \$100,000 and an amount equal to 10 per centum of the allotment of such State for such fiscal year under section 302 of this Act. Payments under grants under this section may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

Appropriation.

"(d) For the purpose of making payments under grants under this section, there are authorized to be appropriated \$13,000,000 for the fiscal year ending June 30, 1975, and for each of the next two fiscal years."

CONFORMING AMENDMENT

SEC. 108. The heading for part A of title III of such Act is amended by striking out "FORMULA GRANTS" and inserting in lieu thereof "GRANTS TO STATES".

PART C—PROJECT GRANTS AND CONTRACTS

GRANTS AND CONTRACTS FOR PREVENTION AND TREATMENT PROJECTS

84 Stat. 1851;
87 Stat. 94.
42 USC 4577.

SEC. 111. Section 311 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE PREVENTION AND TREATMENT OF ALCOHOL ABUSE AND ALCOHOLISM

"SEC. 311. (a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

"(1) to conduct demonstration, service, and evaluation projects,

"(2) to provide education and training,

"(3) to provide programs and services in cooperation with schools, courts, penal institutions, and other public agencies, and

"(4) to provide counseling and education activities on an individual or community basis, for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics.

"(b) Projects and programs for which grants and contracts are made under this section shall (1) whenever possible, be community based, seek to insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; and (2) where appropriate utilize existing community resources (including community mental health centers).

"(c) (1) In administering this section, the Secretary shall require coordination of all applications for projects and programs in a State.

"(2) Each applicant from within a State, upon filing its application with the Secretary for a grant or contract under this section, shall submit a copy of its application for review by the State agency designated under section 303 of this Act, if such designation has been made. Such State agency shall be given not more than thirty days from the date of receipt of the application to submit to the Secretary, in writing, an evaluation of the project or program set forth in the applica-

tion. Such evaluation shall include comments on the relationship of the project to other projects and programs pending and approved and to the State comprehensive plan for treatment and prevention of alcohol abuse and alcoholism under section 303. The State shall furnish the applicant a copy of any such evaluation.

"(3) Approval of any application for a grant or contract by the Secretary, including the earmarking of financial assistance for a program or project, may be granted only if the application substantially meets a set of criteria established by the Secretary that—

"(A) provides that the projects and programs for which assistance under this section is sought will be substantially administered by or under the supervision of the applicant;

"(B) provides for such methods of administration as are necessary for the proper and efficient operation of such programs and projects;

"(C) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant; and

"(D) provides reasonable assurance that Federal funds made available under this section for any period will be so used as to supplement and increase, to the extent feasible and practical, the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the projects and programs described in this section, and will in no event supplant such State, local, and other non-Federal funds.

"(d) To make payments under grants and contracts under this section, there are authorized to be appropriated \$80,000,000 for the fiscal year ending June 30, 1975, and \$95,000,000 for the fiscal year ending June 30, 1976."

PART D—ADMISSION TO HOSPITALS; CONFIDENTIALITY OF RECORDS

HOSPITAL ADMISSIONS

SEC. 121. (a) Section 321 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"ADMISSION OF ALCOHOL ABUSERS AND ALCOHOLICS TO PRIVATE AND PUBLIC HOSPITALS

"SEC. 321. (a) Alcohol abusers and alcoholics who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their alcohol abuse or alcoholism, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) (1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of alcohol abusers and alcoholics in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary

84 Stat. 1850.
42 USC 4573.

Appropriation.

84 Stat. 1852.
42 USC 4581.

Regulations.

may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital.

"(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe."

(b) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 321(b) (2) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 321(b) (1) of such Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 321(b) (1), and shall timely publish such report in the Federal Register.

CONFIDENTIALITY

SEC. 122. (a) Section 333 of such Act is amended to read as follows:

"CONFIDENTIALITY OF RECORDS

"SEC. 333. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to alcoholism or alcohol abuse education, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b) (1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

"(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives

Regulations.

72 Stat. 1106.
38 USC 101 et seq.

Report, submitted to congressional committees.
42 USC 4581 note.
Iste, p. 130.

Publication in Federal Register.

84 Stat. 1853.
42 USC 4582.

Disclosure.

his written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(e) The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

"(2) between such components and the Armed Forces."

"(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense. Penalty.

"(g) Except as provided in subsection (h) of this section, the Secretary shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b) (2) (C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. Regulations.

"(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from alcohol abuse or alcoholism. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe. 72 Stat. 1106.
38 USC 101
et seq.

(b) Section 303 (a) of the Public Health Service Act (42 U.S.C. 242a (a)) is amended by striking out "the use and effect of drugs" and 70 Stat. 929;
84 Stat. 1241.

Report to congressional committees, 42 USC 4582 note.

ante, p. 132.

Publication in Federal Register.

84 Stat. 1848.
42 USC 4551.

Establishment.
42 USC 4553.

Membership.

inserting in lieu thereof "mental health, including research on the use and effect of alcohol and other psychoactive drugs,".

(c) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 333 (b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, (2) explaining the basis for any inconsistency between such regulations and regulations of the Secretary under section 333 (g) of such Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 333 (g), and shall timely publish such report in the Federal Register.

PART E—INTERAGENCY COMMITTEE

INTERAGENCY COMMITTEE

SEC. 131. Title I of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding at the end the following:

"INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM

"SEC. 103. (a) The Secretary shall establish an Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (hereinafter in this section referred to as the 'Committee'). The Committee shall (1) evaluate the adequacy and technical soundness of all Federal programs and activities which relate to alcoholism and alcohol abuse and provide for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seek to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

"(b) The Secretary or the Director of the National Institute on Alcohol Abuse and Alcoholism (or the Director's designee) shall serve as Chairman of the Committee, the membership of which shall include (1) appropriate scientific, medical, or technical representation from the Department of Transportation, the Department of Justice, the Department of Defense, the Veterans' Administration, and such other Federal agencies and offices (including appropriate agencies and offices of the Department of Health, Education, and Welfare) as the Secretary determines administer programs directly affecting alcoholism and alcohol abuse, and (2) five individuals from the general public appointed by the Secretary from individuals who by virtue of their training or experience are particularly qualified to participate in the performance of the Committee's functions. The Committee shall meet at the call of the Chairman, but not less often than four times a year.

"(c) Each appointed member of the Committee shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(d) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Secretary shall make available to the Committee such staff, information, and other assistance as it may require to carry out its activities effectively."

TITLE II—ADMINISTRATION AND COORDINATION OF THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG ABUSE

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

SEC. 201. (a) The Secretary of Health, Education, and Welfare shall establish, in the Department of Health, Education, and Welfare, the Alcohol, Drug Abuse, and Mental Health Administration (hereinafter in this section referred to as the "Administration"). The Administration shall be headed by an Administrator appointed by the President, by and with the advice and consent of the Senate. The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

(b) The Secretary, acting through the Administration, shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse in order to assure that (1) the programs carried out through each such Institute receive appropriate and equitable support, and (2) there is cooperation among the Institutes in the implementation of such programs.

(c) The Secretary of Health, Education, and Welfare shall establish a National Panel on Alcohol, Drug Abuse, and Mental Health (hereinafter in this subsection referred to as the "panel") to advise, consult with, and make recommendations to the Secretary concerning the activities to be carried out through the Administration. The panel shall consist of three members appointed by the Secretary as follows: One member shall be appointed from the public members of the National Advisory Mental Health Council established under section 217 of the Public Health Service Act, one member shall be appointed from the public members of the National Advisory Council on Alcohol Abuse and Alcoholism established under such section, and one member shall be appointed from the public members of the National Advisory Council on Drug Abuse established under such section.

5 USC 5332
note.

80 Stat. 499;
83 Stat. 190.

Establishment.
42 USC 3511.

Panel, estab-
lishment.

58 Stat. 691;
86 Stat. 77.
42 USC 218.

NATIONAL INSTITUTE OF MENTAL HEALTH

SEC. 202. Title IV of the Public Health Service Act is amended by redesignating part G as part H, by redesignating section 454 as section 461, and by inserting after part F the following new part:

"PART G—NATIONAL INSTITUTE OF MENTAL HEALTH

"ESTABLISHMENT OF INSTITUTE

42 USC 289k-1.

"SEC. 455. (a) There is established the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Secretary with respect to mental health. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of this Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II) with respect to mental illness, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of mental illness and for the rehabilitation of the mentally ill. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute.

"(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines."

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

SEC. 203. (a) Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended to read as follows:

"ESTABLISHMENT OF THE INSTITUTE

"SEC. 101. (a) There is established the National Institute on Alcohol Abuse and Alcoholism (hereafter in this Act referred to as the 'Institute') to administer the programs and authorities assigned to the Secretary of Health, Education, and Welfare (hereafter in this Act referred to as the 'Secretary') by this Act and part C of the Community Mental Health Centers Act. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301 and 303 of the Public Health Service Act with respect to alcohol abuse and alcoholism, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

85 Stat. 785.
42 USC 2891.
62 Stat. 771.
42 USC 2891.

58 Stat. 691.
42 USC 241.
70 Stat. 929.
42 USC 242a.
77 Stat. 282;
84 Stat. 1325.
42 USC 2661
note.

84 Stat. 1848.
42 USC 4551.

82 Stat. 1006.
42 USC 2688e.

"(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute.

"(c) The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines."

(b) (1) Section 102(2) of such Act is amended by inserting "and every three years thereafter" after "Act". 84 Stat. 1848.
42 USC 4552.

(2) (A) Section 102 of such Act is amended by striking out "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding after paragraph (4) the following:

"(5) submit to Congress on or before the end of each calendar year a report on the extent to which other Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism." Report to
Congress.

Before submitting a report under paragraph (5), the Secretary shall give each department and agency of the Government which (or a program of which) is referred to in the report he proposes to submit under such paragraph an opportunity to comment on the proposed report; and the Secretary shall include in the report submitted to Congress under such paragraph the comments received by him from any such department or agency within 30 days from the date the proposed report was submitted to such department or agency."

(B) The first report to be submitted by the Secretary of Health, Education, and Welfare under section 102(5) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be submitted not later than December 31, 1974. Submittal date,
42 USC 4552
note.

NATIONAL INSTITUTE ON DRUG ABUSE

SEC. 204. Subsections (a) and (b) of section 501 of the Drug Abuse Office and Treatment Act of 1972 are amended to read as follows: 86 Stat. 85.
21 USC 1191.

"(a) There is established the National Institute on Drug Abuse (hereinafter in this section referred to as the 'Institute') to administer the programs and authorities of the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the 'Secretary') with respect to drug abuse prevention functions. The Secretary, acting through the Institute, shall, in carrying out the purposes of sections 301, 302, and 303 of the Public Health Service Act with respect to drug abuse, develop and conduct comprehensive health, education, training, research, and planning programs for the prevention and treatment of drug abuse and for the rehabilitation of drug abusers. The Secretary shall carry out through the Institute the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities. 42 USC 241, 242,
242a.

"(b) (1) The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute."

TITLE III—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 301. Section 5108 (c) of title 5, United States Code, is amended—

(1) by striking out the period at the end of paragraph (10) (B) and inserting in lieu thereof a semicolon;

(2) by redesignating the paragraph (10) relating to the Law Enforcement Assistance Administration as paragraph (11) and by striking out the period at the end of that paragraph and inserting in lieu thereof a semicolon;

(3) by redesignating the paragraph (10) relating to the Chief Judge of the United States Tax Court as paragraph (12) and by striking out "and" at the end of that paragraph;

(4) by redesignating the paragraph (11) relating to the Chairman of the Equal Employment Opportunity Commission as paragraph (13) and by striking out the period at the end of that paragraph and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph: "(14) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism in GS-16, 17, and 18."

SEC. 302. Section 247 of the Community Mental Health Centers Act (42 U.S.C. 2888j-2) is repealed. Repeal.
84 Stat. 1851;
87 Stat. 94.
86 Stat. 79.

SEC. 303. (a) Section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) is amended to read as follows:

"§ 408. Confidentiality of patient records

"(a) Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

"(b) (1) The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

"(2) Whether or not the patient, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives his written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in deter-

mining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) Except as authorized by a court order granted under subsection (b) (2) (C) of this section, no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

"(e) The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Veterans' Administration furnishing health care to veterans, or

"(2) between such components and the Armed Forces.

"(f) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than \$500 in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense. Penalties.

"(g) The Director of the Special Action Office for Drug Abuse Prevention, after consultation with the Administrator of Veterans' Affairs and the heads of other Federal departments and agencies substantially affected thereby, shall prescribe regulations to carry out the purposes of this section. These regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b) (2) (C), as in the judgment of the Director are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith." Regulations.

(b) (1) Effective on the date specified in section 104 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1104), the first sentence of section 408(g) of that Act (21 U.S.C. 1175) is amended by striking "Director of the Special Action Office for Drug Abuse Prevention" and inserting in lieu thereof "Secretary of Health, Education, and Welfare", and the second sentence of such section is amended by striking "Director" and inserting "Secretary" in lieu thereof. 86 Stat. 67. Supra.

(2) Effective on the date specified in paragraph (1) of this subsection, section 408 of such Act is further amended by—

(A) striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the" in the first sentence of subsection (g) of such section; and

(B) adding at the end of such section the following new subsection:

"(h) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations established by the Secretary under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe." 38 USC 101 et seq.

Report to congressional committees.
21 USC 1175
note.

Ante, p. 137.

