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109TH CONGRESS
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H. R. 6253

To modernize, shorten, and simplify the Federal criminal code.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To modernize, shorten, and simplify the Federal criminal code.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Criminal Code Modernization and Simplification Act of 2006''.

SEC. 2. REVISION OF PART I OF TITLE 18, UNITED STATES CODE.

Part I of title 18, United States Code, is to read as follows:

PART I—GENERAL PROVISIONS AND OFFENSES

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CHAPTER 1—DEFINITIONS

Sec.
1. Definitions for title.

§ 1. Definitions for title

In this title, the following definitions apply unless otherwise provided:

The term "**agency**" means any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest unless the context shows that such term was intended to be used in a more limited sense.

The term "**bodily injury**" means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental or sensory faculty; or

(E) any other injury to the body, no matter how temporary.

The term "**child**" means an individual who is less than 18 years of age.

The term "**court of the United States**" includes the District Court of Guam, the District Court for the Northern Mariana Islands, and the District Court of the Virgin Islands.

The term "**crime of violence**" means—

(A) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

The term "**department**" means one of the executive departments enumerated in section 1 of title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term "**facility of interstate or foreign commerce**" includes a means of transportation and communication in or affecting interstate or foreign commerce;

The term "**Federal health care offense**" means a violation of—

(A) section 656, 792, 806, or 1141;

(B) section 504, 652, 654, 772, 782, 801, 803, or 1017 if the violation relates to a health care benefit program.

The term "**financial institution**" means—

(A) an institution, with deposits insured by the Federal Deposit Insurance Corporation;

(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

(C) a credit union with accounts insured by the National Credit Union Administration;

(D) a member of the Federal home loan bank system and any home loan bank;

(E) any institution of the Farm Credit System under the Farm Credit Act of 1971;

(F) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934;

(G) the Securities Investor Protection Corporation;

(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

(I) an organization operating under section 25 or section 25(a) of the Federal Reserve Act.

The term "**foreign commerce**" means commerce with a foreign country.

The term "**foreign government**"except in sections 102, 112, 121, 144, or 959, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States.

The term "**health care benefit program**" means any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

The term "**interstate commerce**" means commerce between two States.

The term "**national of the United States**" has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

The term "**national bank**" is synonymous with "**national banking association**";

The term "**obligation or other security of any foreign government**" includes uncanceled stamps, whether or not demonetized.

The term "**organization**" means a person other than an individual.

The term "**person**" and the term "**whoever**", unless the context otherwise requires, include any entity capable of holding a legal or beneficial interest in property as well as an individual, and where used as a victim of an offense, includes a government.

The term "**petty offense**" means a Class B misdemeanor, a Class C misdemeanor, or an infraction, for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b)(6) or (7) in the case of an individual or section 3571(c)(6) or (7) in the case of an organization.

The term "**Postal Service**" means the United States Postal Service established under title 39, and every officer and employee of that Service, whether or not such officer or employee has taken the oath of office.

The term "**serious bodily injury**" means—

(A) bodily injury which involves—

(i) a substantial risk of death or unconsciousness;

(ii) extreme physical pain;

(iii) protracted and obvious disfigurement; or

(iv) protracted loss or impairment of the function of a bodily member, organ, or mental or sensory faculty; or

(B) conduct that, had it occurred in the special maritime or territorial jurisdiction of the United States, would have violated subchapter A of chapter 13.

The term "**special maritime and territorial jurisdiction of the United States**", means the following:

(A) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof,

when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(B) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(C) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(D) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, Territory, district, or possession thereof, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(E) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

(F) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

(G) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

(H) With respect to offenses committed by or against a national of the United States—

(i) the premises of United States diplomatic, consular, military or other United States Government missions or entities in foreign States, including the buildings, parts of buildings, and land appurtenant or ancillary thereto or used for purposes of those missions or entities, irrespective of ownership; and

(ii) residences in foreign States and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in clause (ii) supersedes any treaty or international agreement. Clause (ii) does not apply with respect to an offense committed by a person described in section 3261(a).

The term "**State**" means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

The term "**substantial bodily injury**" means bodily injury which involves—

(A) a temporary but substantial disfigurement; or

(B) a temporary but substantial loss or impairment of the function of any bodily member, organ, or mental or sensory faculty.

The term "**United States**", unless the context otherwise requires, includes all places and waters, continental or insular, subject to the jurisdiction of the United States.

The term "**vessel of the United States**" means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State.

CHAPTER 3—CRIMINAL RESPONSIBILITY

Sec.
2. Principals.
3. Accessory after the fact.
4. Misprision of felony.
5. Conspiracy.
6. Attempt.
7. Solicitation to commit a crime of violence

§ 2. Principals

(a) GENERALLY.—Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

(b) FOR CONDUCT OF OTHERS.—Whoever intentionally causes conduct by another that is an offense against the United States, is punishable as a principal for that offense.

§ 3. Accessory after the fact

(a) OFFENSE.—Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial, or punishment, is an accessory after the fact.

(b) PUNISHMENT.—Except as otherwise expressly provided by Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

§ 4. Misprision of felony

Whoever, having knowledge of the actual commission of a felony offense against the United States, conceals and does not

as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be imprisoned not more than three years.

§ 5. Conspiracy

Unless otherwise provided by law, if two or more persons conspire to commit any offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished for the offense which is the object of the conspiracy.

§ 6. Attempt

(a) GENERAL RULE.—Unless otherwise provided by law, whoever attempts to commit an offense shall be punished as is provided for the completed offense.

(b) EXCEPTIONS.—Subsection (a) does not apply to any provision that specifically exempts itself from the application of this section.

§ 7. Solicitation to commit a crime of violence

(a) OFFENSE.—Whoever, with intent that another person engage in a Federal offense that is a felony crime of violence and under circumstances strongly corroborative of that intent, solicits such other person to engage in that offense, shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by life imprisonment or death, shall be imprisoned for not more than 20 years.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not ''voluntary and complete'' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective.

(c) LIMITATION ON DEFENSES.—It is not a defense to a prosecution under this section that the person solicited could

not be convicted of the crime because that person lacked the state of mind required for its commission, was incompetent or irresponsible, or is immune from prosecution, or not subject to, prosecution.

CHAPTER 5—OTHER GENERAL PROVISIONS

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SUBCHAPTER A—DEFENSES

Sec.
21. Affirmative defenses.
22. Insanity defense.

§21. Affirmative defenses

If a provision of law provides an affirmative defense to a prosecution for an offense, the defendant must prove the elements of that defense by a preponderance of the evidence.

§ 22. Insanity defense

(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

(b) BURDEN OF PROOF.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

SUBCHAPTER B—GENERAL RULES PERTAINING TO CRIMINAL OFFENSES

Sec.
31. Non-preemption

§ 31. Non-preemption

The existence of a Federal criminal offense does not preclude the application of a State or local law to the conduct proscribed by the offense, unless the law specifically so provides or the State or local law requires conduct constituting the Federal criminal offense.

CHAPTER 10—VIOLENT CRIMES AGAINST PERSONS

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SUBCHAPTER A—HOMICIDE

Sec.
101. Homicide.
102. Federally punishable homicides.
103. Penalties for murders punishable under section 102; attempts and conspiracies.
104. Penalties for manslaughters punishable under section 102; attempts.
105. Misconduct or neglect of ship officers.

§ 101. Homicide

Unless otherwise provided by Act of Congress, if a Federal law makes the killing of a human being an offense, the following categories shall apply with respect to that offense:

(1) MURDER.—

(A) ELEMENTS OF OFFENSE.—Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree. Any other murder is murder in the second degree.

(B) DEFINITIONS.—In this paragraph.—

(i) the term ''assault'' means conduct that consists an assault as described in section 111;

(ii) the term ''child'' means a child who is under the perpetrator's care or control or at least six years younger than the perpetrator;

(iii) the term ''child abuse'' means intentionally causing death or serious bodily injury to a child;

(iv) the term ''pattern or practice of assault or torture'' means assault or torture engaged in on at least two occasions;

(v) the term ''torture'' means conduct, whether or not committed under the color of law, that otherwise satisfies the definition of that term set forth in section 1293.

(2) MANSLAUGHTER.—Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

(A) VOLUNTARY.—Upon a sudden quarrel or heat of passion.

(B) INVOLUNTARY.—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

§ 102. Federally punishable homicides

In addition to any other homicides made punishable by law, the following are Federal offenses:

(1) SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—A killing in the special maritime and territorial jurisdiction of the United States.

(2) OFFICERS AND EMPLOYEES AND FORMER OFFICERS AND EMPLOYEES OF THE UNITED STATES.—A killing of any officer or employee, or any former officer or employee, of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any individual assisting such an officer or employee in the performance of such duties or on account of that assistance.

(3) FAMILY MEMBERS OF OFFICERS AND EMPLOYEES AND FORMER OFFICERS AND EMPLOYEES OF THE UNITED STATES.—A killing, with the intent to impede, intimidate, or interfere with an individual described in paragraph (2) while that individual is engaged in the performance of official duties, or with intent to retaliate against such individual on account of the performance of official duties of that individual, of a member of that indvidual's family.

(4) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—A killing of a foreign official, official guest, or internationally protected person.

(5) BY NATIONAL OF THE UNITED STATES ABROAD.—A killing, by a national of the United States, of a national of the United States while the victim is outside the United States but within the jurisdiction of another country.

(6) KILLINGS BY ESCAPED PRISONERS.—A killing of a person by an individual who has escaped from a Federal correctional institution where the individual was confined under a sentence for a term of life imprisonment.

(7) CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATION.—A killing of an individual who is a Member of Congress or a Member-of-Congress-elect, a member of the executive branch of the Government who is the head, or a person nominated to be head during the pendency of such nomination, of a department listed in section 101 of title 5 or the second ranking official in such department, the Director (or a person nominated to be Director during the pendency of such nomination) or Deputy Director of Central Intelligence, or a Justice of the United States, as defined in section 451 of title 28, or a person nominated to be a Justice of the United States, during the pendency of such nomination.

(8) PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATION.—A killing of an individual who is—

(A) the President of the United States, the President-elect, the Vice President, or, if there is no Vice President, the officer next in the order of succession to the Office of the President of the United States, the Vice President-elect, or any person who is acting as President under the Constitution and laws of the United States;

(B) a major Presidential or Vice Presidential candidate (as defined in section 3056 of this title); or

(C) a person appointed under section 105(a)(2)(A) of title 3 employed in the Executive Office of the President or appointed under section 106(a)(1)(A) of title 3 employed in the Office of the Vice President.

(9) OF NATIONAL ABROAD.—The killing of an individual outside the United States who is a national of the United States.

(10) KILLINGS BY PRISONER.—The killing of another by a person confined under a sentence of life imprisonment in a Federal correctional facility.

§ 103. Penalties for murders punishable under section 102; attempts and conspiracies

(a) MURDER.—A murder that is an offense under section 102 is punishable by—

(1) death or imprisonment for life for first degree murder; and

(2) imprisonment for any term of years or for life for second degree murder.

(b) ATTEMPTED MURDER.—

(1) GENERALLY.—Except as provided in paragraph (2), whoever attempts to commit a murder that is an offense under section 102 shall be imprisoned not more than 20 years.