Publication in Federal Register.

86 Stat. 67.

(c) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 408(h) of the Drug Abuse Office and Treatment Act of 1972, (2) explaining the bases for any inconsistency between such regulations and the regulations of the Secretary of Health, Education, and Welfare under section 408(g) of that Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 408(g), and shall timely publish such report in the Federal Register.

(d) Any regulation under or with respect to section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) issued by the Director of the Special Action Office for Drug Abuse Prevention prior to the date specified in section 104 of that Act (21 U.S.C. 1104), whether before or after the enactment of this Act (21 U.S.C. 1104), shall remain in effect until revoked or amended by the Director or the Secretary of Health, Education, and Welfare, as the case may be.

Approved May 14, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-759 accompanying H. R. 11387 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 93-208 (Comm. on Labor and Public Welfare).
CONGRESSIONAL RECORD:
Vol. 119 (1973): June 21, considered and passed Senate.
Vol. 120 (1974): Jan. 21, considered and passed House, amended, in lieu of H. R. 11387.
Mar. 21, Senate concurred in House amendment with an amendment.
May 6, House concurred in Senate amendment.



Public Law 93-422
93rd Congress, H. R. 9456
September 21, 1974

An Act

To extend the Drug Abuse Education Act of 1970 for three years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

Sec. 2. (a) Section 1 of the Drug Abuse Education Act of 1970 (21 U.S.C. 1001) is amended to read as follows: "This Act may be cited as the 'Alcohol and Drug Abuse Education Act'."

(b) Section 2 of such Act is amended to read as follows:

"Sec. 2. (a) The Congress hereby finds and declares that drug and alcohol abuse diminishes the strength and vitality of the people of our Nation; that an increasing number of substances, both legal and illegal, are being abused by increasing numbers of individuals; that abuse of any substance is complex human behavior which is influenced by many forces, including school, family, church, community, media, and peer groups; and that prevention and early intervention in such behavior require cooperation and coordination among all of these elements in strategies designed to respond to carefully defined problems.

"(b) It is the purpose of this Act to encourage the development of new and improved curricula on the problems of drug abuse; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and others, on drug abuse problems.

"(c) It is further the purpose of this Act to provide leadership to schools and other institutions in the community by supporting projects to identify, evaluate, demonstrate, and disseminate effective strategies for prevention and early intervention and to provide training and technical assistance to schools and other segments of the community in adapting such strategies to identified local needs."

(c) Section 3 of such Act is amended to read as follows:

"ALCOHOL AND DRUG ABUSE EDUCATION PROJECTS

"Sec. 3. (a) The Commissioner of Education shall carry out a program of making grants to, and contracts with institutions of higher education, State and local educational agencies, and public and private education or community agencies, institutions, and organizations to support and evaluate demonstration projects, to encourage the establishment of such projects throughout the Nation, to train educational and community personnel, and to provide technical assistance in program development. In carrying out such program, the Commissioner of Education shall give priority to school based programs and projects.

"(b) Funds appropriated for grants and contracts under this Act shall be available for activities, including bilingual activities, such as—

"(1) projects for the development, testing, evaluation, and dissemination of exemplary materials for use in elementary, secondary, adult, and community education programs, and for training in the selection and use of such materials;

Alcohol and Drug Abuse Education Act Amendments of 1974.
21 USC 1001 note.
21 USC 1001 note.
21 USC 1001.

Training programs.

88 STAT. 1155
88 STAT. 1156

Local educational agencies, financial assistance.

88 STAT. 1154
88 STAT. 1155

21 USC 1002.

Grants and contracts.

Application for assistance, requirements.

"(2) comprehensive demonstration programs which focus on the causes of drug and alcohol abuse rather than on the symptoms; which include both schools and the communities within which the schools are located; which emphasizes the affective as well as the cognitive approach; which reflect the specialized needs of communities; and which include, in planning and development, school personnel, the target population, community representation, and parents;

"(3) creative primary prevention and early intervention programs in schools, utilizing an interdisciplinary 'school team' approach, developing in educational personnel and students skills in planning and conducting comprehensive prevention programs which include such activities as training drug and alcohol education specialists and group leaders, peer group and individual counseling, and student involvement in intellectual, cultural, and social alternatives to drug and alcohol abuse;

"(4) preservice and inservice training programs on drug and alcohol abuse prevention for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

"(5) community education programs on drug and alcohol abuse, especially for parents and others in the community;

"(6) programs or projects to recruit, train, organize, and employ professionals and other persons, including former drug and alcohol abusers and former drug- and alcohol-dependent persons, to organize and participate in programs of public education in drug and alcohol abuse; and

"(7) projects for the dissemination of valid and effective school and community drug and alcohol abuse educational programs.

"(c) In addition to the purposes described in subsection (b) of this section, funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act may be made available for the payment of reasonable and necessary expenses of State educational agencies for assisting local educational agencies in the planning, development, and implementation of drug and alcohol abuse education programs, including such projects as—

"(1) inservice training of education personnel,

"(2) technical assistance to local school districts,

"(3) creative leadership in programming for indigenous minorities, and

"(4) training of peer counselors.

"(d) (1) Financial assistance under this section may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the Commissioner deems necessary, and only if such application—

"(A) provides that activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(B) provides for carrying out one or more projects or programs eligible for assistance under subsections (b) and (c) of this section and provides for such methods of administration as are necessary for the proper and efficient operation of such projects or programs;

"(C) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes—

described in subsections (b) and (c) of this section, and in no case supplant such funds; and

"(D) provides for making such reports, in such form and containing such information, as the Commissioner may reasonably require, and for keeping such records and affording such access thereto as the Commissioner may find necessary to assure to correctness and verification of such reports.

"(2) An application from a local education agency for financial assistance under this section may be approved by the Commissioner only after the applicant has submitted the application to the State educational agency. The State educational agency shall, not more than thirty days after the date of receipt of the application, submit to the Secretary in writing its comments on the application. A copy of such comments shall be submitted at the same time to the applicant.

"(3) Amendments of applications shall, except as the Commissioner may otherwise provide by or pursuant to regulation, be subject to the requirements set forth in subsections (d) (1) and (d) (2).

"(e) (1) The Commissioner may use funds in an amount not exceeding 1 per centum of the funds appropriated to carry out this section for a fiscal year for independent analysis and evaluation of the effectiveness of the drug and alcohol abuse education programs assisted under this section.

"(2) The Commissioner shall, not later than March 31 of each calendar year, submit an evaluation report to the House and Senate Committees on Appropriations, the House Committee on Education and Labor, and the Senate Committee on Labor and Public Welfare. Such report shall—

"(A) contain the agency's statement of specific and detailed objectives for the program or programs assisted under the provisions of this Act, and relate these objectives to those in the Act,

"(B) include statements of the agency's conclusions as to effectiveness of the program or programs in meeting the stated objectives, measured through the end of the preceding fiscal year,

"(C) make recommendations with respect to any changes or additional legislative action deemed necessary or desirable in carrying out the program or programs,

"(D) contain a listing identifying the principal analyses and studies supporting the major conclusions and recommendations, and

"(E) contain the agency's annual evaluation plan for the program or programs through the ensuing fiscal year for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act of 1921 (31 U.S.C. 11).

"(f) There are authorized to be appropriated to carry out the purposes of this section \$26,000,000 for the fiscal year ending June 30, 1975, \$30,000,000 for the fiscal year ending June 30, 1976, and \$34,000,000 for the fiscal year ending June 30, 1977. Not less than 60 per centum of the amount appropriated for a fiscal year under this section shall be used for drug and alcohol abuse education programs and projects in elementary and secondary schools."

(d) Section 4 of such Act is amended to read as follows:

"Sec. 4. (a) Each recipient of Federal assistance under this Act, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of

Reports and records.

Applications, submittal and approval.

Amended applications.

Report to congressional committees.

Contents.
88 STAT. 1156
88 STAT. 1157

Appropriation.

Recordkeeping.
21 USC 1003.

such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, subgrants, contracts, subcontracts, loans, or other arrangements referred to in subsection (a)."

(e) Section 5 of such Act is amended by striking out "drug abuse" each time it appears and inserting in lieu thereof "drug and alcohol abuse".

(f) Section 8 of such Act is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by adding after subsection (a) the following new subsection:

"(b) The term 'Commissioner' means the Commissioner of Education."

Approved September 21, 1974.

Records, accessibility.

21 USC 1004.

21 USC 1007.

"Commissioner."

LEGISLATIVE HISTORY:

HOUSE REPORT No. 93-605 (Comm. on Education and Labor).
SENATE REPORTS: No. 93-954 and 93-953 accompanying S. 2848 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD:

Vol. 119 (1973): Oct. 30, considered and passed House.
Vol. 120 (1974): June 25, considered and passed Senate, amended, in lieu of S. 2848.
Aug. 22, House concurred in Senate amendment with an amendment.

Sept. 4, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 10, No. 39 (1974): Sept. 21, Presidential statement.



Public Law 93-481
93rd Congress, S. 3355
October 26, 1974

An Act

88 STAT. 1455

To amend the Controlled Substances Act to extend for three fiscal years the authorizations of appropriations for the administration and enforcement of that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 709 of the Controlled Substances Act (21 U.S.C. 904) is amended to read as follows:

“AUTHORIZATIONS OF APPROPRIATIONS

“Sec. 709. (a) There are 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, and \$200,000,000 for the fiscal year ending June 30, 1977, for the expenses of the Department of Justice (other than its expenses incurred in connection with carrying out section 103(a)) in carrying out its functions under this title.

“(b) No funds appropriated under any other provision of this Act may be used for the expenses of the Department of Justice for which funds are authorized to be appropriated by subsection (a) of this section.”

Sec. 2. Section 702 of the Controlled Substances Act is amended by adding at the end thereof the following new subsection:

“(d) Notwithstanding subsection (a) of this section or section 1103, section 4202 of title 18, United States Code, shall apply to any individual convicted under any of the laws repealed by this title or title III without regard to the terms of any sentence imposed on such individual under such law.”

Sec. 3. Section 509 of the Controlled Substances Act (21 U.S.C. 879) is amended by striking out “(a)” and subsection (b).

Sec. 4. (a) Subchapter VI of chapter 6 of title 23 of the District of Columbia Code is repealed and the analysis of such chapter is amended by striking out the item relating to such subchapter.

(b) Section 23-521 (f) of such title 23 is amended—
(1) by inserting “and” at the end of paragraph (5), and
(2) by striking out paragraph (6) and redesignating paragraph (7) as paragraph (6).

(c) Section 23-522 (c) of such title 23 is amended to read as follows:
“(c) The application may also contain a request that the search warrant be made executable at any hour of the day or night upon the ground that there is probable cause to believe that (1) it cannot be executed during the hours of daylight, (2) the property sought is likely to be removed or destroyed if not seized forthwith, or (3) the property sought is not likely to be found except at certain times or in certain circumstances. Any request made pursuant to this subsection must be accompanied and supported by allegations of fact supporting such request.”

Execution of search warrants.
D. C. Code 23-524.
Repeal.
D. C. Code 23-561.

(d) Section 23-524 (a) of such title 23 is amended to read as follows:
“(a) An officer executing a warrant directing a search of a dwelling house or other building or a vehicle shall execute such warrant in accordance with section 8109 of title 18, United States Code.”
(e) The last sentence of section 23-561 (b) (1) of such title 23 is repealed.

Sec. 5. Section 1114 of title 18, United States Code, is amended by striking out “Bureau of Narcotics and Dangerous Drugs” and inserting in lieu thereof “Drug Enforcement Administration”.

Approved October 26, 1974.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-1248 accompanying H. R. 14213 (Comm. on Interstate and Foreign Commerce) and No. 93-1442 (Comm. of Conference).
SENATE REPORTS: No. 93-925 (Comm. on the Judiciary) and No. 93-1271 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 120 (1974):
June 17, July 11, considered and passed Senate.
Aug. 5, considered and passed House, amended, in lieu of H. R. 14213.
Oct. 15, House agreed to conference report.
Oct. 16, Senate agreed to conference report.



Public Law 94-237
94th Congress, S. 2017
March 19, 1976

An Act

To amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 (21 U.S.C. 1101) of the Drug Abuse Office and Treatment Act of 1972 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new paragraph:

"(10) Although the Congress observed a significant apparent reduction in the rate of increase of drug abuse during the three-year period subsequent to the date of enactment of this Act, and in certain areas of the country apparent temporary reductions in its incidence, the increase and spread of heroin consumption since 1974, and the continuing abuse of other dangerous drugs, clearly indicate the need for effective, ongoing, and highly visible Federal leadership in the formation and execution of a comprehensive, coordinated drug abuse policy."

Sec. 2. Section 102 of the Act (21 U.S.C. 1102) is amended by striking "immediate objective of significantly reducing the incidence of drug abuse in the United States within the shortest possible period of time, and to develop" and inserting in lieu thereof "objective of significantly reducing the incidence, as well as the social and personal costs, of drug abuse in the United States, and to develop and assure the implementation of".

Sec. 3. Section 103(b) of the Act (21 U.S.C. 1103(b)) is amended by changing "education, training," to read "education or training (including preventive efforts directed to individuals who are not users of drugs and to individuals who are marginal users of drugs)."

Sec. 4. (a) Section 103 of the Act is amended by adding at the end thereof the following new subsection:

"(d) The term 'drug abuse function' means any function described in subsection (b) or (c) of this section, or both."

(b) The Act is amended by inserting after title I the following new title:

"TITLE II—OFFICE OF DRUG ABUSE POLICY

"CHAPTER	Sec.
"1. GENERAL PROVISIONS.....	201
"2. FUNCTIONS OF THE DIRECTOR.....	221

"Chapter 1.—GENERAL PROVISIONS

- "Sec.
- "201. Establishment of Office.
- "202. Appointment of Director.
- "203. Appointment of Deputy Director.
- "204. Delegation.
- "205. Officers and employees.
- "206. Employment of experts and consultants.
- "207. Acceptance of uncompensated services.
- "208. Notice relating to the control of dangerous drugs.
- "209. Compensation of Director and Deputy Director.
- "210. Statutory authority unaffected.
- "211. Appropriations authorized.

Drug Abuse Office and Treatment Act of 1972, amendments.

21 USC 1103, "Drug abuse function."

1 USC 1111. Office of Drug Abuse Policy.

1 USC 1112.

1 USC 1113.

1 USC 1114.

1 USC 1115.

1 USC 5101, 1 USC 1116.

1 USC 5332.

"§ 201. Establishment of Office

"There is established in the Executive Office of the President an office to be known as the Office of Drug Abuse Policy (hereinafter in this Act referred to as the 'Office'). The establishment of the Office in the Executive Office of the President shall not be construed as affecting access by the Congress, or committees of either House, (1) to information, documents, and studies in the possession of, or conducted by, the Office or (2) to personnel of the Office.

"§ 202. Appointment of Director

"The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall not hold office in any other department or agency of the United States, whether on an acting basis or otherwise, except on such occasions as may be appropriate in connection with the performance of such duties as may be assigned to him pursuant to section 222.

"§ 203. Appointment of Deputy Director

"There shall be in the Office a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall perform such functions as the Director may assign or delegate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

"§ 204. Delegation

"Unless specifically prohibited by law, the Director may, without being relieved of his responsibility, perform any of his functions or duties or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Office as he may designate.

"§ 205. Officers and employees

"(a) The Director may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him. At the discretion of the Director, any officer or employee of the Office may be allowed and paid travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for individuals employed intermittently.

"(b) In addition to the number of positions which may be placed in grades GS-16, GS-17, and GS-18 under section 5108 of title 5, United States Code, and without prejudice to the placement of other positions in the Office in such grades under any authority other than this subsection, not to exceed four positions in the Office may be placed in grades GS-16, GS-17, and GS-18, but in accordance with the standards and procedures prescribed by chapter 51 of such title.

"§ 206. Employment of experts and consultants

"The Director may procure services as authorized by section 3109 of title 5, United States Code, and may pay a rate for such services not in excess of the rate in effect for grade GS-18 of the General Schedule. The Director may employ individuals under this section without regard to any limitation, applicable to services procured under such section 3109, on the number of days or the period of such services, except that, at any one time, not more than six individuals may be employed under this section without regard to such limitation.

§ 207. Acceptance of uncompensated services

"The Director is authorized to accept and employ in furtherance of the purpose of this Act voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 565(b))."

21 USC 1117.

§ 208. Notice relating to the control of dangerous drugs

"Whenever the Attorney General determines that there is evidence that—

21 USC 1118.

"(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

21 USC 802.

"(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act,

21 USC 812.

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the Director timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the Director.

21 USC 811.

21 USC 1132.

§ 209. Compensation of Director and Deputy Director

"(a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

21 USC 1133.

"(64) Director of the Office of Drug Abuse Policy."

"(b) Paragraph (95) of section 5315 of such title is amended to read as follows:

5 USC 5315.

"(95) Deputy Director of the Office of Drug Abuse Policy."

§ 210. Statutory authority unaffected

"Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans.

21 USC 1119.

Repeal,
21 USC 1104,
21 USC 1162.

§ 211. Appropriations authorized

"For purposes of carrying out this title, there is authorized to be appropriated \$700,000 for the fiscal year ending June 30, 1976, \$500,000 for the period July 1, 1976, through September 30, 1976, \$2,000,000 for the fiscal year ending September 30, 1977, and \$2,000,000 for the fiscal year ending September 30, 1978.

21 USC 1120.

21 USC 1164.

Chapter 2.—FUNCTIONS OF THE DIRECTOR

"Sec.

"221. Concentration of Federal effort.

"222. International negotiations.

"223. Annual report.

§ 221. Concentration of Federal effort

21 USC 1131.

"(a) The Director shall make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions to implement the policies, priorities, and objectives recommended under this subsection.

Recommendations to President.

"(b) To carry out subsection (a), the Director shall—

Repeal.

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the Director such information and reports with respect to such functions as he may reasonably require to carry out the purposes of this title.

§ 222. International negotiations

"The President may designate the Director to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

§ 223. Annual report

"The Director shall submit to the President and the Congress, prior to March 1 of each year which begins after the enactment of this title, a written report on the activities of the Office. The report shall specify the objectives, activities, and accomplishments of the Office, and shall contain an accounting of funds expended under this title."

(c) (1) Section 104 of the Act is repealed.

(2) Section 302 of the Act is amended by striking out "Special Action Office of Drug Abuse Prevention until the date specified in section 104 of this Act" and inserting in lieu thereof "Office of Drug Abuse Policy".

(3) Section 302 of the Act is amended by striking out "and" before "other officials", and by striking out the period after "appropriate" and inserting in lieu thereof "and no fewer than three members from outside the Federal Government."

(4) Section 304 of the Act is amended by adding at the end thereof the following:

"(4) From time to time make recommendations to, and coordinate with, the Director of the Office of Drug Abuse Policy with respect to the performance of his functions under this Act."

(5) The following provisions of law are each amended by striking out "Special Action Office for Drug Abuse Prevention" and inserting in lieu thereof "Office of Drug Abuse Policy":

(A) Sections 302 and 408(g) of the Act (21 U.S.C. 1162 and 1175(g)).

(B) Subsections (b) (1) and (d) of section 303 of Public Law 93-282 (21 U.S.C. 1175 note).

(C) Section 454 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750c).

(D) Section 206(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a) (1)).

(6) Sections 5316(131) and 5313(21) of title 5, United States Code, are repealed.

Sec. 5. Section 305 of the Act (21 U.S.C. 1165) is amended by striking out "from time to time as the President deems appropriate, but not less often than once a year" and inserting in lieu thereof "prior to June 1 of each year".

Sec. 6. (a) Section 407 of the Act (21 U.S.C. 1174) is amended to read as follows:

§ 407. Admission of drug abusers to private and public hospitals

(a) Drug abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their drug abuse or drug dependence, by any private or public general hospital which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

(b) (1) The Secretary is authorized to make regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of drug abusers in hospitals which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital.

(2) The Administrator of Veterans' Affairs, through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) of this subsection to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from drug abuse or drug dependence. In prescribing and implementing regulations pursuant to this paragraph, the Administrator shall, from time to time, consult with the Secretary in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

(b) The Administrator of Veterans' Affairs shall submit to the appropriate committees of the House of Representatives and the Senate a full report (1) on the regulations (including guidelines, policies, and procedures thereunder) he has prescribed pursuant to section 407 (b) (2) of the Act, (2) explaining the bases for any inconsistency between such regulations and regulations of the Secretary under section 407 (b) (1) of the Act, (3) on the extent, substance, and results of his consultations with the Secretary respecting the prescribing and implementation of the Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determines are necessary and desirable. The Administrator shall submit such report not later than sixty days after the effective date of the regulations prescribed by the Secretary under such section 407 (b) (1) and shall timely publish such report in the Federal Register.

(c) The item relating to section 407 in the table of sections of title IV of the Act is amended by striking out "hospitals for emergency treatment" and inserting in lieu thereof "private and public hospitals".

Sec. 7. The first sentence of section 409 (a) of the Act (21 U.S.C. 1176 (a)) is amended by changing "and \$45,000,000 for the fiscal year ending June 30, 1975", to read "\$45,000,000 for each of the fiscal years ending June 30, 1975, and June 30, 1976, \$11,250,000 for the period

21 USC 1174

Regulation

Reports to congressional committees, 21 USC 1174 note.

21 USC 1174.

Publication in Federal Register.

21 USC 1171.

21 USC 1176.

Notice of proposed rulemaking.

Final regulations, publication.

Effective date, 21 USC 1176 note.

Effective date, 21 USC 1176 note.

July 1, 1976, through September 30, 1976, and \$45,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978".

Sec. 8. (a) Section 409 (c) (1) of the Act is amended by—

(1) inserting "(A)" immediately after "(c) (1)";

(2) adding before the period at the end of subparagraph (A) the following: "except that in the case of a State (other than the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands) which can demonstrate a need (determined in accordance with the methodology established under subparagraph (B) (iii)) for an allotment for a fiscal year in an amount not less than \$150,000, the allotment for such State for such fiscal year may not be less than \$150,000 multiplied by such fraction"; and

(3) inserting at the end thereof the following new subparagraph:

"(B) (i) Not later than June 15 of each year, the Secretary, after consultation with the Director of the National Institute on Drug Abuse, shall publish a notice of proposed rulemaking setting forth a formula to be used in making allotments pursuant to subparagraph (A) of this paragraph. Such notice of published rulemaking shall be in accordance with section 553 of title 5, United States Code, except that a sixty-day period shall be allowed for public comment.

"(ii) Not later than the first day of each fiscal year, the Secretary shall publish final regulations setting forth the allotment formula to be used pursuant to subparagraph (A) of this paragraph in making allotments during such fiscal year.

"(iii) In determining, for the purposes of paragraph (1), the extent of need for more effective conduct of drug abuse prevention functions, the Secretary shall (within one hundred and eighty days after the date of enactment of this paragraph) by regulation establish a methodology to assess and determine the incidence and prevalence of drug abuse to be applied in determining such need."

(b) The amendments made by subsection (a) of this section shall be effective with respect to fiscal years beginning on and after October 1, 1976.

Sec. 9. (a) (1) Section 409 (e) of the Act (21 U.S.C. 1176 (e)) is amended—

(A) by inserting in the first sentence thereof "not later than July 15 of each calendar year," immediately after "Secretary";

(B) by inserting in the second sentence thereof "shall pertain to the twelve-month period commencing October 1 of the calendar year in which it is required to be submitted, and" immediately after "Each State plan";

(C) by inserting "in accordance with such needs" immediately before the semicolon at the end of paragraph (5) thereof;

(D) by striking "and" at the end of paragraph (11) thereof;

(E) by redesignating paragraph (12) thereof as paragraph (13); and

(F) by inserting immediately after paragraph (11) thereof the following new paragraph:

"(12) provide reasonable assurances that treatment or rehabilitation projects or programs supported by funds made available under this section have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation programs or projects; and"

(2) The amendments made by paragraph (1) shall take effect January 1, 1976.

(b) (1) Section 409(f) of the Act is amended by adding at the end the following: "A State plan submitted under subsection (e) may also contain provisions relating to alcoholism or mental health. The Secretary, acting through the National Institute on Drug Abuse, shall establish procedures by which the National Institute on Drug Abuse shall review each State plan submitted pursuant to subsection (e) and under which it shall complete its review of each such plan not later than September 15 of the calendar year in which the plan is submitted, or not later than sixty days after the plan is received by the National Institute on Drug Abuse, whichever is later."

21 USC 1176.

Review of State plans.

(2) The amendment made by paragraph (1) shall take effect January 1, 1976.

21 USC 1176 note.

SEC. 10. (a) Section 410(a) of the Act (21 U.S.C. 1177(a)) is amended by adding at the end thereof the following: "In the implementation of his authority under this section, the Secretary shall accord a high priority to applications for grants or contracts for primary prevention programs. For purposes of the preceding sentence, primary prevention programs include programs designed to discourage persons from beginning drug abuse. To the extent that appropriations authorized under this section are used to fund treatment services, the Secretary shall not limit such funding to treatment for opiate abuse, but shall also provide support for treatment for non-opiate drug abuse including polydrug abuse."

(b) Section 410(c) of the Act (21 U.S.C. 1177(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Each applicant within a State, upon filing its application with the Secretary for a grant or contract to provide treatment or rehabilitation services shall provide a proposed performance standard or standards, to measure, or research protocol to determine, the effectiveness of such treatment or rehabilitation program or project."

SEC. 11. Section 410(b) of the Act (21 U.S.C. 1177(b)) is amended by changing "and \$160,000,000 for the fiscal year ending June 30, 1975," to read "\$160,000,000 for each of the fiscal years ending June 30, 1975 and June 30, 1976; \$40,000,000 for the period July 1, 1976, through September 30, 1977; and \$160,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978."

SEC. 12. (a) (1) The first sentence of section 501(a) of the Act is amended by changing "section" to read "title" both places it appears therein.

21 USC 1191.

(2) Section 501(b) of the Act (21 U.S.C. 1191(b)) is amended by inserting "(hereinafter in this title referred to as the 'Director')", immediately after "Director".

21 USC 1193.

(b) (1) Section 502 of the Act is amended to read as follows:

86 Stat. 85.

§ 502. Technical assistance to State and local agencies

21 USC 1192.

"(a) The Director shall—

"(1) coordinate or assure coordination of Federal drug abuse prevention functions with corresponding functions of State and local governments; and

"(2) provide for a central clearinghouse for Federal, State, and local governments, public and private agencies, and individuals seeking drug abuse information and assistance from the Federal Government.