(2) SPECIAL RULE RELATING TO CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATIONS AND PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATIONS.—If the offense attempted is against an individual

described in paragraph (9) or (10) of section 102 the penalty is imprisonment for any term of years or for life.

(c) CONSPIRACY TO MURDER.—If two or more persons conspire to commit an offense under section 102 and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life, but in the case of a conspiracy to commit an offense against a individual described in paragraph (9) or (10) of section 102, if death results to the individual whose killing was the object of the conspiracy, the penalty is death or imprisonment for any term of years or for life.

§ 104. Penalties for manslaughters punishable under section 102; attempts

(a) PENALTY FOR MANSLAUGHTER.—A manslaughter that is an offense under section 102 is punishable by—

(1) imprisonment for not more than ten years, for voluntary manslaughter; and

(2) imprisonment for not more than six years, for involuntary manslaughter.

(b) ATTEMPTED MANSLAUGHTER.—Whoever attempts to commit a manslaughter that would be punishable under section 102 shall be imprisoned not more than 7 years.

§ 105. Misconduct or neglect of ship officers

(a) OFFICERS.—Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be imprisoned not more than ten years.

(b) OWNERS.—When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, mis-

conduct, or violation of law, by which the life of any person is destroyed, shall be imprisoned not more than ten years.

SUBCHAPTER B—ASSAULT AND RELATED OFFENSES

Sec.
111. Assault.
112. Individuals federally protected from assault.
113. Interference with Federal officers and employees.

§ 111. Assault

Unless otherwise provided by Act of Congress, if a Federal law prohibits an assault against an individual, the following punishments shall apply with respect to that offense:

(1) Assault with intent to commit murder, a felony under subchapter (A) of chapter 13, or with intent to maim, disfigure, or torture, by imprisonment for not more than 20 years.

(2) Assault with intent to commit any felony, except murder or a felony under subchapter (A) of chapter 13, by imprisonment for not more than ten years.

(3) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by imprisonment for not more than ten years.

(4) Assault resulting in serious bodily injury, by imprisonment for not more than ten years.

(5) Assault resulting in substantial bodily injury to an individual who has not attained the age of 16 years, by imprisonment for not more than 5 years.

(6) Assault by striking, beating, or wounding, by imprisonment for not more than six months.

(7) Simple assault, by imprisonment for not more than six months, or if the victim of the assault is an individual who has not attained the age of 16 years, by imprisonment for not more than 1 year.

§ 112. Individuals federally protected from assault

It is an offense to assault any individual whose killing is a Federal offense under section 102.

§ 113. Interference with Federal officers and employees

Whoever interferes with any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any individual assisting such an officer or employee in the performance of such duties or on account of that assistance while that person is engaged in, or on account of, the performance, official duties shall be imprisoned not more than one year.

SUBCHAPTER C—KIDNAPPING

Sec.
121. Kidnapping.
122. Ransom money.
123. Hostage taking.
125. International parental kidnapping.

§ 121. Kidnapping

(a) BASIC OFFENSE.—Except in the case of a child by the parent thereof, whoever, as made applicable by subsection (b), kidnaps an individual shall be imprisoned any term of years or for life and, if death results to any individual, shall be punished by death or life imprisonment.

(b) CIRCUMSTANCES REQUIRED.—Subsection (a) applies if—

(1) the victim or the victim's body is transported in interstate or foreign commerce, regardless of whether the victim was alive when transported across a State boundary if the victim was alive when the transportation began; or

(2) the victim is an individual whose killing is a Federal offense under section 102.

(c) PRESUMPTION.—With respect to a violation of subsection (a), based on the circumstance described in subsection (b)(1), the failure to release the victim within 24 hours after the victim was kidnapped creates a rebuttable presumption that the victim has been transported in interstate or foreign commerce. However, the fact that the presumption under this sec-

tion has not yet taken effect does not preclude a Federal investigation of a possible violation of this section.

(d) CONSPIRACY PENALTY.—If two or more persons conspire to violate subsection (a) and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life. If the individual whose kidnapping was the object of the conspiracy is an individual listed in paragraph (9) or (10) of section 102, the death penalty may be imposed if death results.

(e) ATTEMPTS.—Whoever attempts to violate subsection (a) shall be punished by imprisonment for not more than 20 years but if the individual whose kidnapping was attempted is described in paragraph (9) or (10) of section 102, the offender shall be imprisoned for any term of years or for life.

(f) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—If the victim of an offense under this section is a child and the offender—

(1) is not a child; and

(2) is not—

(A) a parent;

(B) a grandparent;

(C) a brother;

(D) a sister;

(E) an aunt;

(F) an uncle; or

(G) an individual having legal custody of the victim;

the sentence under this section for such offense shall include imprisonment for not less than 20 years.

(g) DEFINITION FOR SECTION.—As used in this section, the term ''parent'' does not include a person whose parental rights with respect to the victim of an offense under this section have been terminated by a final court order.

§ 122. Ransom money

(a) FEDERAL.—Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection

with a violation of section 121, knowing it to be such, shall be imprisoned not more than ten years.

(b) STATE.— Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years.

§ 123. Hostage taking

(a) OFFENSE.—Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained, or attempts or conspires to do so, shall be punished by imprisonment for any term of years or for life and, if the death of any person results, shall be punished by death or life imprisonment.

(b) EXCLUSIONS.—

(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

(A) the offender or the person seized or detained is a national of the United States;

(B) the offender is found in the United States; or

(C) the governmental organization sought to be compelled is the Government of the United States.

(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

§ 125. International parental kidnapping

(a) OFFENSE.—Whoever removes a child from the United States, or attempts to do so, or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be imprisoned not more than 3 years.

(b) DEFINITIONS.—As used in this section—

(1) the term ''child'' means a person who has not attained the age of 16 years; and

(2) the term ''parental rights'', with respect to a child, means the right to physical custody of the child—

(A) whether joint or sole (and includes visiting rights); and

(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense under this section that—

(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and was in effect at the time of the offense;

(2) the defendant was fleeing an incidence or pattern of domestic violence; or

(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

(d) EFFECT ON HAGUE CONVENTION.—This section does not limit The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

SUBCHAPTER D—THREATS AGAINST SPECIALLY PROTECTED PERSONS

Sec.
131. Threats against officers or employees of the United States, and other specially protected persons.

§ 131. Threats against officers or employees of the United States, and other specially protected persons

Whoever threatens to kill, kidnap, or inflict bodily harm upon—

(1) an individual described in paragraph (2), or (3) of section 102 on account of the performance of official duties;

(2) an individual described in paragraph (4), (7), or (8) of section 102;

(3) a former President of the United States;

(4) a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect;

(5) a major candidate for the office of President or Vice President, or a member of the immediate family of such candidate; or

(6) a person protected by the Secret Service under section 3056(a)(6);

shall be imprisoned not more than 10 years.

SUBCHAPTER E—DEFINITIONS AND GENERAL PROVISIONS FOR SUBCHAPTERS A THROUGH D

Sec.
136. Definitions for subchapters A through D.
137. Special rules relating to offenses against certain types of victims.

§ 136. Definitions for subchapters A through D

Unless otherwise provided, in subchapters A through D, the following definitions apply:

(1) The term ''family'' with respect to an individual, means—

(A) a spouse, parent, brother or sister, child, or person to whom the individual stands in loco parentis; or

(B) any other person living in the individual's household and related to the individual by blood or marriage.

(2) The term ''foreign government'' means the government of a foreign country, irrespective of recognition by the United States.

(3) The term ''foreign official'' means—

(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; or

(B) any person of a foreign nationality who is duly notified to the United States as an officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of that person's family whose presence in the United States is in connection with the presence of such officer or employee.

(4) The term ''internationally protected person'' means an individual who is—

(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of that individual's family accompanying that individual; or

(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of that individual's family then forming part of his household.

(5) The term ''international organization'' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(6) The term ''official guest'' means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

(7) the terms ''President-elect'' and ''Vice President-elect'' mean those persons who are the apparently successful candidates for the offices of President and Vice President, respectively, as ascertained from the result of the general elections held to determine the electors of President and Vice President under section 1 and 2 of title 3.

§ 137. Special rules relating to offenses against certain types of victims

(a) EXTRATERRITORIAL JURISDICTION.—

(1) PRESIDENTIAL AND CONGRESSIONAL VICTIMS.—There is extraterritorial jurisdiction over an offense under any of subchapters A through D against a victim described in paragraph (9) or (10) of section 102.

(2) INTERNATIONALLY PROTECTED PERSONS.—There is extraterritorial jurisdiction over an offense under any of subchapters A through D the victim of which is an internationally protected person outside the United States, if—

(A) the victim is a representative, officer, employee, or agent of the United States;

(B) an offender is a national of the United States; or

(C) an offender is afterwards found in the United States.

(b) USE OF MILITARY WITH RESPECT TO CERTAIN OFFENSES.—With respect to an offense under this chapter, or an

attempt or conspiracy to commit such an offense, if an element of the offense is that the victim be individual described in paragraph (9) or (10) of section 102, a foreign official, an internationally protected person, or an official guest, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force.

(c) SPECIAL PROVISIONS RELATING TO OFFENSES INVOLVING PRESIDENTIAL OR CONGRESSIONAL VICTIMS.—With respect to an offense under paragraph (9) or (10) of section 102—

(1) if Federal investigative or prosecutive jurisdiction is asserted, that assertion suspends the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated;

(2) the Federal Bureau of Investigation shall have investigative authority; and

(3) in a prosecution, the Government need not prove that the defendant knew that the victim of the offense was an individual who is protected by that paragraph.

(d) APPROVAL REQUIRED FOR PROSECUTIONS RELATING TO UNITED STATES NATIONALS KILLED OVERSEAS.—

(1) APPROVAL REQUIRED.—No prosecution may be instituted against any person under section 101(a)(5) except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same conduct.

(2) BASIS FOR APPROVAL.—No prosecution shall be approved under this subsection unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this paragraph is not subject to judicial review.

(e) CERTIFICATION OF TERRORISM RELATION REQUIRED FOR CERTAIN PROSECUTIONS RELATING TO KILLING OR ATTACKING NATIONALS OF THE UNITED STATES ABROAD.—No prosecution for any offense described in section 102(11) or 116 shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

SUBCHAPTER F—ROBBERY, EXTORTION, AND RELATED THREATS

Sec.
141. Robbery in special maritime and territorial jurisdiction.
142. Robbery of personal property of United States.
143. Bank robbery and incidental crimes.
144. Communication of ransom demands and other threatening communications in or affecting commerce.
145. Extortion by officers or employees of the United States.
146. Receiving the proceeds of extortion.

§ 141. Robbery in special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the person or presence of another anything of value, shall be imprisoned not more than 15 years.

§ 142. Robbery of personal property of United States

Whoever robs or attempts to rob another of any kind or description of personal property belonging to the United States, shall be imprisoned not more than 15 years.

§ 143. Bank robbery and incidental crimes

(a) AGGRAVATED OFFENSE.—Whoever—

(1) by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in

the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association;

(2) enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny;

shall be imprisoned not more than 20 years.

(b) TAKING AND CARRYING AWAY PROPERTY OVER $1,000 IN VALUE.—Whoever takes and carries away, with intent to steal or purloin any property or money or any other thing of value exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than ten years, or both; or

(c) TAKING AND CARRYING AWAY PROPERTY OF $1,000 OR LESS IN VALUE.—Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than one year, or both.