"(b) In carrying out his functions under this section, the Director may—

"(1) provide technical assistance—including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of

Appropriation authorization.

public officials or other persons assigned to work with State and local governments—to analyze and identify State and local drug abuse problems and assist in the development of plans and programs to meet the problems so identified;

"(2) convene conferences of State, local, and Federal officials, and such other persons as the Director shall designate, to promote the purposes of this Act, and the Director is authorized to pay reasonable expenses of individuals incurred in connection with their participation in such conferences; and

"(3) draft and make available to State and local governments model legislation with respect to State and local drug abuse programs and activities, and provide for uniform forms for, procedures for the submission of, and criteria for the consideration of applications of State and local governments and individuals for grants and contracts for drug abuse control and treatment programs.

"(c) In implementation of his authority under subsection (b) (1), the Director may—

"(1) take such action as may be necessary to request the assignment, with or without reimbursement, of any individual employed by any Federal department or agency and engaged in any Federal drug abuse prevention function or drug traffic prevention function to serve as a member of any such task force; except that no such person shall be so assigned during any one fiscal year for more than an aggregate of ninety days without the express approval of the head of the Federal department or agency with respect to which he was so employed prior to such assignment;

"(2) assign any person employed by the Institute to serve as a member of any such task force or to coordinate management of such task forces; and

"(3) enter into contracts or other agreements with any person or organization to serve on or work with such task forces."

(2) The item relating to such section 502 in the table of sections of title V of the Act is amended to read as follows:

"502. Technical assistance to State and local agencies."

SEC. 13. (a) Title V of the Act is amended by adding at the end thereof the following new section:

§ 503. Encouragement of certain research and development

"(a) The Director shall encourage and promote (by grants, contracts, or otherwise) expanded research programs to create, develop, and test—

"(1) synthetic analgesics, antitussives, and other drugs which are—

"(A) nonaddictive, or

"(B) less addictive than opium or its derivatives, to replace opium and its derivatives in medical use;

"(2) long-lasting, nonaddictive blocking or antagonistic drugs or other pharmacological substances for treatment of heroin addiction; and

"(3) detoxification agents which, when administered, will ease the physical effects of withdrawal from heroin addiction.

In carrying out this section the Director is authorized to establish, or provide for the establishment of, clinical research facilities.

"(b) For purposes of carrying out subsection (a) of this section there are authorized to be appropriated \$7,000,000 for the fiscal year ending June 30, 1976, \$1,750,000 for the period July 1, 1976, through

September 30, 1976, \$7,000,000 for the fiscal year ending September 30, 1977, and \$7,000,000 for the fiscal year ending September 30, 1978."

(b) The table of sections at the beginning of title V of the Act is amended by adding at the end thereof the following new item:

"608. Encouragement of certain research and development."

SEC. 14. (a) Section 1513 (e) (1) (A) (i) of the Public Health Service Act is amended by inserting "sections 409 and 410 of the Drug Abuse Office and Treatment Act," after "Community Mental Health Centers Act".

(b) Section 1512 (b) (3) (C) (ii) of the Public Health Service Act is amended by inserting "substance abuse treatment facilities" after "long-term care facilities".

(c) Section 1531 (3) (A) of the Public Health Service Act is amended by inserting "substance abuse treatment facilities" after "long-term care facilities".

Approved March 19, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-375 accompanying H. R. 8150 (Comm. on Interstate and Foreign Commerce) and No. 94-839 (Comm. of Conference).

SENATE REPORTS: No. 94-218 accompanying S. 1608 (Comm. on Labor and Public Welfare) and No. 94-639 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 121 (1975): June 26, considered and passed Senate, Sept. 11, considered and passed House, amended, in lieu of H. R. 8150.

Vol. 122 (1976): Feb. 19, Senate agreed to conference report; agreed to House amendment with an amendment.

Mar. 4, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 12, No. 13 (1976): Mar. 20, Presidential statement.



Public Law 94-371
94th Congress, S. 3184
July 26, 1976

An Act

To amend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976".

SEC. 2. Section 2(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (hereinafter in this Act referred to as "the Act") is amended to read as follows:

"(b) It is the policy of the United States and the purpose of this Act to approach alcohol abuse and alcoholism from a comprehensive community care standpoint, and to meet the problems of alcohol abuse and alcoholism through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States, and direct Federal assistance to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development of methods for diverting problem drinkers from criminal justice systems into prevention and treatment programs; and

"(3) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, alcohol abuse and alcoholism."

SEC. 3. (a) Section 301 of the Act is amended (1) by striking out "and" after "1975," and (2) by inserting after "1976," the following: "\$70,000,000 for the fiscal year ending September 30, 1977, \$77,000,000 for the fiscal year ending September 30, 1978, and \$85,000,000 for the fiscal year ending September 30, 1979."

(b) Section 302(a) of the Act is amended by adding at the end thereof the following new sentence: "In determining the extent of a State's need for more effective prevention, treatment, and rehabilitation of alcohol abuse and alcoholism, the Secretary shall (within 180 days after the date of enactment of this sentence) by regulation establish a methodology to assess and determine the incidence and prevalence of alcohol abuse within the States."

SEC. 4. (a) Section 304(b) of the Act is amended by striking out the last sentence thereof.

(b) Effective July 1, 1976, section 304(c) of the Act is amended by—

(1) striking out "10 per centum" and substituting "20 percent";

(2) striking out "\$100,000" and substituting "\$150,000".

(c) Effective July 1, 1976—

(1) sections 304(d) and 311(d) of the Act are repealed,
(2) section 304 of the Act (A) is transferred to part B of the Act, (B) is inserted before section 311, and (C) is redesignated as section 310, and

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1976.
42 USC 4541 note.
42 USC 4541.

Appropriation authorization.
42 USC 4571.

Regulation.
42 USC 4572.

42 USC 4576.

Repeals.
42 USC 4577.

42 USC 4577.

(3) part B of the Act is amended by inserting after section 311 the following new section:

"AUTHORIZATIONS OF APPROPRIATIONS

42 USC 4578.

"SEC. 312. For purposes of sections 310 and 311, there are authorized to be appropriated \$85,000,000 for the fiscal year ending September 30, 1977, \$91,000,000 for the fiscal year ending September 30, 1978, and \$102,500,000 for the fiscal year ending September 30, 1979."

Ante, p. 1035.
42 USC 4576.

(d) Section 310(a) of the Act (as so redesignated) is amended (1) by striking out "September 30, 1977" and inserting in lieu thereof "September 30, 1979"; and (2) by striking out "three grants" and inserting in lieu thereof "six grants".

State plans, approval,
42 USC 4573.
42 USC 300m-3.

SEC. 5. (a) Section 303(a) (3) of the Act is amended by inserting "and at least one representative of the Statewide Health Coordinating Council established pursuant to section 1524 of the Public Health Service Act," after "alcoholism."

(b) (1) Section 303(a) of the Act is further amended by striking out "and" at the end of paragraph (10), by redesignating paragraph (11) as paragraph (16) and by inserting after paragraph (10) the following:

"(11) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of alcohol abuse and alcoholism treatment, prevention, and rehabilitation, including but not limited to programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

"(12) provide assurance that the State agency will coordinate its planning with local alcoholism and alcohol abuse planning agencies and with other State and local health planning agencies;

"(13) provide assurance that State certification, accreditation, or licensure requirements, if any, applicable to alcohol abuse and alcoholism treatment facilities and personnel take into account the special nature of such programs and personnel, including the need to encourage the development of nonmedical modes of treatment and the need to acknowledge previous experience when assessing the adequacy of treatment personnel;

42 USC 4572.

"(14) provide reasonable assurance that prevention or treatment projects or programs supported by funds made available under section 302 have provided to the State agency a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such prevention or treatment programs or projects;

Review; reports.
42 USC 4581.

"(15) provide that the State agency will review admissions to hospitals and outpatient facilities to assist the Secretary in determining the compliance of such hospitals and facilities with the requirement of section 321 and shall make periodic reports to the Secretary respecting such review; and"

Effective date.
42 USC 4573
note.
42 USC 4572.
Regulations;
report to the
Secretary of
Health, Educa-
tion, and Wel-
fare.

(2) The amendments made by paragraph (1) shall apply with respect to State plan requirements for allotments under section 302 of the Act after June 30, 1976.

(c) (1) Section 303 of the Act is further amended by inserting at the end thereof the following new subsection:

"(c) The Secretary shall by regulation require, as a condition to the approval of the State plan, that the State for which such plan was submitted report to the Secretary (in such form and manner as the Secretary shall prescribe) an assessment of the progress of the State in the implementation of its State plan. After making an initial such

report, a State shall make additional reports every third year thereafter in which it receives an allotment under this part. The reporting requirement shall first apply with respect to State plans submitted for allotments for fiscal years beginning after September 30, 1977."

(2) Section 303(a) (4) of the Act is amended by inserting "(A)" after "(4)" and by inserting after such section the following:

"(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of alcohol abuse and alcoholism by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;"

SEC. 6. (a) Section 311(a) of the Act is amended to read as follows: "SEC. 311(a) The Secretary, acting through the Institute, may make grants to public and nonprofit private entities and may enter into contracts with public and private entities and with individuals—

Grants and contracts,
42 USC 4577.

"(1) to conduct demonstration and evaluation projects, including projects designed to develop methods for the effective coordination of all alcoholism treatment, training, prevention, and research resources available within a health service area established under section 1511 of the Public Health Service Act,

"(2) to provide treatment and prevention services, with special emphasis on currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available,

"(3) to provide education and training, which may include additional training to enable treatment personnel to meet certification requirements of public or private accreditation or licensure, or requirements of third-party payors, and

"(4) to provide programs and services, including education and counseling services, in cooperation with law enforcement personnel, schools, courts, penal institutions, and other public agencies,

for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics."

(b) Section 311(b) of the Act is amended by redesignating clause (2) as clause (3) and inserting a new clause (2) after "individuals;" as follows: "(2) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability, utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and identify an individual employed by the project or program, or who is available to the project or program on a full-time basis, who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;"

42 USC 300L.

Limited English-speaking individuals.

(c) Section 311(c) of the Act is amended by adding after paragraph (3) the following new paragraphs:

"(4) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of alcohol abuse and alcoholism by women and for programs and projects for prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen.

Programs for women and juveniles, applications.

"(5) Each applicant, upon filing its application with the Secretary for a grant or contract to provide prevention or treatment services, shall provide a proposed performance standard or standards to measure, or research protocol to determine, the effectiveness of such services."

42 USC 4591.

Sec. 7. The Act is further amended by redesignating title V and references thereto as title VI and by inserting after title IV the following:

"TITLE V—RESEARCH

"ENCOURAGEMENT OF RESEARCH

42 USC 4585.

"Sec. 501. (a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

- "(1) the behavioral and biomedical etiology of,
- "(2) treatment of,
- "(3) mental and physical health consequences of, and
- "(4) social and economic consequences of,

alcohol abuse and alcoholism.

"(b) In carrying out the program described in subsection (a) of this section, the Secretary, acting through the Institute, is authorized to—

"(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, the research and other activities under the program;

"(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

"(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and to individuals for such research projects as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism;

"(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

"(5) promote the coordination of research programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from alcoholism or alcohol abuse;

"(6) conduct an intramural program of biomedical and behavioral research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

"(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from alcoholism and alcohol abuse; and

"(B) associated with an accredited medical or research training institution;

"(7) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

"(8) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

"(9) enter into contracts under this title without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5); and

"(10) adopt, upon recommendation of the National Advisory Council on Alcohol Abuse and Alcoholism, such additional means as he deems necessary or appropriate to carry out the purposes of this section.

Contracts.

"SCIENTIFIC PEER REVIEW

"Sec. 502. The Secretary, acting through the Institute, shall, by regulation, provide for review of all research grants and contracts, training, treatment, and prevention activity grants, and programs over which he has authority under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of alcoholism.

Regulations.
42 USC 4586.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 503. There are authorized to be appropriated for carrying out the purposes of section 501 and 502 \$20,000,000 for the fiscal year ending September 30, 1977, \$24,000,000 for the fiscal year ending September 30, 1978, and \$28,000,000 for the fiscal year ending September 30, 1979.

42 USC 4587.

"NATIONAL ALCOHOL RESEARCH CENTERS

"Sec. 504. (a) The Secretary acting through the Institute may designate National Alcohol Research Centers for the purpose of interdisciplinary research relating to alcoholism and other alcohol problems. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

Designation.
42 USC 4588.

"(1) the application contains or is supported by reasonable assurances that—

"(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to provide coordination of such research among such disciplines;

"(B) the applicant has available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

"(C) the applicant has facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

"(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems; and

"(E) the applicant has the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students, and for medical and osteopathic students and physicians;

Annual grants, limitations. (2) the application contains a detailed five-year plan for research relating to alcoholism and other alcohol problems.

(b) The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No annual grant to any Center may exceed \$1,000,000. No funds provided under a grant under this subsection may be used for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term "construction" has the meaning given that term by section 702(2) of the Public Health Service Act (42 U.S.C. 292a).

Appropriation authorization. (c) There are authorized to be appropriated to carry out the purposes of this section \$6,000,000 for the fiscal year ending September 30, 1977, and for each of the next two succeeding fiscal years.

42 USC 3511. Sec. 8. Section 201 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 is amended by adding at the end thereof the following new subsection:

Evaluation and recommendations. "(d) The Secretary of Health, Education, and Welfare, acting through the Administration, shall evaluate and make recommendations regarding improved, coordinated activities, where appropriate, for public education and other prevention programs with respect to the abuse of alcohol and other substances."