(c) RECEIVING STOLEN BANK PROPERTY.—Whoever receives, possesses, conceals, stores, barters, sells, or disposes of, any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b) or (c), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) or (c) for the taker.

(d) ASSAULTING PERSON OR PLACING LIFE IN JEOPARDY.—Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) through (c), assaults any person, or puts in jeopardy the life of any person by the use

of a dangerous weapon or device, shall be imprisoned not more than 25 years.

(e) KILLING AND KIDNAPING.—Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment.

(f) DEFINITIONS.— As used in this section—

(1) the term ''bank'' means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(2) the term ''credit union'' means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any ''Federal credit union'' as defined in section 2 of the Federal Credit Union Act. The term ''State-chartered credit union'' includes a credit union chartered under the laws of a State;

(3) the term ''savings and loan association'' means—

(A) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

(B) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.

§ 144. Communication of ransom demands and other threatening communications in or affecting commerce

(a) KIDNAP RANSOM.—Whoever knowingly transmits, in or affecting interstate or foreign commerce, any communication containing any demand or request for a ransom or reward for the release of any kidnapped person shall be imprisoned not more than 20 years.

(b) THREATS TO KIDNAP OR INJURE.—Whoever, with intent to extort from any person any money or other thing of value, knowingly transmits, in or affecting interstate commerce, any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be imprisoned not more than 20 years.

(d) THREATS TO PROPERTY OR REPUTATION WITH INTENT TO EXTORT.—Whoever, with intent to extort from any person any money or other thing of value, knowingly transmits, in or affecting interstate or foreign commerce, any communication containing any threat—

(1) to injure the property or reputation of another or the reputation of a deceased person;

(2) to accuse another of a crime;

shall be or imprisoned not more than 10 years.

§ 145. Extortion by officers or employees of the United States

Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing oneself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be imprisoned not more than three years; but if the amount so extorted or demanded does not exceed $1,000, the offender shall be imprisoned not more than one year.

§ 146. Receiving the proceeds of extortion

Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this subchapter that is punishable by imprisonment for more than 1 year, knowing the same to have

been unlawfully obtained, shall be imprisoned not more than 3 years.

SUBCHAPTER G—EXTORTIONATE CREDIT TRANSACTIONS

Sec.
155. Making extortionate extensions of credit.
156. Financing extortionate extensions of credit.
157. Collection of extensions of credit by extortionate means.
158. Effect on State laws.
159. Definitions and rules of construction.

§ 155. Making extortionate extensions of credit

(a) OFFENSE.—Whoever makes any extortionate extension of credit, or conspires to do so, shall be imprisoned not more than 20 years.

(b) PRIMA FACIE EVIDENCE OF EXTORTIONATE TRANSACTION.—In any prosecution under this section, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate:

(1) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor

(A) in the jurisdiction within which the debtor, if a natural person, resided or

(B) in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business at the time the extension of credit was made.

(2) The extension of credit was made at a rate of interest in excess of an annual rate of 45 per centum calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

(3) At the time the extension of credit was made, the debtor reasonably believed that either

(A) one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the nonrepayment thereof had been punished by extortionate means; or

(B) the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonrepayment thereof.

(4) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded $100.

(c) REPUTATION EVIDENCE.—In any prosecution under this section, if evidence is introduced tending to show the existence of any of the circumstances described in subsection (b)(1) or (b)(2), and direct evidence of the actual belief of the debtor as to the creditor's collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension.

§ 156. Financing extortionate extensions of credit

Whoever knowingly advances money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise, to any person, with reason to believe that it is the intention of that person to use the money or property so advanced directly or indirectly for the purpose of making extortionate extensions of credit, shall be imprisoned not more than 20 years.

§ 157. Collection of extensions of credit by extortionate means

Whoever knowingly uses any extortionate means—

(1) to collect or attempt to collect any extension of credit, or

(2) to punish any person for nonrepayment of an extension of credit;

shall be imprisoned not more than 20 years.

§ 158. Effect on State laws

This subchapter does not preempt State law that would be permissible in the absence of this subchapter.

§ 159. Definitions and rules of construction

As used in this subchapter:

(1) To extend credit means to make or renew any loan, or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred.

(2) The term ''creditor'', with reference to any given extension of credit, refers to any person making that extension of credit, or to any person claiming by, under, or through any person making that extension of credit.

(3) The term ''debtor'', with reference to any given extension of credit, refers to any person to whom that extension of credit is made, or to any person who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.

(4) The repayment of any extension of credit includes the repayment, satisfaction, or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

(5) To collect an extension of credit means to induce in any way any person to make repayment thereof.

(6) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

(7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other

criminal means to cause harm to the person, reputation, or property of any person.

(9) State law, including conflict of laws rules, governing the enforceability through civil judicial processes of repayment of any extension of credit or the performance of any promise given in consideration thereof shall be judicially noticed. This paragraph does not impair any authority which any court would otherwise have to take judicial notice of any matter of State law.

SUBCHAPTER H—DOMESTIC VIOLENCE

Sec.
161. Interstate domestic violence; interstate stalking; interstate violations of custody orders.
162. Pretrial release of defendant.
163. Full faith and credit given to protection orders.
164. Definitions.

§ 161. Interstate domestic violence; interstate stalking; interstate violations of custody orders

(a) OFFENSES.—Whoever—

(1) travels in interstate or foreign commerce or enters or leaves Indian country with the intent to kill, injure, harass, or intimidate a spouse or intimate partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse or intimate partner;

(2) causes a spouse or intimate partner to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse or intimate partner;

(3) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or intimidate another individual, and in the course of, or as a result of, such travel places that individual in reasonable fear of the death of, or

serious bodily injury to, that individual, a member of that individual's family (as defined in section 136), or the spouse or intimate partner of that person;

(4) with the intent—

(A) to kill or injure an individual in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

(B) to place an individual in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

(i) that individual;

(ii) a member of that individual's family (as defined in section 136); or

(iii) a spouse or intimate partner of that individual;

uses the mail or any facility of interstate or foreign commerce to engage in a course of conduct that places that person in reasonable fear of the death of, or serious bodily injury to, any of the individuals described in clauses (i) through (iii);

(5) travels in interstate or foreign commerce, or enters or leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct; or

(6) causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or

physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued;

shall be punished as provided in subsection (b).

(b) PUNISHMENT.—Whoever violates subsection (a) shall be imprisoned—

(1) for life or any term of years, if death of the victim results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the victim results;

(3) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under subchapter A of chapter 13 if the offense would constitute an offense under that subchapter (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison); and

(5) for not more than 5 years, in any other case.

§ 162. Pretrial release of defendant

In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this subchapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

§ 163. Full faith and credit given to protection orders

(a) FULL FAITH AND CREDIT.—Any protection order consistent with subsection (b) issued by a court of one State or Indian tribe (hereinafter in this section referred to as the ''issuing State or Indian tribe'') shall be accorded full faith and credit by the court of another State or Indian tribe (hereinafter in this section referred to as the ''enforcing State or Indian tribe'') and enforced as if it were the order of the enforcing State or tribe.

(b) PROTECTION ORDER.—A protection order issued by a State or tribal court is consistent with this subsection if—

(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State or tribal law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

(c) CROSS OR COUNTER PETITION.—A protection order issued by a State or tribal court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

(d) NOTIFICATION AND REGISTRATION.—

(1) NOTIFICATION.—A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State or tribal jurisdiction unless requested to do so by the party protected under such order.

(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT.—Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State or tribal jurisdiction.

(e) TRIBAL COURT JURISDICTION.—For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.

§ 164. Definitions

As used in this subchapter—

(1) the term ''course of conduct'' means a pattern of conduct composed of 2 or more acts, demonstrating a continuity of purpose;

(2) the term ''enter or leave Indian country'' includes leaving the jurisdiction of 1 tribal government and entering the jurisdiction of another tribal government;

(3) the term ''protection order'' includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuant to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceeding so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection;

(4) the term ''spouse or intimate partner'' includes—

(A) for purposes of—

(i) all provisions except paragraphs (3) and (4) of section 161, a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; and

(ii) paragraphs (3) and (4) of section 161, a spouse or former spouse of the target of the stalk-

ing, a person who shares a child in common with the target of the stalking, and a person who cohabits or has cohabited as a spouse with the target of the stalking; and

(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides; and

(5) the term ''travel in interstate or foreign commerce'' does not include travel from one State to another by an individual who is a member of an Indian tribe and who remains at all times in the territory of the Indian tribe of which the individual is a member.

SUBCHAPTER I—PROTECTION OF UNBORN CHILDREN

Sec.
171. Protection of unborn children.
172. Partial-birth abortions prohibited

§ 171. Protection of unborn children

(a)(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.

(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

(B) An offense under this section does not require proof that—

(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person

shall instead of being punished under subparagraph (A) and subject to subparagraph (D), be punished as provided under subchapter A for the like offense.

(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

(b) The provisions referred to in subsection (a) are the following:

(1) Sections 101, 102, 111, 121, 123, 143, 161, 165, 201, 204, 271, 273, 413(e), 501, 502, 506, 507, 584, 593, 601, 614, 631, 873, 892, 895, 897, 1112, 1131, 1133, 1137, 1138, 1204, 1216, 1291, 1296, 1306, and 1373 of this title.

(2) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

(c) Nothing in this section shall be construed to permit the prosecution—

(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

(3) of any woman with respect to her unborn child.

(d) As used in this section, the term ''unborn child'' means a child in utero, and the term ''child in utero'' or ''child, who is in utero'' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.

§ 172. Partial-birth abortions prohibited

(a) Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(b) As used in this section—

(1) the term ''partial-birth abortion'' means an abortion in which the person performing the abortion—

(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(B) performs the overt act, other than completion of delivery, that kills the partially delivered living fetus; and

(2) the term ''physician'' means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions: Provided, however, That any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs a partial-birth abortion, shall be subject to the provisions of this section.

(c)(1) The father, if married to the mother at the time she receives a partial-birth abortion procedure, and if the mother has not attained the age of 18 years at the time of the abortion, the maternal grandparents of the fetus, may in a civil action obtain appropriate relief, unless the pregnancy resulted from the plaintiff's criminal conduct or the plaintiff consented to the abortion.

(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on

whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

(e) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 based on a violation of this section.

CHAPTER 13—SEX CRIMES

Subchapter	Sec.
A. Sexual abuse	**201**
B. Transport for illegal sexual activity	**211**
C. Sexual exploitation of children	**221**
D. General Provisions and definitions	**241**

SUBCHAPTER A—SEXUAL ABUSE

Sec.
201. Sexual Abuse.
202. Abusive sexual contact.
203. Special rules and defenses.
204. Sexual abuse resulting in death.
205. Definitions for subchapter.

§ 201. Sexual Abuse

(a) ELEMENTS OF OFFENSE.—As made applicable and punished in subsection (b), the following offenses have the following elements:

(1) AGGRAVATED SEXUAL ABUSE.—Whoever—

(A) knowingly causes another person to engage in a sexual act—

(i) by using force against that other person; or

(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, substantial risk of unconsciousness, or kidnapping;

(B) knowingly—

(i) renders another person unconscious and thereby engages in a sexual act with that other person; or

(ii) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

(I) substantially impairs the ability of that other person to appraise or control conduct; and

(II) engages in a sexual act with that other person; or

(C) knowingly engages in a sexual act with another person—

(i) who has not attained the age of 12 years; or

(ii) who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging);

is guilty of aggravated sexual abuse.

(2) SEXUAL ABUSE.—Whoever knowingly—

(A) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, substantial risk of unconsciousness, or kidnapping); or

(B) engages in a sexual act with another person if that other person is—

(i) incapable of appraising the nature of the conduct; or

(ii) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;

is guilty of sexual abuse.

(3) SEXUAL ABUSE OF A WARD.—Whoever knowingly engages in a sexual act with another person who is—

(A) in official detention; and

(B) under the custodial, supervisory, or disciplinary authority of the person so engaging;

is guilty of sexual abuse of a ward.

(b) PENALTIES AND CIRCUMSTANCES FOR FEDERAL OFFENSE.—

(1) AGGRAVATED SEXUAL ABUSE.—Whoever commits aggravated sexual abuse in the special maritime and territorial jurisdiction of the United States or attempts to do so, shall be imprisoned for any term of years or for life.

(2) SEXUAL ABUSE.—Whoever commits sexual abuse in the special maritime and territorial jurisdiction of the United States, or attempts to do so, shall be imprisoned not more than 20 years.

(3) SEXUAL ABUSE OF A WARD.—Whoever commits sexual abuse of a ward in the special maritime and territorial jurisdiction of the United States, or attempts to do so, shall be imprisoned not more than one year.

§ 202. Abusive sexual contact

(a) SEXUAL CONTACT IN CIRCUMSTANCES WHERE SEXUAL ACTS ARE PUNISHABLE.—Whoever engages in sexual contact with another person—

(1) under circumstances in which, if the sexual contact had been a sexual act, the sexual contact would be punishable under section 201(b)(1), shall be imprisoned not more than 10 years;

(2) under circumstances in which, if the sexual contact had been a sexual act, the sexual contact would be punishable under section 201(b)(2), shall be imprisoned not more than 3 years;and

(3) under circumstances in which, if the sexual contact had been a sexual act, the sexual contact would be punishable under section 201(b)(3), shall be imprisoned not more than 6 months.

(b) ENHANCED PENALTY WHERE CONTACT IS WITH A CHILD UNDER 12 YEARS OF AGE.—If the sexual contact that violates this section is with an individual who has not attained

the age of 12 years, the maximum term of imprisonment that may be imposed for the offense is twice that otherwise provided in this section.

§ 203. Special rules and defenses

(a) PROOF OF STATE OF MIND AS TO AGE.—In a prosecution under this subchapter involving a sexual act or sexual contact with a child, the Government need not prove that the defendant knew the age of the child or that any age difference required for the offense did not exist.

(b) DEFENSES.—

(1) SEXUAL ABUSE OR SEXUAL CONTACT INVOLVING A CHILD.—It is a affirmative defense to a prosecution under this subchapter for an offense involving a child where an element of the offense is that the child not be 16 years of age or older that the defendant reasonably believed the child to be 16 years of age or older.

(2) MARRIAGE IN CERTAIN CASES.—It is an affirmative defense to prosecution for an offense under this subchapter involving a sexual act or sexual contact with a ward, that the ward was married to the person engaging in the sexual act or contact at the time of the alleged offense.

§ 204. Sexual abuse resulting in death

Whoever, in the course of an offense under this subchapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

§ 205. Definitions for subchapter

As used in this subchapter—

(2) the term ''sexual act'' means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(3) the term ''sexual contact'' means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

(4) the term ''official detention'' means—

(A) detention by a Federal officer or employee, or under the direction of a Federal officer or employee, following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following civil commitment in lieu of criminal proceedings or pending resumption of criminal proceedings that are being held in abeyance, or pending extradition, deportation, or exclusion; or

(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.

SUBCHAPTER B—TRANSPORT FOR ILLEGAL SEXUAL ACTIVITY

Sec.
211. Transportation generally.
212. Coercion and enticement.
213. Transportation of children.
214. Use of interstate facilities to transmit information about a child.

§ 211. Transportation generally

Whoever knowingly transports an individual in interstate or foreign commerce, or in any territory or possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 10 years.

§ 212. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any territory or possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 20 years.

(b) Whoever, using any facility of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any child to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not less than 5 years and not more than 30 years.

§ 213. Transportation of children

(a) TRANSPORTATION WITH INTENT TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY.—Whoever transports a child in interstate or foreign commerce, or in any territory or possession of the United States, with intent that the child engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be imprisoned not less than 5 years and not more than 30 years.

(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEXUAL CONDUCT.—Whoever travels in interstate commerce or

travels into the United States, or, being a United States citizen or an alien admitted for permanent residence in the United States, travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct shall be imprisoned not more than 30 years.

(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN PLACES.—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct shall be imprisoned not more than 30 years.

(d) ANCILLARY OFFENSES.—Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be imprisoned not more than 30 years.

(e) ATTEMPT AND CONSPIRACY.—Whoever attempts or conspires to violate subsection (a), (b), (c), or (d) shall be punishable in the same manner as a completed violation of that subsection.

(f) DEFINITION.—As used in this section, the term ''illicit sexual conduct'' means—

(1) a sexual act (as defined in section 205) with a child that would be in violation of subchapter A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States;

(2) any commercial sex act (as defined in section 1265) with a child; or

(3) the production of child pornography, as defined in section 229.

(g) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (f)(2), it is an affirmative defense that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

§ 214. Use of interstate facilities to transmit information about a child

Whoever, using a facility of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly transmits of the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 5 years.

SUBCHAPTER C—SEXUAL EXPLOITATION OF CHILDREN

Sec.
221. Sexual exploitation of children.
222. Selling or buying of children.
223. Certain activities relating to material involving the sexual exploitation of children and child pornography.
225. Misleading domain names on the Internet.
229. Definitions for subchapter.
230. Record keeping requirements.
231. Failure to report child abuse.

§ 221. Sexual exploitation of children

(a) OFFENSE.—Whoever, as made applicable in subsection (b)—

(1) either—

(A) employs, uses, persuades, induces, entices, or coerces any child to engage in, or who has a child assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct; or

(B) transports any child in interstate or foreign commerce, or in any territory or possession of the United States, with the intent that such child engage in such conduct for such purpose; or

(2) being a parent, legal guardian, or person having custody or control of a child knowingly permits such child to engage in, or to assist any other person to engage in,

sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

or attempts or conspires to do so shall be punished as provided under subsection (e).

(b) APPLICABILITY.—Subsection (a) applies if—

(1) the person engaging in that conduct knows or has reason to know that such visual depiction will be transported in or affecting interstate or foreign commerce;

(2) such visual depiction was produced using materials that have been transported in or affecting interstate or foreign commerce; or

(3) such visual depiction has actually been transported in or affecting interstate or foreign commerce.

(c) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial jurisdiction over an offense under subsection (a)(1) if the offender—

(1) intends such visual depiction to be transported to the United States; or

(2) transports such visual depiction to the United States.

(d) ADVERTISEMENTS.—(1) Whoever, as made applicable by paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a child engaging in sexually explicit conduct and such visual depiction is of such conduct; or

(B) participation in any act of sexually explicit conduct by or with any child for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (e).

(2) Paragraph (1) applies if—

(A) such person knows or has reason to know that such notice or advertisement will be transported in or affecting interstate or foreign commerce; or

(B) such notice or advertisement is transported in or affecting interstate or foreign commerce.

(e) PUNISHMENT.—Whoever violates, or attempts or conspires to violate, this section shall be imprisoned not less than 15 years nor more than 30 years, but if such person has one prior conviction under this subchapter, subchapter F of chapter 35, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to the sexual exploitation of children, such person shall be imprisoned for not less than 25 years nor more than 50 years, but if such person has 2 or more such prior convictions, such person shall be imprisoned not less than 35 years nor more than life. Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

§ 222. Selling or buying of children

(a) TRANSFER OF CUSTODY.—Whoever, as made applicable by subsection (d) and with a mental state described in subsection (c) having custody or control of a child, transfers that custody or control, or offers to do so, shall be punished by imprisonment for not less than 30 years or for life.

(b) OBTAINING CUSTODY.—Whoever, as made applicable by subsection (d) and with a mental state described in subsection (c), obtains custody or control of a child, or offers to do so, shall be punished by imprisonment for not less than 30 years or for life.

(c) MENTAL STATE.—The mental state referred to in subsections (a) and (b) is—

(1) knowledge that, as a consequence of the transfer of custody, the child will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

(2) intent to promote either—

(A) the engaging in of sexually explicit conduct by such child for the purpose of producing any visual depiction of such conduct; or

(B) the rendering of assistance by the child to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(d) FEDERAL NEXUS.—Conduct described in subsection (a) and (b) is an offense if—

(1) in the course of the conduct the child or the person engaging in the conduct travel in interstate or foreign commerce;

(2) any offer described in such subsections was communicated or transported in or affecting interstate or foreign commerce; or

(3) the conduct took place in any territory or possession of the United States.

§ 223. Certain activities relating to material involving the sexual exploitation of children and child pornography

(a) OFFENSE.—Whoever, as made applicable by subsection (b)—

(1) knowingly—

(A) transports an exploitative visual depiction or child pornography;

(B) receives, or distributes, any exploitative visual depiction or child pornography; or

(C) reproduces any exploitative visual depiction or child pornography for distribution;

(2) knowingly—

(A) sells or possesses with intent to sell any exploitative visual depiction or child pornography; or

(B) knowingly possesses an exploitative visual depiction or child pornography;

(3) advertises, promotes, presents, distributes, or solicits any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material contains an exploitative visual depiction or child pornography;

or attempts or conspires to do so shall be punished as provided in subsection (c).

(b) APPLICABILITY.—Subsection (a) applies if—

(1) the conduct occurs in the special maritime and territorial jurisdiction of the United States, or in the Indian country as defined in section 871 of this title; or

(2) the exploitative visual depiction or child pornography is transported in or affecting interstate or foreign commerce, or was produced using materials which have been so transported.

(c) PUNISHMENT.—The punishment for a violation of this section is as follows:

(1) Whoever violates paragraph (1) or (2)(A) of subsection (a) shall be imprisoned not less than 5 years and not more than 20 years, but if such person has a prior conviction under this chapter, subchapter F of chapter 35, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a child or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be imprisoned for not less than 15 years nor more than 40 years.

(2) Whoever violates, or attempts or conspires to violate, paragraph (2)(B) of subsection (a) shall be imprisoned not more than 10 years, or both, but if such person has a prior conviction under this subchapter, subchapter F of chapter 35, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a child or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, such person shall be imprisoned for not less than 10 years nor more than 20 years.

(d) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a charge of violating paragraph (2)(B) of subsection (a) that the defendant—

(1) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(e) ADMISSIBILITY OF EVIDENCE.—On motion of the government, in any prosecution under this subchapter or section 1444, except for good cause shown, the name, address, social security number, or other nonphysical identifying information, other than the age or approximate age, of any child who is depicted in any child pornography shall not be admissible and may be redacted from any otherwise admissible evidence, and the jury shall be instructed, upon request of the United States, that it can draw no inference from the absence of such evidence in deciding whether the child pornography depicts an actual child.