21 USC 1176. Sec. 9. The first sentence of section 217(d) of the Public Health Service Act (42 U.S.C. 218) is amended by adding before the period at the end thereof the following: "including policies and priorities with respect to grants and contracts".

Effective date, 21 USC 1176 note, 42 USC 2688a, 2688k, 2688n-1. Sec. 10. (a) (1) Section 409(e) (5) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting "(A)" after "(5)" and by inserting after such section the following:

(B) include in the survey conducted pursuant to subparagraph (A) an identification of the need for prevention and treatment of drug abuse and drug dependence by women and by individuals under the age of eighteen and provide assurance that prevention and treatment programs within the State will be designed to meet such need;

(2) The amendment made by paragraph (1) shall apply with respect to State plans submitted for grants under section 401 of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.

Effective date, 21 USC 1176 note, 21 USC 1177. (b) (1) Section 409(c) (1) (A) of such Act is amended by striking out "an allotment for a fiscal year in an amount not less than \$150,000, the allotment for such State for such fiscal year may not be less than \$150,000 multiplied by such fraction" and substituting "a minimum allotment in excess of \$100,000, multiplied by such fraction, the minimum allotment for such State may be increased by up to 50 percent in accordance with such demonstrated need".

(2) The amendment made by paragraph (1) shall apply with respect to allotments under section 409(c) of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.

Programs for women and juveniles, polio victims. (c) (1) Section 410 of such Act is amended by redesignating subsection (d) as subsection (e) and by adding after subsection (c) the following:

"(d) The Secretary shall give special consideration to applications under this section for programs and projects for prevention and treatment of drug abuse and drug dependence by women and for programs and projects for prevention and treatment of drug abuse and drug dependence by individuals under the age of eighteen."

(2) The amendment made by paragraph (1) shall apply with respect to applications submitted for grants or contracts under section 410 of the Drug Abuse Office and Treatment Act of 1972 after June 30, 1976.

Effective date, 21 USC 1177 note, 21 USC 1177, 42 USC 4581. Sec. 11. (a) Section 321(a) of the Act is amended by inserting "or outpatient facility (as defined in section 1633(6) of the Public Health Service Act)" after "hospital".

(b) Section 321(b) (1) of the Act as amended by—

(1) inserting "and outpatient facilities" after "hospitals";

(2) inserting "or outpatient facility" after "hospital" each time it appears; and

(3) striking out "is authorized to make regulations" in the first sentence and inserting in lieu thereof "shall issue regulations not later than December 31, 1976".

(c) (1) The heading for part C of the Act is amended by striking out "HOSPITALS" and inserting in lieu thereof "HOSPITALS AND OUTPATIENT FACILITIES".

(2) The heading for section 321 of the Act is amended by striking out "HOSPITALS" and inserting in lieu thereof "HOSPITALS AND OUTPATIENT FACILITIES".

42 USC 4577. Application, review, Approval. Sec. 12. (a) Section 311(c) (2) of the Act is amended by inserting at the end thereof the following: "Each application for a grant under this section shall be submitted by the Secretary to the National Advisory Council on Alcohol Abuse and Alcoholism for its review. The Secretary may approve an application for a grant under this section only if it is recommended for approval by such Council."

Effective date, 42 USC 4577 note. (b) The amendment made by subsection (a) shall apply with respect to applications for grants under section 311 of the Act after June 30, 1976.

Approved July 26, 1976.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 94-1092 accompanying H. R. 12677 (Comm. on Interstate and Foreign Commerce) and No. 94-1285 (Comm. of Conference).

SENATE REPORTS: No. 94-705 and No. 94-705 pt. 2 (Comm. on Labor and Public Welfare).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Mar. 29, considered and passed Senate.

May 21, considered and passed House, amended, in lieu of H. R. 12677.

June 29, House and Senate agreed to conference report.

Public Law 95-336
95th Congress

An Act

To amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Amendments of 1978".

Sec. 2. Section 2(b) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1001(b)) is amended—

(1) by inserting after "encourage" the following: "the prevention of alcohol and drug abuse; to stimulate";

(2) by striking out "curricula on" and inserting in lieu thereof "approaches to";

(3) by striking out "problems of" the first time it appears therein and inserting in lieu thereof "prevention of alcohol and";

(4) by striking out "curricula" the second time it appears therein and inserting in lieu thereof "approaches";

(5) by striking out "curricular materials" and inserting in lieu thereof "successful approaches"; and

(6) by striking out "on drug abuse problems", and inserting in lieu thereof "on alcohol and drug abuse problems".

Sec. 3. (a) (1) Section 3(a) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(a)) is amended—

(A) by inserting after "carry out" a comma and the following: "throughout the Nation in rural areas as well as urban areas.";

(B) by striking out "projects" the first time it appears therein and inserting in lieu thereof "programs, including programs of proven effectiveness";

(C) by striking out "projects throughout the Nation" and inserting in lieu thereof "programs to develop local capability to meet problems of alcohol and drug abuse"; and

(D) by inserting at the end thereof the following new sentence: "The Commissioner shall seek equitable distribution of available resources among the various regions of the country and seek to ensure that the special needs of rural areas are appropriately addressed."

(2) Section 3(b)(5) of such Act is amended by inserting "prevention" after "abuse".

(b) Section 3(d)(1) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002(d)) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clauses:

"(E) provides assurance that the applicant will coordinate its efforts with the appropriate State and local alcohol and drug abuse agencies, and educational agencies and organizations; and

21 USC 1002.

Aug. 4, 1978
[H.R. 10569]

Alcohol and Drug Abuse Education Amendments of 1978.
21 USC 1001 note.

Grants.

Office of Alcohol and Drug Abuse Education.
Establishment.

21 USC 1002.

"(F) provides a proposed performance standard to measure, or research procedure to determine, the effectiveness of the program or project for which assistance is sought."

(c) Section 3(e)(2) of such Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

Sec. 4. (a) Section 3 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002) is amended by redesignating subsection (d) through (f) as subsections (g) through (i), respectively, and by inserting after subsection (c) the following new subsections:

"(d) In addition to the purposes described in subsections (b) and (c), from funds in an amount not to exceed 10 per centum of the sums appropriated to carry out this Act, the Commissioner is authorized to make grants to State educational agencies, local educational agencies, institutions of postsecondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in alcohol and drug abuse prevention, and to develop exemplary alcohol and drug abuse prevention programs. To maximum extent practicable, funds expended under this subsection shall be used for grants and programs reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(e)(1) In order to carry out the provisions of this Act, there is established in the Office of Education an Office of Alcohol and Drug Abuse Education (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director.

"(2) The Director shall report directly to the Commissioner.

"(3) The Office of Education shall provide the Office of Alcohol and Drug Abuse Education with sufficient staff and resources to carry out its responsibilities under this Act.

"(4) In carrying out the provisions of this Act, the Director of such Office shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and shall coordinate the activities of such Office with the activities of such Institutes to the extent feasible.

"(f) The Secretary shall assure cooperation and coordination between the Office of Education (acting through the Office of Alcohol and Drug Abuse Education) and the Alcohol, Drug Abuse, and Mental Health Administration (acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse) to identify and implement successful prevention programs and strategies, to identify research and development priorities, and to disseminate the results of such activities. The Secretary shall further assure that all such prevention programs and strategies which are school-based (assisted or conducted by the Department of Health, Education, and Welfare) shall, to the extent feasible, be coordinated through the Office of Education (acting through the Office of Alcohol and Drug Abuse Education)."

(b) Section 3(h)(1) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by striking out "not exceeding 1 per centum" and inserting in lieu thereof "of 3 per centum".

(c)(1) The first sentence of section 3(i) (as redesignated by subsection (a)) is amended by striking out "and", and by inserting before the period at the end thereof a comma and the following: "\$10,000,000

for the fiscal year 1979; \$14,000,000 for the fiscal year 1980; and \$18,000,000 for the fiscal year 1981".

(2) Subsection 3(i) of such Act (as redesignated by subsection (a)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs: *Ante, p. 452.*

"(2) To the maximum extent practicable, of the amount appropriated in any fiscal year under this subsection, sums shall be allotted for alcohol and drug abuse education projects reflecting various services to individuals proportionate to relative numbers of individuals served within and outside of standard metropolitan statistical areas.

"(3) Funds appropriated under this subsection shall remain available for obligation through fiscal year 1981 in order to permit multiple year funding of projects under this Act." *Funds, availability.*

SEC. 5. Section 8(c) of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1007(c)) is amended by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands," *Effective date. 20 USC 1070e-1 note.*

SEC. 6. (a) Section 420(a) of the Higher Education Act of 1965 is amended by adding after paragraph (3) the following new paragraph: *20 USC 1070e-1.*

"(4) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1) (A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Commissioner determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans."

(b) Clause (1) of section 310(b) of the GI Bill Improvement Act of 1977 (91 Stat. 1446) is amended by inserting at the end of subsection (a) of the new section 246, which was conditionally added to title 38, United States Code, by such clause, a new paragraph as follows: *38 USC 246.*

"(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding the provisions of paragraph (1) (A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institu-

tion was entitled to payments under this section as the number of such recipients in all institutions of higher learning during the same academic year for which the determination is made bears to the number of such recipients in all institutions of higher learning for the first such academic year; or

"(B) in the event that clause (A) of this paragraph is not satisfied, the Administrator determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such clause (A), to continue to recruit, enroll, and provide necessary services to veterans."

(c) The amendments made by this section shall be effective with respect to payments to which institutions are entitled as of June 30, 1978.

Approved August 4, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-884 (Comm. on Education and Labor).
SENATE REPORT No. 95-819, accompanying S. 2915 (Comm. on Human Resources).
CONGRESSIONAL RECORD, Vol. 124 (1978):

Feb. 21, considered and passed House.
May 23, considered and passed House, amended in lieu of S. 2915.
July 24, House concurred in Senate amendment.

Public Law 95-461
95th Congress

An Act

Oct. 14, 1978
[S. 2916]

To amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes.

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

Drug Abuse
Prevention and
Treatment
Amendments of
1978.
21 USC 1101
note

SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Prevention and Treatment Amendments of 1978".

EXTENSION OF SECTIONS 409, 410, AND 503

21 USC 1176. SEC. 2. (a) The first sentence of section 409(a) of the Drug Abuse Office and Treatment Act of 1972 is amended (1) by striking out "and" after "1977," and (2) by inserting after "1978," the following: "and September 30, 1979."

21 USC 1177. (b) Section 410(b) of such Act is amended by adding at the end the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) \$153,000,000 for grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs, and (2) \$24,000,000 for grants and contracts under such subsection for other programs and activities."

21 USC 1193. (c) Section 503(b) of such Act is amended (1) by striking out "and" after "1977," and (2) by inserting before the period a comma and the following: "and \$7,000,000 for the fiscal year ending September 30, 1979".

REPORTS

42 USC 242
note. SEC. 3. (a) Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

21 USC 1172. (b) Section 405(b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried out through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, a description of the amount of funds expended in carrying out such functions, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year."

(c) Not later than 120 days after the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations respecting such functions in these areas.

Report to
Congress.
21 USC 1172
note.

STATE PLANS FOR FORMULA GRANTS

SEC. 4. Section 409(e) of the Drug Abuse Office and Treatment Act of 1972 is amended—

21 USC 1176.

(1) by striking out "July 15" and inserting in lieu thereof "July 31";

(2) by inserting after "groups," in paragraph (3) "of political subdivisions in the State,"

(3) by inserting after "areas of the State" in paragraph (3) "and from population groups in the State which are seriously affected by drug abuse";

(4) by striking out "in carrying out" in paragraph (3) and inserting in lieu thereof "in preparing and carrying out"; and

(5) by amending paragraph (7) to read as follows:

"(7) provide reasonable opportunity for political subdivisions in the State to submit to the State agency recommendations respecting the preparation and carrying out of the State plan;".

TECHNICAL ASSISTANCE

SEC. 5. Section 502(b)(3) of the Drug Abuse Office and Treatment Act of 1972 is amended by striking out "control and treatment" and inserting in lieu thereof "prevention, control, and treatment".

21 USC 1192.

ACTIVITIES OF THE NATIONAL INSTITUTE ON DRUG ABUSE

21 USC 1172. SEC. 6. (a) Section 410 (a) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting ", acting through the National Institute on Drug Abuse," after "Secretary" the first place it appears.
 (b) (1) Title V of such Act is amended by adding at the end thereof the following new section:

21 USC 1194. "§ 504. Review of programs and activities
 "The Secretary, acting through the Institute, shall, by regulation, provide for review of all grants made, and contracts entered into, for research, training, treatment, prevention, and other programs and activities authorized under this Act by utilizing, to the maximum extent possible, appropriate peer review groups, composed principally of non-Federal scientists and other experts in the field of drug abuse."
 (2) The table of sections at the beginning of such title is amended by adding at the end thereof the following new item:

"504. Review of programs and activities."

Approved October 14, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1187 accompanying H.R. 12348 (Comm. on Interstate and Foreign Commerce).

SENATE REPORTS No. 95-820 (Comm. on Human Resources) and No. 95-151 accompanying S. 1232 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 123 (1977): June 6, S. 1232 considered and passed Senate.
 Vol. 124 (1978): May 24, considered and passed Senate.
 Sept. 18, H.R. 12348 considered and passed House; passage vacated and S. 2916, amended, passed in lieu.
 Oct. 2, Senate concurred in House amendment.