(f) EXPLOITATIVE VISUAL DEPICTION DEFINED.—In this section, a visual depiction is an exploitative visual depiction if—

(1) the producing of such visual depiction involves the use of a child engaging in sexually explicit conduct; and

(2) such visual depiction is of such conduct.

§ 225. Misleading domain names on the Internet

(a) OBSCENITY.—Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be imprisoned not more than 2 years.

(b) MATERIAL HARMFUL TO CHILDREN.—Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a child into viewing material that is harmful

to Children on the Internet shall be imprisoned not more than 4 years.

(c) DEFINITION.—For the purposes of this section—

(1) a domain name that includes a word or words to indicate the sexual content of the site, such as ''sex'' or ''porn'', is not misleading;

(2) the term ''material that is harmful to children'' means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—

(A) predominantly appeals to a prurient interest of children;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for children; and

(C) lacks serious literary, artistic, political, or scientific value for children; and

(3) as used in this subsection, the term ''sex'' means acts of masturbation, sexual intercourse, or physical contact with a person's genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.

§ 229. Definitions for subchapter

In this subchapter the following definitions apply:

(1)(A) Except as provided in subparagraph (B), the term ''sexually explicit conduct'' means actual or simulated—

(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(ii) bestiality;

(iii) masturbation;

(iv) sadistic or masochistic abuse; or

(v) lascivious exhibition of the genitals or pubic area of any person;

(B) For purposes of paragraph 5(B), the term ''sexually explicit conduct'' means—

(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

(ii) graphic or lascivious simulated—

(I) bestiality;

(II) masturbation; or

(III) sadistic or masochistic abuse; or

(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person.

(2) The term ''producing'' means producing, directing, manufacturing, issuing, publishing, or advertising.

(3) The term ''visual depiction'' includes undeveloped film and videotape, and data stored on computer disk or by electronic means which is capable of conversion into a visual image.

(4) The term''custody or control'' includes temporary supervision over or responsibility for a child whether legally or illegally obtained.

(5) The term ''child pornography'' means any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where—

(A) the production of such visual depiction involves the use of a child engaging in sexually explicit conduct;

(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a child engaging in sexually explicit conduct; or

(C) such visual depiction has been created, adapted, or modified to appear that an identifiable child is engaging in sexually explicit conduct.

(6) The term ''identifiable child''—

(A) means a person—

(i)(I) who was a child at the time the visual depiction was created, adapted, or modified; or

(II) whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(ii) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) shall not be construed to require proof of the actual identity of the identifiable child.

(7) The term ''graphic'', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

(8) The term ''indistinguishable'' used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual child engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

§ 230. Record keeping requirements

(a) DUTY TO KEEP RECORDS.—Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

(1) contains one or more visual depictions made after November 1, 1990 of actual sexually explicit conduct; and

(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

(b) DUTY TO ASCERTAIN CERTAIN INFORMATION.—Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

(c) WHERE RECORDS MAINTAINED AND AVAILABILITY FOR INSPECTION.—Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

(d) EXCLUSION OF EVIDENCE.—

(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

(2) Paragraph (1) of this subsection does not preclude the use of such information or evidence in a prosecution or other action for a violation of this subchapter or subchapter F of chapter 35, or for a violation of any applicable provision of law with respect to the furnishing of false information.

(e) STATEMENT.—

(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

(f) UNLAWFUL ACTS.—It shall be unlawful—

(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

(3) for any person to whom subsection (a) applies knowingly to fail to comply with subsection (e) or any regulation promulgated pursuant to that subsection; and

(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

(A) contains one or more visual depictions made after the made after November 1, 1990 of actual sexually explicit conduct; and

(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is in-

tended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

(g) REGULATIONS.—The Attorney General shall issue appropriate regulations to carry out this section.

(h) DEFINITIONS.—As used in this section—

(1) the term ''actual sexually explicit conduct'' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 229 of this title;

(2) ''identification document'' has the meaning given that term in section 783;

(3) the term ''produces'' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape, computer generated image, digital image, or picture, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

(4) the term ''performer'' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

(i) PENALTY FOR ANY VIOLATION OF THIS SECTION.—Whoever violates this section shall be imprisoned for not more than 5 years. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 10 years but not less than 2 years.

§ 231. Failure to report child abuse

Whoever, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be imprisoned not more than 6 months.

SUBCHAPTER D—GENERAL PROVISIONS AND DEFINITIONS

Sec.
241. Repeat offenders.
242. Civil remedy for personal injuries.

§ 241. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of subchapter A or B after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter, unless section 3559(e) applies.

(b) DEFINITIONS.—In this section the term ''prior sex offense conviction'' means a conviction for an offense—

(1) under this chapter; or

(2) under State law for an offense consisting of conduct that would have been an offense under this chapter if the conduct had occurred within the special maritime and territorial jurisdiction of the United States; and

§ 242. Civil remedy for personal injuries

(a) A child who is a victim of a violation of section 201, 202, 203, 211, 212, 213, 221, 222, or 223 and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such minor sustains and the cost of the suit, including a reasonable attorney's fee. Any child as described in the preceding sentence shall be deemed to have sustained damages of no less than $50,000 in value.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

CHAPTER 15—NATIONAL SECURITY AND RELATED CRIMES

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SUBCHAPTER A—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

Sec.
261. Treason.
262. Misprision of treason.
263. Rebellion or insurrection.
264. Seditious conspiracy.
265. Advocating overthrow of Government.

§ 261. Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death or be imprisoned for any term of years not less than five, and shall be incapable of holding any office under the United States.

§ 262. Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be imprisoned not more than seven years.

§ 263. Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall

be imprisoned not more than ten years and shall be incapable of holding any office under the United States.

§ 264. Seditious conspiracy

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be imprisoned not more than 20 years.

§ 265. Advocating overthrow of Government

(a) IN GENERAL.—Whoever—

(1) knowingly advocates, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the Government of the United States or the government of any State, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government;

(2) with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence; or

(3) organizes or helps to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof;

shall be imprisoned not more than 20 years, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following the conviction.

(b) CONSPIRACY.—If two or more persons conspire to commit any offense named in this section, each shall be imprisoned not more than 20 years and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following the conviction.

(c) DEFINITION.—As used in this section, the term ''organize'', with respect to any society, group, or assembly of persons, includes the recruiting of new members, the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of such society, group, or assembly of persons.

SUBCHAPTER B—TERRORISM

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§ 271. Weapons of mass destruction, and explosives and other lethal devices

(a) OFFENSE.—Whoever, without lawful authority, uses, threatens, to use, a weapon of mass destruction or an explosive or other lethal device—

(1) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States; or

(2) against a national of the United States while such national is outside of the United States;

(3) against any person or property within the United States, if the offense is in, or affects, interstate or foreign commerce;

(4) against any person or property outside of the United States, if the offender is a national of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

(b) DEFINITIONS.—As used in this section—

(1) the term ''weapon of mass destruction'' means—

(A) any destructive device as defined in section 581;

(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(C) any weapon involving a biological agent, toxin, or vector (as those terms are in defined in section 627);

(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life; or

(E) any lethal device or explosive; and

(2) the term ''property'' includes all real and personal property;

(3) ''explosive'' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage; and

(4) ''other lethal device'' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material.

§ 272. Atomic weapons

(a) OFFENSE.—Whoever, except as provided in section 91 of the Atomic Energy Act of 1954, in or affecting interstate or foreign commerce in the United States or, as made applicable by subsection (b) outside the United States, knowingly participates in the development of, manufactures, produces, transfers, acquires, receives, possesses, imports, exports, or uses, or possesses and threatens to use, any atomic weapon. Nothing in this section modifies section 31 a. or section 101 of the Atomic Energy Act of 1954.

(b) FEDERAL NEXUS TO CONDUCT OUTSIDE OF THE UNITED STATES.— Conduct outside the United States is prohibited by subsection (a) if—

(1) the offense is committed by a national of the United States; or

(2) the offense is committed against a national of the United States.

§ 273. Acts of terrorism transcending national boundaries

(a) PROHIBITED ACTS.—

(1) OFFENSES.—Whoever, involving conduct transcending national boundaries and as made applicable by subsection (b)—

(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State, or the United States, shall be punished as prescribed in subsection (c).

(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense

under paragraph (1), or attempts or conspires to do so, shall be punished under subsection (c).

(b) APPLICABILITY.—

(1) IN GENERAL.—Subsection (a) applies if—

(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

(C) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Subsection (a) applies with respect to all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

(c) PENALTIES.—

(1) GENERALLY.—Whoever violates this section shall be punished—

(A) for a killing, or if death results to any person from any other conduct prohibited by this section, by death, or by imprisonment for any term of years or for life;

(B) for kidnapping, by imprisonment for any term of years or for life;

(C) for maiming, by imprisonment for not more than 35 years;

(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

(d) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

(e) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

(2) over conduct which, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

(f) INVESTIGATIVE AUTHORITY.—In addition to any other investigative authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and any violation of section 102, 112, 614, 955, 1201, or 1205 and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056.

(g) REQUESTS FOR MILITARY ASSISTANCE.—The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 271 during an emergency situation involving a weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

(h) DEFINITIONS.—As used in this section—

(1) the term ''conduct transcending national boundaries'' means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

(2) the term ''territorial sea of the United States'' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

(3) the term ''Federal crime of terrorism'' means an offense that—

(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

(B) is a violation of—

(i) section 1301 (relating to destruction of aircraft or aircraft facilities), 1306 (relating to violence at international airports), 571 (relating to arson within special maritime and territorial jurisdiction), 621 or 623 (relating to biological weapons), 624 (relating to variola virus), 631 (relating to chemical weapons), 271 (relating weapons of mass destruction and explosives and other lethal devices), 612(m) or (n) (relating to plastic explosives), 614(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 614(i) (relating to arson and bombing of property used in interstate commerce), 593(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 955(a)(1) (relating to conspiracy to murder, kidnap, or maim persons abroad), 787(a)(1) (relating to protection of computers), 787(a)(5)(A)(i) resulting in damage as defined in 787(a)(5)(B)(ii) through (v) (relating to protection of computers), 102(2), (4), or (8) (relating to killing of officers and employees of the United States foreign officials, official guests, or internationally protected persons), 123 (relating to hostage taking), 1201 (relating to government property or contracts), 1202 (relating to destruction of communication lines, stations, or systems), 1203 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1205(a) (relating to destruction of an energy facility), 1331 (relating to terrorist attacks and other acts of violence against mass transportation systems), 273 (relating to financial transactions), 276

(relating to missile systems designed to destroy aircraft), 275 (relating to radiological dispersal devices), 277 (relating to harboring terrorists), 278 (relating to providing material support to terrorists), 279 (relating to providing material support to terrorist organizations), 280 (relating to financing of terrorism, or 1292 (relating to torture) of this title;

(ii) sections 92 (relating to prohibitions governing atomic weapons) or 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2122 or 2284); or

(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

§ 273. Financial transactions

(a) OFFENSE.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405) as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be imprisoned for not more than 10 years.

(b) DEFINITIONS.—As used in this section—

(1) the term ''financial transaction'' has the same meaning as in section 1451; and

(2) the term ''United States person'' means any—

(A) United States citizen or national;

(B) permanent resident alien;

(C) juridical person organized under the laws of the United States; or

(D) any person in the United States.