Public Law 95-633
 95th Congress

An Act

Nov. 10, 1978
 [S. 2399]

To amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Psychotropic Substances Act of 1978".

Psychotropic
 Substances Act
 of 1978.
 21 USC 801 note.

TITLE I—ENABLING PROVISIONS FOR THE CONVENTION ON PSYCHOTROPIC SUBSTANCES

21 USC 801a.

SEC. 101. 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. 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 Sec-

21 USC 801 note.

retary of Health, Education, and Welfare on the basis of a consensus of the views of the American medical and scientific community.

SEC. 102. (a) Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by inserting "(1)" after "(d)" and by adding the following new paragraphs at the end thereof:

"(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 Convention 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, Education, and Welfare 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, Education, and Welfare 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, Education, and Welfare 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, Education, and Welfare 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 title to a drug or substance and the controls required by the Federal Food, Drug, and Cosmetic Act do not meet the requirements of the schedule of the Convention in which such drug or substance has been placed, the Secretary of Health, Education, and Welfare, after consultation with the Attorney General, shall first determine whether existing legal controls under this title 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, Education, and Welfare nonetheless

Publication in
Federal
Register.

Publication in
Federal
Register.

21 USC 301.

lice.

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, Education, and Welfare 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, Education, and Welfare 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, Education, and Welfare, that proceedings initiated under recommendations made under paragraph (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 title 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 issu-

ance 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, Education, and Welfare 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 title 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 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 202(b) 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, Education, and Welfare or the Attorney General through the

Convention on
Psychotropic
Substances."

USC 812 note.

USC 811, 812.

USC 823.

Ante, p. 3768.

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."

(b) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(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."

(c) 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, place such drugs in schedule IV of such Act.

Sec. 103. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by striking out "and" before "(2)" and by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances".

Sec. 104. Section 307 of the Controlled Substances Act (21 U.S.C. 827) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) In addition to the reporting and recordkeeping requirements under any other provision of this title, each manufacturer registered under section 303 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 title on manufacturers subject to the requirements of this subsection."

Sec. 105. Section 1002(b) of the Controlled Substances Import and Export Act (21 U.S.C. 952(b)) is amended by inserting immediately before the period at the end of paragraph (2) the following: ", 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".

Sec. 106. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953(e)) is amended—

(1) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (3) the following new paragraph:

"(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."

SEC. 107 (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF TREATIES AND OTHER INTERNATIONAL AGREEMENTS

"SEC. 412. 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."

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of treaties and other international agreements." immediately after

"Sec. 411. Proceedings to establish previous convictions."

SEC. 108. (a) Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) 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."

(b) Section 303 of the Public Health Service Act (42 U.S.C. 242a) is amended by redesignating subsection (b) as subsection (c), and by adding after subsection (a) the following new subsection:

"(b) 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."

SEC. 109. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823(f)) is amended by adding at the end the following sentence: "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 title."

SEC. 110. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827(c)) is amended by adding the following after and below paragraph (3): "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."

SEC. 111. Subsection (n) of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) is amended by adding the fol-

lowing new sentence at the end thereof: "Nothing in the Convention on Psychotropic Substances, signed at Vienna, Austria, on February 21, 1971, shall be construed to prevent drug price communications to consumers."

SEC. 112. 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.

TITLE II—PCP CRIMINAL PENALTIES AND PIPERIDINE REPORTING

SEC. 201. Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by inserting "except as provided in paragraphs (4) and (5) of this subsection," after "such person shall" in the first sentence of subsection (b) (1) (B);

(2) by adding after paragraph (4) of subsection (b) the following new paragraph:

"(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 title, phencyclidine (as defined in section 310(c)(2)) 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 title or title III 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."; and

(3) by adding after subsection (c) the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) possesses any piperidine with intent to manufacture phencyclidine except as authorized by this title, 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 title,

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

SEC. 202. (a) Part C of the Controlled Substances Act is amended (1) by inserting "PIPERIDINE REPORTING" at the end of its heading, and (2) by adding after section 309 (21 U.S.C. 829) the following new section:

Effective date.
21 USC 801a
note.

21 USC 852.

21 USC 801 note.

Post, p. 3775.

"PIPERIDINE REPORTING

"SEC. 310. (a) (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 distributor, 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 title.

"(b) 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, United States Code, 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 title or title III or when relevant in any proceeding for the enforcement of this title or title III.

21 USC 830.

Definitions.
21 USC 841,
842.

21 USC 951.

Ante, p. 3775.

21 USC 801 note.

21 USC 829.

21 USC 830 note.

"(c) For purposes of this section, section 401(d), and section 402(a) (9):

"(1) The term 'import' has the meaning given such term in section 1001(a) (1).

"(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 title.

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

(b) (1) Section 402(a) of such Act (21 U.S.C. 842(a)) is amended—

(A) by striking out "or" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(C) by adding after paragraph (8) the following new paragraph:

"(9) to distribute or sell piperidine in violation of regulations established under section 310(a) (2), respecting presentation of identification."

(2) Section 402(c) (2) of such Act (21 U.S.C. 842(c) (2)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C) Subparagraphs (A) and (B) shall not apply to a violation of subsection (a) (5) with respect to a refusal or failure to make a report required under section 310(a) (relating to piperidine reporting)."

(3) Section 403(a) (4) of such Act (21 U.S.C. 843(a) (4)) is amended—

(A) by inserting "(A)" after "(4)", and

(B) by inserting before "; or" the following: ", 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 310(a)".

(c) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(1) by inserting "; PIPERIDINE REPORTING" at the end of the item relating to part C, and

(2) by adding immediately after the item relating to section 309 the following new item:

"Sec. 310. Piperidine reporting."

SEC. 203. (a) (1) Except as provided under paragraph (2), the amendments made by this title shall take effect on the date of the enactment of this Act.

(2) Any person required to submit a report under section 310 (a) (1) of the Controlled Substances Act respecting a distribution, sale, or importation of piperidine during the 90 days after the date of the enactment of this Act 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) 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.

(b) The Attorney General shall—

(1) first publish proposed interim regulations to carry out the requirements of section 310(a) of the Controlled Substances Act (as added by section 202(a)(2) of this title) not later than 30 days after the date of the enactment of this Act, and

(2) first promulgate final interim regulations to carry out such requirements not later than 75 days after the date of the enactment of this Act, such final interim regulations to be effective with respect to distributions, sales, and importations of piperidine on and after the ninety-first day after the date of the enactment of this Act.

(c) The Attorney General, after consultation with the Secretary of Health, Education, and Welfare, shall analyze and evaluate the impact and effectiveness of the amendments made by this title, including the impact on the illicit manufacture and use of phencyclidine and the impact of the requirements imposed by such amendments on legitimate distributions and uses of piperidine. Not later than March 1, 1980, the Attorney General shall report to the President and the Congress on such analysis and evaluation and shall include in such report such recommendations as the Attorney General deems appropriate.

(d) On January 1, 1981, section 310, subsection (d) of section 401, paragraph (9) of section 402(a), subparagraph (C) of section 402(c)(2), and clause (B) of section 403(a)(4) of the Controlled Substances Act (as added by this title) are repealed.

Report to
President and
Congress.

Repeals.

Ante, p. 3775,
3776.

TITLE III—FORFEITURE OF PROCEEDS OF ILLEGAL DRUG TRANSACTIONS

Sec. 301. (a) Section 511 of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 881) is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

“(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 title, 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 title, 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.”;

(2) in subsection (e)(2) by striking out “, but the proceeds” and all that follows through “court costs”; and

(3) by adding at the end of subsection (e) the following new sentence:

“The proceeds from any sale under paragraph (2) and any moneys forfeited under this title 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.”.

(b) The second sentence of section 1015 of such Act (21 U.S.C. 965) is amended by inserting “or 511” after “510” each place it appears.

Approved November 10, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-1193, accompanying H.R. 12008 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 95-959 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 124 (1978):

July 27, considered and passed Senate.

Sept. 18, considered and passed House, amended, in lieu of H.R. 12008.

Oct. 7, Senate concurred in House amendment with an amendment.

Oct. 13, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:

Nov. 10, Presidential statement.

Public Law 96-180
96th Congress

An Act

To revise and extend the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

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

SECTION 1. (a) This Act may be cited as the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979".

(b) Whenever in this Act (other than in section 13) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

Sec. 2. (a) Paragraphs (2) and (3) of section 2(a) (42 U.S.C. 4541(a)) are amended to read as follows:

"(2) approximately ten million, or 7 percent, of the adults in the United States are alcoholics or problem drinkers;

"(3) it is estimated that alcoholism and other alcohol related problems cost the United States over \$45,000,000,000 annually in lost production, medical and public assistance expenditures, police and court costs, and motor vehicle and other accidents;"

(b) Section 2(a) is further amended—

(1) by striking out "and" at the end of paragraph (6) and inserting in lieu thereof "and contributes to domestic violence";

(2) by redesignating paragraph (7) as paragraph (8) and amending it to read as follows:

"(8) alcoholism is an illness requiring treatment and rehabilitation through the assistance of a broad range of community health and social services and with the cooperation of law enforcement agencies, employers, employee associations, and associations of concerned individuals."; and

(3) by inserting after paragraph (6) the following paragraph:

"(7) alcohol abuse and alcoholism, together with abuse of other legal and illegal drugs, present a need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, the elderly, and families of alcohol abusers and alcoholics; and"

(c) Section 2(b) is amended—

(1) by striking out "and" at the end of the paragraph (2);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and abuse of other legal and illegal drugs;

"(4) the development and encouragement of effective occupational prevention and treatment programs within government and in cooperation with the private sector; and"

Jan 2, 1980
[S. 440]
Underserved areas, program development.
Report to President and Congress.

Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendment of 1979.
42 USC 4541 note.
42 USC 4541 note.

92 Stat. 3437.

42 USC 4553.

5 USC 7101.

Model programs.

42 USC 4573.

Cooperative agreements.

Sec. 3. Section 101 (42 U.S.C. 4551) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative policies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 102(1) a description of the actions taken by the Director under paragraph (1)."

SEC. 4. (a) Section 102(1) (42 U.S.C. 4552(1)) is amended by inserting after "expenditures of funds," the following: "a description, prepared in consultation with the committee established under section 103, of the extent to which Federal programs and departments are concerned and dealing effectively with the problems of alcohol abuse and alcoholism,"

(b) Section 102 is amended—

(1) by inserting "and" at the end of paragraph (3),

(2) by striking out "and" at the end of paragraph (4) and inserting in lieu thereof a period, and

(3) by striking out paragraph (5) and the last sentence.

SEC. 5. Section 103(b)(1) (42 U.S.C. 4553(b)(1)) is amended by inserting "the Department of the Treasury, the Department of Labor, the Department of Education" after "the Department of Defense".

SEC. 6. (a) Section 201(a) (42 U.S.C. 4561(a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

(2) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," following "other Federal agencies and departments,"; and

(3) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of alcoholic employees and to employees who have family members who are alcoholics." before the last sentence.

(b)(1) Section 201(b) is amended to read as follows:

"(b)(1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry. To the extent feasible, such programs and services should be designed such that they apply to the families of employees and to employees who have family members who are alcoholics.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 303 of this Act, and shall, to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs

developed pursuant to section 413(b) of the Drug Abuse Office and Treatment Act of 1972."

(2)(A) The heading for title II is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

(B) The heading for section 201 is amended by striking out "FEDERAL CIVILIAN EMPLOYEES" and inserting in lieu thereof "GOVERNMENT AND OTHER EMPLOYEES".

SEC. 7. Section 301 (42 U.S.C. 4571) is amended—

(1) by striking out "and" after "1978," and

(2) by inserting after "1979," the following: "\$60,000,000 for the fiscal year ending September 30, 1980, and \$65,000,000 for the fiscal year ending September 30, 1981,".

SEC. 8. Section 302 (42 U.S.C. 4572) is amended by adding at the end the following new subsection:

"(e) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 321 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Drug Abuse Office and Treatment Act of 1972."

SEC. 9. (a) Section 303(a) (42 U.S.C. 4573(a)) is amended—

(1) by inserting ", women, and the elderly" after "minority and poverty groups" in paragraph (3);

(2) by inserting ", by the elderly," after "by women" in paragraph (4)(B);

(3) by inserting before the semicolon at the end of paragraph (4) the following: "; and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the drug abuse and dependence survey conducted pursuant to section 409 of the Drug Abuse Office and Treatment Act of 1972";

(4) by inserting ", with State and local drug abuse planning agencies," after "alcoholism and alcohol abuse planning agencies" in paragraph (12); and

(5) by striking out "and" at the end of paragraph (15), by redesignating paragraph (16) as paragraph (17), and by inserting after paragraph (15) the following new paragraph:

"(16) provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 201(b) of this Act; and

"(C) will furnish technical assistance as feasible to such business concerns and governmental entities; and"

(b) Section 303(c) is amended by inserting after "implementation of its State plan" the following: "and a plan of action for the next three

21 USC 1180.

42 USC 4561.

Federal technical assistance.

42 USC 4581.

21 USC 1101 note.

21 USC 1176.

State agency responsibilities.

Survey.

years. To the extent feasible the report shall include a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to alcohol abuse and alcoholism."