§ 274. Missile systems designed to destroy aircraft

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

(ii) otherwise direct or guide the rocket or missile to an aircraft;

(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

(2) NONWEAPON.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

(3) EXCLUDED CONDUCT.—This subsection does not apply with respect to—

(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

(B) conduct pursuant to the terms of a contract with the United States or any department or agency

thereof or with a State or any department or agency thereof.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term ''aircraft'' has the definition set forth in section 40102(a)(6) of title 49.

§ 275. Radiological dispersal devices

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

(2) EXCEPTION.—This subsection does not apply with respect to—

(A) conduct by or under the authority of the United States or any department or agency thereof; or

(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Whoever violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by imprisonment for life.

§ 276. Harboring or concealing terrorists

(a) OFFENSE.—Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe, has committed, or is about to commit, an offense under section 1301 (relating to destruction of aircraft or aircraft facilities), section 621 (relating to biological weapons), section 631 (relating to chemical weapons), section 601 (relating to nuclear materials), paragraph (2) or (3) of section 614(f) (relating to arson and bombing of government property risking or causing injury or death), section 1205(a) (relating to the destruction of an energy facility), section 1651 (relating to violence against maritime navigation), section 271 (relating to weapons of mass destruction), or section 273 (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (re-

lating to aircraft piracy) of title 49, shall imprisoned not more than ten years.

(b) VENUE.—A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

§ 277. Providing material support to terrorists

(a) OFFENSE.—Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 271, 273, 276, 1301, 1306, 571, 621, 631, 102, 112, 121(m) or (n), 601, 1201, 1202, 1203, 1205, 1331, 1651, 1291, 278, or 279 of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) section 46502 or 60123(b) of title 49, or any offense listed in section 273(g)(5)(B) (except for sections 278 and 279) or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act, shall be fined under this title, imprisoned not more than 15 years, or both. A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law, and, if the death of any person results, shall be imprisoned for any term of years or for life.

(b) DEFINITIONS.—As used in this section—

(1) the term ''material support or resources'' means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

(2) the term ''training'' means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

(3) the term ''expert advice or assistance'' means advice or assistance derived from scientific, technical or other specialized knowledge.

§ 278. Providing material support or resources to designated foreign terrorist organizations

(a) PROHIBITED ACTIVITIES.—

(1) UNLAWFUL CONDUCT.—Whoever as made applicable by subsection (d) knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be imprisoned not more than 15 years, or both, and if the death of any person results, shall be imprisoned for any term of years or for life. To violate this paragraph, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (g)(6)), that the organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

(2) FINANCIAL INSTITUTIONS.—Except as authorized by the Secretary, any financial institution that becomes aware that it has possession of, or control over, any funds in which a foreign terrorist organization, or its agent, has an interest, shall—

(A) retain possession of, or maintain control over, such funds; and

(B) report to the Secretary the existence of such funds in accordance with regulations issued by the Secretary.

(b) CIVIL PENALTY.—Any financial institution that knowingly fails to comply with subsection (a)(2) shall be subject to a civil penalty in an amount that is the greater of—

(A) $50,000 per violation; or

(B) twice the amount of which the financial institution was required under subsection (a)(2) to retain possession or control.

(c) INJUNCTION.—Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act that constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district court of the United States to enjoin such violation.

(d) FEDERAL NEXUS.—Subsection (a) applies if—

(1) an offender is a national of the United States or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

(2) an offender is a stateless person whose habitual residence is in the United States;

(3) after the conduct required for the offense occurs, an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

(4) the offense occurs in whole or in part within the United States;

(5) the offense occurs in or affects interstate or foreign commerce; or

(6) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

(e) INVESTIGATIONS.—

(1) IN GENERAL.—The Attorney General shall conduct any investigation of a possible violation of this section, or of any license, order, or regulation issued pursuant to this section.

(2) COORDINATION WITH THE DEPARTMENT OF THE TREASURY.—The Attorney General shall work in coordination with the Secretary in investigations relating to—

(A) the compliance or noncompliance by a financial institution with the requirements of subsection (a)(2); and

(B) civil penalty proceedings authorized under subsection (b).

(3) REFERRAL.—Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

(f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—

(A) REQUEST BY UNITED STATES.—In any civil proceeding under this section, upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may authorize the United States to—

(i) redact specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure;

(ii) substitute a summary of the information for such classified documents; or

(iii) substitute a statement admitting relevant facts that the classified information would tend to prove.

(B) ORDER GRANTING REQUEST.—If the court enters an order granting a request under this paragraph, the entire text of the documents to which the request relates shall be sealed and preserved in the records of thecourt to be made available to the appellate court in the event of an appeal.

(C) DENIAL OF REQUEST.—If the court enters an order denying a request of the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with paragraph (5). For purposes of such an appeal, the entire text of the documents to which the request relates, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

(i) Copies of items from which classified information has been redacted.

(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

(iii) A declassified summary of the specific classified information.

(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

(3) TAKING OF TRIAL TESTIMONY.—

(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take pre-

cautions to guard against the compromise of any classified information, including—

(i) permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry; and

(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant's obligation to establish the relevance and materiality of any classified information sought to be introduced.

(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (5).

(5) INTERLOCUTORY APPEAL.—

(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

(i) authorizing the disclosure of classified information;

(ii) imposing sanctions for nondisclosure of classified information; or

(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

(B) EXPEDITED CONSIDERATION.—

(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.

(iii) APPEALS DURING TRIAL.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

(III) shall render its decision not later than 4 days after argument on appeal; and

(IV) may dispense with the issuance of a written opinion in rendering its decision.

(C) EFFECT OF RULING.—An interlocutory appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

(6) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

(g) DEFINITIONS.—As used in this section—

(1) the term ''classified information'' has the meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.);

(2) the term ''funds'' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable in-

strument, and any electronic representation of any of the foregoing;

(3) the term ''material support or resources'' has the same meaning given that term in section 2339A (including the definitions of ''training'' and ''expert advice or assistance'' in that section);

(4) the term ''Secretary'' means the Secretary of the Treasury; and

(6) the term ''terrorist organization'' means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

(h) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ''personnel'' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

(j) EXCEPTION.—No person may be prosecuted under this section in connection with the term ''personnel'', ''training'', or ''expert advice or assistance'' if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act).

§ 279. Prohibitions against the financing of terrorism

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, in a circumstance described in subsection (b), by any means, directly or indirectly, unlawfully and knowingly provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

(1) the offense takes place in the United States and—

(A) a perpetrator was a national of another state or a stateless person;

(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

(C) on board an aircraft which is operated by the government of another state;

(D) a perpetrator is found outside the United States;

(E) was directed toward or resulted in the carrying out of a predicate act against—

(i) a national of another state; or

(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

(G) was directed toward or resulted in the carrying out of a predicate act—

(i) outside the United States; or

(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

(2) the offense takes place outside the United States and—

(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

(B) a perpetrator is found in the United States; or

(C) was directed toward or resulted in the carrying out of a predicate act against—

(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

(ii) any person or property within the United States;

(iii) any national of the United States or the property of such national; or

(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

(4) the offense is committed on board an aircraft which is operated by the United States; or

(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

(c) CONCEALMENT.—Whoever—

(1)(A) is in the United States; or

(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support or resources, or any funds or proceeds of such funds—

(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B of this title; or

(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).

(d) PENALTIES.—

(1) SUBSECTION (A).—Whoever violates subsection (a) shall be imprisoned for not more than 20 years.

(2) SUBSECTION (C).—Whoever violates subsection (c) shall be imprisoned for not more than 10 years.

(e) DEFINITIONS.—In this section—

(1) the term ''funds'' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

(2) the term ''government facility'' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

(3) the term ''proceeds'' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

(4) the term ''provides'' includes giving, donating, and transmitting;

(5) the term ''collects'' includes raising and receiving;

(6) the term ''predicate act'' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

(7) the term ''treaty'' means—

(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

(8) the term ''intergovernmental organization'' includes international organizations;

(9) the term ''international organization'' has the same meaning as in section 136;

(10) the term ''armed conflict'' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

(13) the term ''material support or resources'' has the same meaning given that term in section 2339B(g)(4) of this title; and

(14) the term ''state'' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity lo-

cated within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).

§ 280. Receiving military-type training from a foreign terrorist organization

(a) OFFENSE.—Whoever, if a circumstance exists that is described in section 279(d), knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be imprisoned for ten years. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

(b) DEFINITIONS.—As used in this section—

(1) the term ''military-type training'' includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2));

(3) the term ''critical infrastructure'' means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or de-

livery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports); and

(4) the term ''foreign terrorist organization'' means an organization designated as a terrorist organization under section 219(a)(1) of the Immigration and Nationality Act.

§ 281. Civil remedies

(a) ACTION AND JURISDICTION.—Any national of the United States who suffers any loss by reason of an act of international terrorism, or the estate, survivors, or heirs of that national, may in a civil action in any appropriate district court of the United States recover threefold the damages sustained and the cost of the suit, including attorney's fees.

(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 102, 111, 112, 121, or 123 of this title or section 46314, 46502, 46505, or 46506 of title 49 shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

(d) GENERAL VENUE.—A civil action under this section may be instituted the United States district court for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

(e) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, then a civil action under this section may be instituted in the United States district court for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

(f) SERVICE ON WITNESSES.—A witness in a civil action brought under this section may be served in any other district where the defendant resides, is found, or has an agent.

(g) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under this section on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

(2) that foreign court is significantly more convenient and appropriate; and

(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

(h) STATUTE OF LIMITATIONS.—

(1) Subject to subsection (b), a civil action under this section shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

(2) The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in paragraph (1).

(i) ACTS OF WAR.—No action shall be maintained under this section of this title for injury or loss by reason of an act of war.

(j) LIMITATION ON DISCOVERY.—If a party to an action under this section seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy

Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

(k) STAY OF ACTION FOR CIVIL REMEDIES.—

(1) The Attorney General may intervene in any civil action brought under this section for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

(l) SUITS AGAINST GOVERNMENTS.—No action shall be maintained under this section against—

(1) the United States, an agency of the United States, or an officer or employee of the United States or any agen-

cy thereof acting within his or her official capacity or under color of legal authority; or

(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

(m) EXCLUSIVE JURISDICTION.—The district courts of the United States shall have exclusive original jurisdiction over an action brought under this section.

§ 282. Definitions for subchapter

As used in this subchapter—

(1) the term ''international terrorism'' means activities that—

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

(3) the term ''person'' means any individual or entity capable of holding a legal or beneficial interest in property;

(4) the term ''act of war'' means any act occurring in the course of—

(A) declared war;

(B) armed conflict, whether or not war has been declared, between two or more nations; or

(C) armed conflict between military forces of any origin; and

(5) the term ''domestic terrorism'' means activities that—

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State;

(B) appear to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(C) occur primarily within the territorial jurisdiction of the United States.

SUBCHAPTER C—MILITARY AND NAVY

Sec.
292. Entering military, naval, or Coast Guard property.
293. Use of Army and Air Force as posse comitatus.

§ 292. Entering military, naval, or Coast Guard property

Whoever—

(1) within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

(2) reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof;

shall be or imprisoned not more than six months.

§ 293. Use of Army and Air Force as posse comitatus

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, knowingly uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be imprisoned not more than two years.

SUBCHAPTER D—CIVIL DISORDERS AND RIOTS

Sec.
296. Civil disorders.

§ 296. Civil disorders

(a) OFFENSE WHOEVER—

(1) teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which is in or affects interstate or foreign commerce or the performance of any federally protected function;

(2) transports or manufactures for transportation in or affecting interstate or foreign commerce any firearm or explosive or incendiary device, knowing or having reason to know or intending that the same will be used unlawfully in furtherance of a civil disorder; or

(3) commits or attempts to commit any act to obstruct, impede, or interfere with any fireman or law enforcement officer lawfully engaged in the lawful performance of official duties incident to and during the commission of a civil disorder which is in or affects commerce or the conduct or performance of any federally protected function;

shall be imprisoned not more than five years.

(b) LAW ENFORCMENT EXCLUSION.—Nothing in this section makes unlawful any act of any law enforcement officer which is performed in the lawful performance of official duties.

(c) DEFINTIONS.—The following definitions apply in this section:

(1) The term ''civil disorder'' means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

(2) The term ''federally protected function'' means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof; and such term includes the collection and distribution of the United States mails.

(3) The term ''firearm'' means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

(4) The term ''explosive or incendiary device'' means—

(A) dynamite and all other forms of high explosives;

(B) any explosive bomb, grenade, missile, or similar device; and

(C) any incendiary bomb or grenade, fire bomb, or similar device, including any device which—

(i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound; and

(ii) can be carried or thrown by one individual acting alone.

(5) The term ''fireman'' means any member of a fire department (including a volunteer fire department) of any State, any political subdivision of a State.

(6) The term ''law enforcement officer'' means any officer or employee of the United States, of any State or any political subdivision of a State while engaged in the enforcement or prosecution of any of the criminal laws of the

United States or of that State or subdivision; and such term includes members of the National Guard (as defined in section 101 of title 10), members of the organized militia of a State (as defined in section 101 of title 10), and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil disorder.

(d) NON-PREMPTION.—Nothing in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which any provisions of the section operate to the exclusion of State or local laws on the same subject matter, nor shall any provision of this section be construed to invalidate any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

SUBCHAPTER E—ESPIONAGE AND CENSORSHIP

Sec.
301. Gathering, transmitting or losing defense information.
302. Gathering or delivering defense information to aid foreign government.
303. Disclosure of classified information.

§301. Gathering, transmitting or losing defense information

(a) OFFENSE.—Whoever—

(1) for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation—

(A) goes upon, enters, flies over, or otherwise obtains information concerning any place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of re-

search or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense;

(B) copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or

(C) receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe, at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to this subchapter;

(2) lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, knowingly communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to

communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or knowingly retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it;

(3) having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, knowingly communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or knowingly retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or

(4) being entrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, note, or information, relating to the national defense—

(A) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed; or

(B) having knowledge that the same has been illegally removed from its proper place of custody or delivered to anyone in violation of its trust, or lost, or stolen, abstracted, or destroyed, and fails to make prompt report of such loss, theft, abstraction, or destruction to his superior officer;

shall be imprisoned not more than ten years.

(b) CONSPIRACY.—If two or more persons conspire to violate subsection (a), and one or more of such persons do any

act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

§ 302. Gathering or delivering defense information to aid foreign government

(a) DURING PEACETIME.—Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by death or by imprisonment for any term of years or for life, except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense resulted in the identification by a foreign power (as defined in section 101(a) of the Foreign Intelligence Surveillance Act of 1978) of an individual acting as an agent of the United States and consequently in the death of that individual, or directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.

(b) DURING WARTIME.—Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the Armed Forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any

works or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for any term of years or for life.

(c) CONSPIRACY.—If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy.

§ 303. Disclosure of classified information

(a) OFFENSE.—Whoever knowingly communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes;

shall be imprisoned not more than ten years.

(b) DEFINITIONS.—As used in subsection (a) of this section—

(1) the term ''classified information'' means information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States

Government Agency for limited or restricted dissemination or distribution;

(2) the terms ''code,''''cipher,'' and ''cryptographic system'' include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

(3) the term ''foreign government'' includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

(4) the term ''communication intelligence'' means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients; and

(5) the term ''unauthorized person'' means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) DISCLAIMER.—Nothing in this section prohibits the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

SUBCHAPTER F—IMMIGRATION AND NATIONALITY

Sec.
311. False Statement in application and use of passport.
312. Forgery or false use of passport.
313. Misuse of passport.
314. Fraud and misuse of visas, permits, and other documents.
315. Procurement of citizenship or naturalization unlawfully.
316. Sale of naturalization or citizenship papers.

317. Penalties related to removal.
318. Bringing in and harboring certain aliens.
319. Entry of alien at improper time or place; misrepresentation and concealment of facts.
320. Reentry of removed alien.
321. Aiding or assisting certain aliens to enter the United States.
322. Increased penalty for certain terrorism related offenses.

§ 311. False statement in application and use of passport

Whoever—

(1) knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

(2) knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement;

shall be imprisoned not more than 15 years.

§ 312. Forgery or false use of passport

Whoever—

(1) falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

(2) knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same;

shall be imprisoned not more than 15 years.

§ 313. Misuse of passport

Whoever—

(1) knowingly uses, or attempts to use, any passport issued or designed for the use of another;

(2) knowingly uses or attempts to use any passport in violation of the conditions or restrictions therein contained,

or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

(3) knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed;

shall be imprisoned not more than 15 years (in the case of any other offense).

§ 314. Fraud and misuse of visas, permits, and other documents

(a) FORGERY AND SIMILAR CONDUCT.—Whoever—

(1) knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained;

(2) except under direction of the Attorney General or the Secretary of Homeland Security, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or Secretary of Homeland Security for the printing of such visas, permits, or documents;

(3) when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

(4) knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact;

shall be fined under this title or imprisoned not more than 15 years.

(b) USE OF FORGED OF SIMILAR DOCUMENTS.—Whoever uses—

(1) an identification document, knowing or having reason to know that the document was not issued lawfully for the use of the possessor;

(2) an identification document knowing (or having reason to know) that the document is false; or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be imprisoned not more than 5 years.

(c) EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the

Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

§ 315. Procurement of citizenship or naturalization unlawfully

Whoever—

(1) knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(2) whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of nationalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing;

shall be imprisoned not more than 15 years.

§ 316. Sale of naturalization or citizenship papers

Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be imprisoned 15 years.

§ 317. Penalties related to removal

(a) PENALTY FOR FAILURE TO DEPART.—

(1) IN GENERAL.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a) of the Immigration and Nationality Act, who—

(A) knowingly fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

(B) knowingly fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,

(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or

(D) knowingly fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,

shall be imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a) of the Immigration and Nationality Act).

(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien's release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

(A) the age, health, and period of detention of the alien;

(B) the effect of the alien's release upon the national security and public peace or safety;

(C) the likelihood of the alien's resuming or following a course of conduct which made or would make the alien deportable;

(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien's removal is directed to expedite the alien's departure from the United States;

(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or

countries to which the alien has been ordered removed; and

(F) the eligibility of the alien for discretionary relief under the immigration laws.

(b) FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who knowingly fails to comply with regulations or requirements issued pursuant to section 241(a)(3) of the Immigration and Nationality Act or knowingly give false information in response to an inquiry under such section shall be imprisoned for not more than one year.

(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

(1) CIVIL PENALTIES.—

(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e) of section 241 of the Immigration and Nationality Act, the person shall pay to the Commissioner the sum of $2,000 for each violation.

(B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2) of the Immigration and Nationality Act, the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

(C) NO COMPROMISE.—The Attorney General may not compromise the amount of such penalty under this paragraph.

(2) CLEARING VESSELS AND AIRCRAFT.—

(A) CLEARANCE BEFORE DECISION ON LIABILITY.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

(B) PROHIBITION ON CLEARANCE WHILE PENALTY UNPAID.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.

(d) DISCONTINUING GRANTING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.

§ 318. Bringing in and harboring certain aliens

(a) CRIMINAL PENALTIES.—(1)(A) Whoever—

(i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

(ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless dis-

regard of the fact that such coming to, entry, or residence is or will be in violation of law; or

(v) engages in any conspiracy to commit any of the preceding acts;

shall be punished as provided in subparagraph (B).

(B) Whoever violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

(i) in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be imprisoned not more than 10 years;

(ii) in the case of a violation of subparagraph (A) (ii), (iii), (iv), or (v)(II) be imprisoned not more than 5 years;

(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury to, or places in jeopardy the life of, any person, be imprisoned not more than 20 years; and

(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life.

(2) Whoever, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs—

(A) be imprisoned not more than one year; or

(B) in the case of—

(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,

(ii) an offense done for the purpose of commercial advantage or private financial gain, or

(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be imprisoned not less than 5 nor more than 15 years.

(3)(A) Whoever, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be imprisoned for not more than 5 years.

(B) An alien described in this subparagraph is an alien who—

(i) is an unauthorized alien (as defined in section 274A(h)(3)), and

(ii) has been brought into the United States in violation of this subsection.

(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—

(A) the offense was part of an ongoing commercial organization or enterprise;

(B) aliens were transported in groups of 10 or more; and

(C)(i) aliens were transported in a manner that endangered their lives; or

(ii) the aliens presented a life-threatening health risk to people in the United States.

(b) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

(c) AUDIOVISUALLY PRESERVED DEPOSITIONS.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of

a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.

(d) OUTREACH PROGRAM.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.

§ 319. Entry of alien at improper time or place; misrepresentation and concealment of facts

(a) ENTRY.—Any alien who—

(1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers; or

(2) eludes examination or inspection by immigration officers, or

(3) attempts to enter or obtains entry to the United States by a knowingly false or misleading representation or the knowingly concealment of a material fact;

shall, for the first commission of any such offense, be imprisoned not more than 6 months, and, for a subsequent commission of any such offense, be imprisoned not more than 2 years.

(b) APPREHENSION WHILE ENTERING.—Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

(1) at least $50 and not more than $250 for each such entry (or attempted entry); or

(2) twice the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.

(c) MARRIAGE.—An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years.

(d) COMMERCIAL ENTERPRISE.—Whoever knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years.

§ 320. Reentry of removed alien

(a) OFFENSE.—Subject to subsection (b), any alien who—

(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

(2) thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this or any prior Act,

shall be imprisoned not more than 2 years.

(b) INCREASED PENALTY.—In the case of any alien violating subsection (a)—

(1) whose removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be imprisoned not more than 10 years;

(2) whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be imprisoned not more than 20 years;

(3) who has been excluded from the United States pursuant to section 235(c) of the Immigration and Nation-

ality Act because the alien was excludable under section 212(a)(3)(B) of such Act or who has been removed from the United States pursuant to title V of such Act, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence; or

(4) who was removed from the United States pursuant to section 241(a)(4)(B) of such Act who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be imprisoned for not more than 10 years.

For the purposes of this subsection, the term ''removal'' includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.

(c) REENTRY.—Any alien deported pursuant to section 242(h)(2) of the Immigration and Nationality Act who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.

(d) CHALLENGE OF VALIDITY OF ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

(3) the entry of the order was fundamentally unfair.

§ 321. Aiding or assisting certain aliens to enter the United States

Whoever knowingly aids or assists any alien inadmissible under section 212(a)(2) of the Immigration and Nationality Act (insofar as an alien inadmissible under such section has been convicted of an aggravated felony) or 212(a)(3) of such Act (other than subparagraph (E) thereof) to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be or imprisoned not more than 10 years.