SEC. 10. Section 310(a) (42 U.S.C. 4576(a)) is amended by striking out "1979" and inserting in lieu thereof "1981".

SEC. 11. (a) Section 311(a) (42 U.S.C. 4577(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(2) by striking before paragraph (2) (as so redesignated) the following new paragraph:

"(1) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects in occupational and educational settings and on modified community living and work-care arrangements such as halfway houses, recovery homes, and supervised home care,";

(3) by striking out "conduct demonstration and evaluation projects, including projects designed to develop" in paragraph (2) (as so redesignated) and inserting in lieu thereof "support projects of a demonstrable value in developing"; and

(4) by striking out "female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available" in paragraph (3) (as so redesignated) and inserting in lieu thereof "the elderly, women, the handicapped, families of alcoholics, and victims of alcohol-related domestic violence".

(b) Section 311(b) is amended (1) by redesignating clauses (1), (2), and (3) as clauses (2), (3), and (4), respectively, and by inserting after "under this section shall" the following: "(1) be responsive to special requirements of handicapped individuals in receiving such services"; and (2) by inserting in clause (2) (as so redesignated) the following: "(in the case of prevention and treatment services)" after "seek".

(c) Paragraph (4) of section 311(c) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(A) for the prevention and treatment of alcohol abuse and alcoholism by women,

"(B) for the prevention and treatment of alcohol abuse and alcoholism by the elderly,

"(C) for the prevention and treatment of alcohol abuse and alcoholism by individuals under the age of eighteen."

SEC. 12. Section 312 (42 U.S.C. 4578) is amended—

(1) by striking out "and" after "1978," and

(2) by striking out the period and inserting in lieu thereof a comma and the following: "\$102,500,000 for the fiscal year ending September 30, 1980, and \$115,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this section for the fiscal year ending September 30, 1980, at least 8 percent of the funds shall be obligated for grants for projects, programs, and services to prevent (through outreach, intervention, and education) the occurrence of alcoholism and alcohol abuse; and of the funds appropriated under this section for the next fiscal year at least 10 percent of the funds shall be obligated for such grants."

SEC. 13. Section 217(a) of the Public Health Service Act (42 U.S.C. 218(a)) is amended by inserting after the fourth sentence the follow-

Program and project applications.

ing: "Appointed members may serve after the expiration of their terms until their successors have taken office."

Sec. 14. (a) Section 501(a) (42 U.S.C. 4591(a)) is amended to read as follows:

"(a) The Secretary, acting through the Institute, shall carry out a program of research, investigations, experiments, demonstrations, and studies, directly and by grant or contract, into—

- "(1) the social, behavioral, and biomedical etiology,
- "(2) prevention,
- "(3) treatment,
- "(4) mental and physical health consequences,
- "(5) social and economic consequences, and
- "(6) the impact on families, of alcohol abuse and alcoholism."

(b) Section 501(b) is amended—

- (1) in paragraph (3), by inserting before the semicolon the following: "and such Council shall give special consideration to projects relating to the relationship between alcohol abuse and domestic violence, the effects of alcohol use during pregnancy, the relationship between the abuse of alcohol and other drugs, and the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages";
- (2) in paragraph (5)—

(A) by inserting "the National Institute of Drug Abuse and by" following "similar programs conducted by"; and

(B) by inserting "departments," before "agencies";

(3) in paragraph (6), by striking out "biomedical and behavioral" and inserting in lieu thereof "biomedical, behavioral, epidemiological, and social"; and

(4) in paragraph (8), by inserting "and other scientific research" following "statistical".

Sec. 15. Section 503 (42 U.S.C. 4587) is amended—

(1) by striking out "and" after "1978," and

(2) by inserting before the period a comma and the following: "\$28,000,000 for the fiscal year ending September 30, 1980, and \$28,000,000 for the fiscal year ending September 30, 1981".

Sec. 16. (a) Section 504(a) (42 U.S.C. 4588(a)) is amended—

(1) by striking out "alcohol problems" in the first sentence and inserting in lieu thereof "biomedical, behavioral, and social issues related to alcoholism and alcohol abuse";

(2) in paragraph (1)(B), by striking out "laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature)" and inserting in lieu thereof "facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application";

(3) in paragraph (1)(D), by striking out "and" at the end thereof;

(4) in paragraph (1)(E), by striking out "medical and osteopathic students and physicians;" and inserting in lieu thereof "medical and osteopathic, nursing, social work, and other specialized graduate students; and"; and

(5) by inserting after paragraph (1)(E) the following:

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require."

42 USC 4588.

42 USC 4585

Research programs

Contract authority. 42 USC 4594.

National Commission on Alcoholism and Other Alcohol-Related Problems, establishment. 42 USC 4541 note.

Quorum.

(b) Section 504(b) is amended by striking out "\$1,000,000" and inserting in lieu thereof "\$1,500,000".

(c) Section 504(c) is amended by inserting before the period a comma and the following: "\$8,000,000 for the fiscal year ending September 30, 1980, and \$9,000,000 for the fiscal year ending September 30, 1981".

Sec. 17. Title VI is amended by adding at the end the following new section:

"Sec. 604. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts."

Sec. 18. (a)(1) There is established a Commission to be known as the National Commission on Alcoholism and Other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(A) four Members of the Senate appointed by the President of the Senate upon the recommendation of the majority and minority leaders;

(B) four Members of the House of Representatives appointed by the Speaker of the House of Representatives upon the recommendation of the majority and minority leaders;

(C) nine public members appointed by the President; and

(D) not more than four nonvoting members appointed by the President from individuals employed in the administration of programs of the Federal Government which affect the prevention and treatment of alcoholism and the rehabilitation of alcoholics and alcohol abusers.

At no time shall more than two members appointed under subparagraph (A), more than two of the members appointed under subparagraph (B), or more than five of the members appointed under subparagraph (C) be members of the same political party.

(2)(A) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Nine members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Members appointed under paragraph (1)(D) shall not be considered in determining a quorum of the Commission.

(B) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission.

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

(3)(A) The Commission may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, an executive secretary to assist the Commission in carrying out its functions.

(B) The Secretary shall provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Secretary determines necessary for the Commission to carry out effectively its functions.

(C) 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, the head of such department or agency shall furnish such information to the Commission consistent with applicable laws and regulations with respect to the privacy of medical records.

(b) The Commission shall conduct a study of alcoholism and alcohol-related problems and shall include in the study—

(1) an assessment of unmet treatment and rehabilitation needs of alcoholics and their families;

(2) an assessment of personnel needs in the fields of research, treatment, rehabilitation, and prevention;

(3) an assessment of the integration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities;

(4) a study of the relationship of alcohol use to aggressive behavior and crime;

(5) a study of the relationship of alcohol use to family violence;

(6) a study of the relationship of alcoholism to illnesses, particularly those illnesses with a high stress component, among family members of alcoholics;

(7) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(8) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems;

(9) a survey of the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; and

(10) an evaluation of the needs of special and underserved population groups, including American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped and assess the adequacy of existing services to fulfill such needs.

(c) 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.

(d) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(e) There are authorized to be appropriated for the purposes of this section \$1,000,000 to remain available until the expiration of the Commission.

Sec. 19. Title III is amended by adding at the end the following:

"PART D—REPORT

"REPORT

"Sec. 334. (a) Not later than June 1, 1980, the Secretary of Health, Education, and Welfare, acting through the Assistant Secretary for Health, and the Secretary of the Treasury, acting through the Assistant Secretary for Enforcement and Operations, shall jointly report to the President and the Congress—

"(1) the extent and nature of birth defects associated with alcohol consumption by pregnant women,

"(2) the extent and nature of other health hazards associated with alcoholic beverages, and

"(3) the actions which should be taken by the Federal Government under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such health hazards.

Study.

27 USC 201.
21 USC 301.

Reports to
President
and Congress.

Appropriation
authorization.

Submittal to
President and
Congress.
42 USC 4552
note.

"(b) Subsection (a) shall not be construed to limit the authority of the Attorney General, the Secretary of the Treasury, or the Secretary of Health, Education, and Welfare under the Federal Alcohol Administration Act or the Federal Food, Drug, and Cosmetic Act."

Approved January 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-193 accompanying H.R. 3916 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 96-103 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 125 (1979):

May 7, considered and passed Senate.

Oct. 16, H.R. 3916 considered and passed House; passage vacated and S. 440, amended, passed in lieu.

Dec. 19, Senate concurred in House amendment with an amendment; House concurred in Senate amendment.

Public Law 96-181
96th Congress

An Act

To amend the Drug Abuse Office and Treatment Act of 1972, and for other purposes.

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

SECTION 1. (a) This Act may be cited as the "Drug Abuse Prevention, Treatment, and Rehabilitation Amendments of 1979".

(b) Whenever in this Act (other than in sections 14 and 15) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Office and Treatment Act of 1972.

SEC. 2. Section 101 (21 U.S.C. 1101) is amended by inserting at the end thereof the following new paragraphs:

"(11) Shifts in the usage of various drugs and in the Nation's demographic composition require a Federal strategy to adjust the focus of drug abuse programs to meet new needs and priorities on a cost-effective basis.

"(12) The growing extent of drug abuse indicates an urgent need for prevention and intervention programs designed to reach the general population and members of high risk populations such as youth, women, and the elderly.

"(13) Effective control of drug abuse requires high-level coordination of Federal international and domestic activities relating to both supply of, and demand for, commonly abused drugs.

"(14) Local governments with high concentrations of drug abuse should be actively involved in the planning and coordination of efforts to combat drug abuse."

SEC. 3. Section 102 (21 U.S.C. 1102) is amended by adding at the end thereof the following: "To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this Act to meet the problems of drug abuse through—

"(1) comprehensive Federal, State, and local planning for, and effective use of, Federal assistance to States and to community-based programs to meet the urgent needs of special populations, in coordination with all other governmental and nongovernmental sources of assistance;

"(2) the development and support of community-based prevention programs;

"(3) the development and encouragement of effective occupational prevention and treatment programs within the Government and in cooperation with the private sector; and

"(4) increased Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, drug abuse."

SEC. 4. Title II (21 U.S.C. 1111-1133) is amended to read as follows:

DRUG ABUSE
OFFICE
Jan. 2, 1980
[S. 525]

Drug Abuse
Prevention,
Treatment, and
Rehabilitation
Amendments of
1979.
21 USC 1101
note.

21 USC 1101
note.
Congressional
findings.

Declaration of
national policy.

21 USC 1111.

Reports,
submittal to
President.

21 USC 1112.

Congressional
access.

21 USC 1113.

21 USC 1114.

"TITLE II—DRUG ABUSE POLICY COORDINATION

"Sec.

"201. Concentration of Federal effort.

"202. Designated drug representative.

"203. Officers and employees.

"204. Acceptance of uncompensated services.

"205. Notice relating to the control of dangerous drugs.

"206. Statutory authority unaffected.

"207. Annual report.

"§ 201. Concentration of Federal effort.

"(a) The President shall establish a system for developing recommendations with respect to policies for, objectives of, and establishment of priorities for, Federal drug abuse functions and shall coordinate the performance of such functions by Federal departments and agencies. Recommendations under this subsection shall include recommendations for changes in the organization, management, and personnel of Federal departments and agencies performing drug abuse functions in order to implement the policies, priorities, and objectives recommended under this subsection.

"(b) To carry out subsection (a), the President, shall—

"(1) review the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of drug abuse functions;

"(2) conduct, or provide for, evaluations of (A) the performance of drug abuse functions by Federal departments and agencies, and (B) the results achieved by such departments and agencies in the performance of such functions; and

"(3) seek to assure that Federal departments and agencies, in the performance of drug abuse functions, construe drug abuse as a health problem requiring treatment and rehabilitation through a broad range of community health and social services.

"(c) Federal departments and agencies engaged in drug abuse functions shall submit to the President such information and reports as may reasonably be required to carry out the purposes of this title.

"§ 202. Designated drug representative.

"(a) The President shall designate a single officer or employee of the United States to direct the activities required by this title. The location of such designee in the Executive Office of the President or elsewhere shall not be construed as affecting access by the Congress or committees of either House (1) to information, documents, and studies in the possession of, or conducted by or at the direction of, such designee, or (2) to personnel involved in carrying out activities under this title.

"(b) The President may direct the officer or employee designated under subsection (a) of this section to represent the Government of the United States in discussions and negotiations relating to drug abuse functions.

"§ 203. Officers and employees.

"In carrying out this title, the President may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to perform the functions vested in him by this title.

"§ 204. Acceptance of uncompensated services.

"In carrying out this title, the President is authorized to accept and employ in furtherance of the purpose of this title voluntary and

uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

“§ 205. Notice relating to the control of dangerous drugs.

21 USC 1115.

“Whenever the Attorney General determines that there is evidence that—

“(1) a drug or other substance, which is not a controlled substance (as defined in section 102(6) of the Controlled Substances Act), has a potential for abuse, or

21 USC 802.

“(2) a controlled substance should be transferred or removed from a schedule under section 202 of such Act,

21 USC 812.

he shall, prior to initiating any proceeding under section 201(a) of such Act, give the President timely notice of such determination. Information forwarded to the Attorney General pursuant to section 201(f) of such Act shall also be forwarded by the Secretary of Health, Education, and Welfare to the President.

21 USC 811.

“§ 206. Statutory authority unaffected.

21 USC 1116.

“Nothing in this title shall be construed to limit the authority of the Secretary of Defense with respect to the operation of the Armed Forces or the authority of the Administrator of Veterans' Affairs with respect to the furnishing of health care and related services to veterans.

“§ 207. Annual report.

21 USC 1117.

“The President shall submit to the Congress, prior to March 1 of each year, a written report on the activities conducted under this title. The report shall specify the objectives, nature, and results of such activities, and shall contain an accounting of funds expended under this title.”

Sec. 5. (a) Section 302 (21 U.S.C. 1162) is amended by striking out “Director of the Office of Drug Abuse Policy” and inserting in lieu thereof “representative designated under section 202 of this Act”.

Strategy Council.

Ante, p. 1310.

(b) Section 302 is further amended by striking out “three members from outside the Federal Government.” and inserting in lieu thereof “five members from outside the Federal Government, at least one of whom shall be a representative of State government who is responsible for dealing with drug abuse problems and one of whom shall be a representative of local government who is responsible for dealing with such problems.”

(c) Section 304 (21 U.S.C. 1164) is amended by striking out “Director of the Office of Drug Abuse Policy” and inserting in lieu thereof “President”.

Sec. 6. (a) The first sentence of section 409(a) (21 U.S.C. 1176(a)) is amended (1) by striking out “and” after “1978,” and (2) by inserting after “1979,” the following: “September 30, 1980, and September 30, 1981.”

Formula grants.

(b) Section 409(e) is amended—

(1) by inserting “(including women and the elderly)” after “population groups” in paragraph (3);

(2) by amending paragraph (4) to read as follows:

“(4) describe the drug abuse prevention functions to be carried out under the plan with assistance under this section, set forth in detail the changes in emphasis among such functions resulting from shifts in demographic and drug abuse patterns within the State, and describe all other drug abuse prevention functions to be carried out within the State with assistance under this Act;”

(3) by inserting “, by the elderly,” after “by women” in clause (B) of paragraph (5), by striking out “and (B)” in paragraph (5) and inserting in lieu thereof “(B)”, and by inserting before the semicolon at the end of paragraph (5) the following: “; and (C) provide assurances satisfactory to the Secretary that, insofar as practicable, the survey conducted pursuant to clause (A) is coordinated with and not duplicative of the alcohol abuse and alcoholism survey conducted pursuant to section 303 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970”.

42 USC 4573.

(4) by inserting “(A)” after “in the State” in paragraph (7) and by inserting before the semicolon in paragraph (7) the following: “; (B) to review and comment on the plan prior to its submission to the Secretary, and (C) to submit to the Secretary as an appendix to the plan such comments as such political subdivisions believe are relevant to approval of the plan under subsection (f)”;

(5) by inserting “and to the extent feasible a survey of the extent to which other State programs and political subdivisions throughout the State are dealing effectively with the problems related to drug abuse and drug dependence,” after “under the plan,” in paragraph (10); and

(6) by striking out “and” at the end of paragraph (12), by redesignating paragraph (13) as paragraph (17), and by inserting after paragraph (12) the following new paragraphs:

“(13) contain, to the extent feasible, a complete inventory of all public and private resources available in the State for the purpose of drug abuse and drug dependence treatment, prevention, and rehabilitation, including programs funded under State and local laws, occupational programs, voluntary organizations, education programs, military and Veterans' Administration resources, and available public and private third-party payment plans;

“(14) provide assurance that the State agency will coordinate its planning with local drug abuse planning agencies, with State and local alcoholism and alcohol abuse planning agencies, and with other State and local health planning agencies;

“(15) provide assurance that the State agency—

“(A) will foster and encourage the development of drug abuse and drug dependence prevention, treatment, and rehabilitation programs and services in State and local governments and in private businesses and industry;

“(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as are developed pursuant to section 413(b)(2) of this Act; and

“(C) will furnish technical assistance as feasible to such business concerns and governmental entities;

“(16) include a needs assessment of the severity of drug abuse problems within urban and nonurban areas of the State, an accounting of the existing and proposed allocation of resources among such areas, and a description of the role of units of general purpose local government in planning and coordinating the use of such resources; and”.

Sec. 7. (a) Section 410(a) (21 U.S.C. 1177(a)) is amended—

(1) by inserting the following after “development” in paragraph (1): “, demonstration, and evaluation”;

Special project grants and contracts.

Post, p. 1314.

(2) by inserting "and detoxification" before "techniques" in paragraph (5); and

(3) by inserting before the period in paragraph (6) the following: ", with particular emphasis on replicating effective prevention and treatment programs".

(b) Section 410(b) is amended by adding at the end the following: "For grants and contracts under paragraphs (3) and (6) of subsection (a) for drug abuse treatment programs there is authorized to be appropriated \$149,000,000 for the fiscal year ending September 30, 1980, and \$155,000,000 for the fiscal year ending September 30, 1981; and for grants and contracts under such subsection for other programs and activities there is authorized to be appropriated \$20,000,000 for the fiscal year ending September 30, 1980, and \$30,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under the preceding sentence for the fiscal year ending September 30, 1980, at least 7 percent of the funds shall be obligated for grants and contracts for primary prevention and intervention programs designed to discourage individuals, particularly those in high risk populations, from abusing drugs; and of the funds appropriated under the preceding sentence for the next fiscal year, at least 10 percent of the funds shall be obligated for such grants and contracts."

(c) Subsection (d) of section 410 is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects—

"(1) for the prevention and treatment of drug abuse and drug dependence by women,

"(2) for the prevention and treatment of drug abuse and drug dependence by the elderly, and

"(3) for the prevention and treatment of drug abuse and drug dependence by individuals under the age of 18."

(d) Section 410 is amended by adding at the end the following new subsection:

"(f) Projects and programs for which grants and contracts are made or entered into under this section shall, in the case of prevention and treatment services, seek to (1) be responsive to special requirements of handicapped individuals in receiving such services; (2) whenever possible, be community based, insure care of good quality in general community care facilities and under health insurance plans, and be integrated with, and provide for the active participation of, a wide range of public and nongovernmental agencies, organizations, institutions, and individuals; (3) where a substantial number of the individuals in the population served by the project or program are of limited English-speaking ability (A) utilize the services of outreach workers fluent in the language spoken by a predominant number of such individuals and develop a plan and make arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identify an individual who is fluent both in that language and English and whose responsibilities shall include providing guidance to the individuals of limited English-speaking ability and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and (4) where appropriate, utilize existing community resources (including community mental health centers)."

Sec. 8. (a) Section 413(a) (21 U.S.C. 1180(a)) is amended—

(1) by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management";

21 USC 1177.
Appropriation
authorizations.

5 USC 7107.

21 USC 1180.

Model programs.

21 USC 1176.

42 USC 4561.

Handicapped
persons.

Persons of
limited English-
speaking ability.

21 USC 1181.

Drug abuse
among
employees.

(2) by striking out "Director" and inserting in lieu thereof "President, with the Secretary (acting through the National Institute on Drug Abuse).";

(3) by inserting "and in accordance with the provisions of subpart F of part III of title 5, United States Code," after "other Federal agencies and departments"; and

(4) by inserting "Such agencies and departments are encouraged to extend, to the extent feasible, these programs and services to the families of employees and to employees who have family members who are drug abusers." before the last sentence.

(b)(1) Section 413(b) is amended to read as follows:
"(b)(1) The Secretary, acting through the National Institute on Drug Abuse, shall be responsible for fostering and encouraging similar drug abuse prevention, treatment, and rehabilitation programs and services in State and local governments and in private industry.

"(2)(A) Consistent with such responsibility, the Secretary, acting through the National Institute on Drug Abuse, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single State agencies designated pursuant to section 409(e)(1) of this Act, and, shall to the extent feasible, provide technical assistance to such agencies as requested.

"(3) Model programs developed under paragraph (2) shall, in the case of business concerns and governmental entities which employ individuals represented by labor organizations, be designed for implementation through cooperative agreements between the concerns and entities and the organizations.

"(4) To the extent feasible, model programs developed under paragraph (2) shall be capable of coordination with model programs developed pursuant to section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970."

(2)(A) The heading for section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

(B) The item in the table of sections for title IV relating to section 413 is amended by striking out "Federal civilian employees" and inserting in lieu thereof "government and other employees".

Sec. 9. (a) Title IV is amended by adding at the end the following new section:

"§414. Contract authority.

"The authority of the Secretary to enter into contracts under this title and title V shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts."

(b) The table of sections of such title IV is amended by adding at the end the following new item:

"414. Contract authority."

Sec. 10. Section 501 (21 U.S.C. 1191) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Director shall make special efforts to develop and coordinate prevention, treatment, research, and administrative poli-

National
Institute on
Drug Abuse,
administration
of programs.

cies and programs which focus on the needs of underserved populations.

"(2) The Secretary shall include in the annual report to the President and the Congress required by section 405(b) a description of the actions taken by the Director under paragraph (1)."

SEC. 11. Section 502 (21 U.S.C. 1192) is amended by inserting at the end thereof the following new subsection:

"(d) On the request of any State, the Secretary shall, to the extent feasible, make available technical assistance for the purposes of developing and improving systems for data collection; program management, accountability, and evaluation; certification, accreditation, or licensure of treatment facilities and personnel; monitoring compliance with the requirements of section 407 by hospitals and other facilities; and eliminating exclusions in health insurance coverage offered in the State which are based on drug abuse or drug dependence. Insofar as practicable, such technical assistance shall be provided in such a manner as to improve coordination between activities funded under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970."

SEC. 12. (a) Section 503(a) (21 U.S.C. 1193(a)) is amended—

(1) by striking out "to create, develop, and test" and inserting in lieu thereof the following: "investigations, experiments, demonstrations, and studies, into";

(2) by inserting "the creation, development, and testing of" after "(1)", "(2)", and "(3)", respectively; and

(3) by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by inserting after paragraph (3) the following new paragraph;

"(4) the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse and drug dependence."

(b) Section 503 is amended (1) by striking out "(a)", and (2) by striking out subsection (b).

SEC. 13. Within sixty days of the date of the enactment of this Act, the Director of the National Institute on Drug Abuse shall report to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(1) the number of grants and contracts made or entered into by the Director before such date of enactment for research which was not completed before July 1, 1979,

(2) the identity of the persons who received such grants and contracts,

(3) the amount of funds authorized to be paid under each such grant and contract and the amount of funds expended by the recipient of each such grant and contract by such date of enactment,

(4) the purpose of the research project funded under each such grant and contract, and

(5) the progress made in each such research project by such date of enactment.

SEC. 14. Section 217(e)(1) of the Public Health Service Act (42 U.S.C. 218(e)(1)) is amended—

(1) by inserting the following before the period in the third sentence: ", including officers or employees of State and local drug abuse agencies"; and

Report to
President and
Congress.
21 USC 1172.

Technical
assistance.

21 USC 1174.

42 USC 4541
note.
Research and
development.

Report to
congressional
committees.
21 USC 1193
note.

National
advisory
councils.

(2) by inserting at the end thereof the following new sentence:
"Appointed members may serve after the expiration of their terms until their successors have taken office."

SEC. 15. (a) Section 1 is amended by striking out "Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof "Drug Abuse Prevention, Treatment, and Rehabilitation Act".

(b) Sections 1513(e)(1) and 1524(c)(6) of the Public Health Service Act (42 U.S.C. 3001-2(e)(1), 300m-3(c)(6)) and section 308(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(a)(18)) are each amended by striking out "Drug Abuse Office and Treatment Act of 1972" and inserting in lieu thereof "Drug Abuse Prevention, Treatment, and Rehabilitation Act". Whenever reference is made in any other Federal law, regulation, ruling, or order to the Drug Abuse Office and Treatment Act of 1972, the reference shall be considered to be made to the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

Approved January 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-193 accompanying H.R. 3916 (Comm. on Interstate and Foreign Commerce).

SENATE REPORT No. 96-104 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 125 (1979):

May 7, considered and passed Senate.

Oct. 16, H.R. 3916 considered and passed House; passage vacated and S. 525, amended, passed in lieu.

Dec. 19, Senate concurred in House amendment with an amendment; House concurred in Senate amendment.

Public Law 96-350
96th Congress

An Act

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

Sept. 15, 1980
[H.R. 2538]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) 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.

(b) 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) 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) 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) Subsections (a), (b), and (c) 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 to 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) 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)(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 1010 of the Comprehensive Act.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive

Coast Guard.
Enforcement of
importation
laws.
21 USC 955a.

Lawful
distribution
of controlled
substances.

Violations.

Penalties.

21 USC 960.

21 USC 962.

Act if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

Definitions.
21 USC 955b.

SEC. 2. As used in this Act—

(a) "Customs waters" means those waters as defined in section 401(j) of the Tariff Act of 1930 (19 U.S.C. 1401(j)).

(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, 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 this Act that are defined in the Comprehensive Act have the meanings assigned to them by that Act.

SEC. 3. Any person who attempts or conspires to commit any offense defined in this Act 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.

SEC. 4. Any property described in section 511(a) of the Comprehensive Act that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Act.

Offense.
21 USC 955c.

21 USC 955d.
21 USC 881.

Approved September 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-323 (Comm. on Merchant Marines and Fisheries).
SENATE REPORT No. 96-855 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:

Vol. 125 (1979): July 23, considered and passed House.

Vol. 126 (1980): July 24, considered and passed Senate, amended.

July 31, House concurred in certain Senate amendments, in others with amendments.

Sept. 3, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 38 (1980): Sept. 15, Presidential statement.