§ 322. Increased penalty for certain terrorism related offenses

Whoever violates this subchapter shall, if the maximum imprisonment for the offense is less but for this section, be imprisoned not more than 25 years if the offense was committed to facilitate an act of international terrorism (as defined in section 2331 of this title), and 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 592).

CHAPTER 17—DRUG CRIMES

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§ 401. Definitions for chapter

As used in this chapter—

(1) a term defined for the purposes of the Controlled Substances Act has the same meaning in this chapter;

(2) the term ''large quantity of a major drug'' means—

(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 50 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(H) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

(3) the term ''substantial quantity of a major drug'' means—

(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(B) 500 grams or more of a mixture or substance containing a detectable amount of—

(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

(C) 5 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-

phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide; or

(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

(H) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

(4) the term ''date rape drug'' means gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam;

(5) the term ''repeat offender'' means a person is convicted under this chapter after a prior conviction for a felony drug offense;

(6) the term ''career offender'' means a person is convicted under this chapter after two or more prior convictions for a felony drug offense;

(7) the term ''midlevel quantity of marijuana' means 50 kilograms of marijuana or more than 50 marijuana plants; and

(8) the term ''larger quantity of hashish'' means ten kilograms of hashish or one kilogram of hashish oil.

§ 402. Basic offenses

Except as authorized by the Controlled Substances Act whoever knowingly—

(1) manufactures, distributes, or dispenses, or possesses with intent to manufacture, distribute, or dispense, a controlled substance;

(2) creates, distributes, or dispenses, or possesses with intent to distribute or dispense, a counterfeit substance;

(3) imports or exports a controlled substance in violation of section 1002, 1003, or 1007 of the Controlled Substances Import and Export Act;

(4) brings or possesses on board a vessel, aircraft, or vehicle a controlled substance in violation of section 1005 of that Act, or

(5) manufactures, possesses with intent to distribute, or distributes a controlled substance contrary to section 1009 of that Act;

shall be punished as provided in this chapter.

§ 403. Basic punishment structure

(a) LARGE QUANTITIES OF MAJOR DRUGS.—

(1) PRISON.—If the violation of section 402 involves a large quantity of a major drug, the offender shall be imprisoned any term of years not less than ten, or for life. If the offender is a repeat offender or if death or serious bodily injury results to any person from the offense, the term shall not be less than 20 years. If the defendant is a career offender, the term shall be life.

(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $4,000,000, and if the offender is a career offender, not more than $8,000,000.

(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of 5 years, but if the offender is a career offender or if death or serious bodily injury results to any person from the offense, for a period of 10 years.

(b) SUBSTANTIAL QUANTITIES OF MAJOR DRUGS.—

(1) PRISON.—If the violation of section 402 involves a substantial quantity of a major drug, the offender shall be imprisoned not less than five years nor more than 40 years. If the offender is a repeat offender the term shall not be less than 10 years. If death or serious bodily injury results to any person from the offense, the term shall be life.

(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $2,000,000, and if the offender is a career offender, not more than $4,000,000.

(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of 4 years, but if the offender is a repeat offender or death or serious bodily injury result to any person from the offense, for a period of 8 years.

(c) LESSER QUANTITIES OF MAJOR DRUGS AND ANY QUANTITY OF CERTAIN OTHER SUBSTANCES.—

(1) PRISON.—If the violation of section 402 involves a quantity, lesser than those specified in subsection (a) or (b), of a major drug, or any quantity of another substance in schedule I or II, or a date rape drug, the offender shall be imprisoned not more than 20 years. If the offender is a repeat offender, the term shall not be less than 30 years. If death or serious bodily injury results to any person from the offense, the offender shall be imprisoned any term or years not less than 20, or for life.

(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $1,000,000, and if the offender is a repeat offender, not more than $2,000,000.

(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentence to supervised release for a period of 3 years, but if the defendant is a repeat offender for a period of 6 years.

(d) MIDLEVEL QUANTITIES OF MARIJUANA, LARGER QUANTITIES OF HASHISH, AND CERTAIN SCHEDULE III SUBSTANCES.—

(1) PRISON.—If the violation of section 402 involves a midlevel quantity of marijuana, a larger quantity of hashish, or any quantity of a schedule III substance for which a penalty is not imposed in a previous subsection of this section, the offender shall be imprisoned not more than five years, or if a repeat offender, not more than 10 years.

(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $250,000 and if the offender is a career offender, not more than $500,000.

(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of 2 years, but if the defendant is a repeat offender, for a period of 4 years.

(e) SCHEDULE IV SUBSTANCES.—If the violation of section 402 involves a schedule IV substance, the offender shall be imprisoned not more than three years and to supervised release for one year. If the offender is a repeat offender, the offender shall be fined not more than $500,000 or imprisoned not more than six years, or both, and shall be sentenced to supervised release for two years.

(f) SCHEDULE V SUBSTANCES.—If the violation of section 402 involves a schedule V substance, the offender shall be imprisoned not more than one year. If the offender is a repeat offender, the offender shall be imprisoned not more than two years.

§ 404. Offenses involving protected persons

(a) DISTRIBUTION WITH INTENT TO COMMIT A CRIME OF VIOLENCE.—

(1) IN GENERAL.—Whoever, with intent to commit a crime of violence (including an offense that would also be punishable under section 201 if the conduct occurred in the special maritime and territorial jurisdiction of the United States), against an individual, violates section 402 by distributing a controlled substance or controlled substance analogue to that individual without that individual's knowledge shall be imprisoned not more than 20 years.

(2) DEFINITION.—As used in this subsection, the term ''without that individual's knowledge'' means that the individual is unaware that a substance with the ability to alter that individual's ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.

(b) ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING CONTROLLED SUBSTANCE.—Whoever, while manufacturing a controlled substance in violation of the Controlled Substances Act, or attempting or conspiring to do so, or transporting materials, including chemicals, to do so, knowingly creates a risk of harm to human life shall be imprisoned not more than ten years.

(c)(1) Except as provided in section 405 and in paragraph (2), any person at least 18 years of age who violates section 402 by distributing a controlled substance to a person under 21 years of age is subject to (A) twice the maximum punishment authorized by section 403, and (B) at least twice any term of supervised release authorized by section 403, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 403, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.

(2) Except as provided in section 405, if the offender under paragraph (1) has a prior conviction under paragraph (1) (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 the Controlled Substances Act) is subject to (A) three times the maximum punishment authorized by section 403, and (B) at least three times any term of supervised release authorized by section 403, for a second offense or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 403, a term of imprisonment under this subsection shall be not less than one year. Penalties for third and subsequent convictions shall those provided by section 403(a) for offenses involving large quantities of major drugs under that section.

(d) ADULTS USING CHILDREN.—Whoever, being at least 21 years of age, knowingly—

(1) employs, hires, uses, persuades, induces, entices, or coerces a child to violate section 402; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a child to assist in avoiding detection or apprehension, for any offense under section 402, by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment and a fine, or both, up to triple those authorized by section 403.

(e) YOUNG ADULTS USING CHILDREN.—

(1) Whoever, not being a child, knowingly—

(A) employs, hires, uses, persuades, induces, entices, or coerces, a child to violate any provision of this chapter or of the Controlled Substances Act or the Controlled Substances Import and Export Act;

(B) employs, hires, uses, persuades, induces, entices, or coerces, child to assist in avoiding detection or apprehension, for any such violation, by any Federal, State, or local law enforcement official; or

(C) receives a controlled substance from a child, other than an immediate family member, in violation of section 402;

shall be imprisoned for up to twice the maximum term otherwise authorized, or fined up to twice the fine otherwise authorized, or both, and be sentenced at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

(2) Whoever violates paragraph (1) after a prior conviction under paragraph (1) of this section, is punishable by a term of imprisonment up to three times that otherwise authorized, or both, and at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall those provided by section

403(a) for offenses involving large quantities of major drugs under that section.

(f) PROVIDING CONTROLLED SUBSTANCES TO CHILDREN.—Whoever violates subsection (c) or (d)—

(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to a child; or

(2) if the person employed, hired, or used is 14 years of age or younger;

shall be subject to a term of imprisonment for not more than five years, in addition to any other punishment authorized by this chapter.

(g) PREGNANT PERSONS.—Except as authorized by the Controlled Substances Act, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Any person who violates this subsection shall be subject to the same penalties as are provided for a violation of subsection (c).

§ 405. Enhancement for offenses involving protected places

(a) CULTIVATION ON FEDERAL PROPERTY.—The maximum fine that may be imposed for a violation of section 402 by cultivating a controlled substance on Federal property shall be the greater of the amount otherwise provided in this chapter or—

(1) $500,000 if the defendant is an individual; or

(2) $1,000,000 if the defendant is other than an individual.

(b) USE OF HAZARDOUS SUBSTANCE ON FEDERAL LAND.—Whoever in the course of a violation of section 402 knowingly uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(1) creates a serious hazard to humans, wildlife, or domestic animals,

(2) degrades or harms the environment or natural resources, or

(3) pollutes an aquifer, spring, stream, river, or body of water,

or attempt or conspires to do so shall be imprisoned not more than five years.

(c) BOOBYTRAPS.—

(1) Whoever knowingly assembles, maintains,or places a boobytrap on Federal property where a controlled substance is being manufactured, distributed, or dispensed, or attempts or conspires to do so, shall be imprisoned not more than ten years.

(2) If the offender has one or more prior convictions for an offense under this subsection, the offender shall be imprisoned not more than 20 years.

(3) As used in this subsection, the term ''boobytrap'' means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of any unsuspecting person making contact with the device. Such term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, and lines or wires with hooks attached.

(d) SAFETY REST AREAS.—

(1) ENHANCEMENT.—Whoever violates section 402 by distributing or possessing with intent to distribute a controlled substance in or on, or within 1,000 feet of, a truck stop or safety rest area is subject to—

(A) in the case of a first offense under this subsection subject to—

(i) twice the maximum punishment provided in section 403; and

(ii) twice any term of supervised release authorized by section 403 for a first offense; and

(B) in the case of an offense under this subsection after a prior conviction under this subsection—

(i) three times the maximum punishment authorized by section 403; and

(ii) three times any term of supervised release authorized by section 403 for a first offense.

(2) DEFINITIONS.—As used in this subsection—

(A) the term ''safety rest area'' means a roadside facility with parking facilities for the rest or other needs of motorists.

(B) the term ''truck stop'' means a facility (including any parking lot appurtenant thereto) that—

(i) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49, United States Code), operating in commerce (as defined in that section); and

(ii) is located within 2,500 feet of the National System of Interstate and Defense Highways or the Federal-Aid Primary System.

§ 406. Maintaining drug-involved premises.

(a) Except as authorized by this title, it shall be unlawful to—

(1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;

(2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than $500,000, or both, or a fine of $2,000,000 for a person other than an individual.

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

(d)(1) Any person who violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

(A) $250,000; or

(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

(e) Any person who violates subsection (a) shall be subject to declaratory and injunctive remedies as set forth in section 403(f) of the Controlled Substances Act.

§ 407. Distribution in or near schools

(a) IN GENERAL.—Whoever violates section 402 by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility, is (except as provided in subsection (b)) subject to—

(1) twice the maximum punishment authorized by section 403; and

(2) at least twice any term of supervised release authorized by section 403 for a first offense. A fine up to twice that authorized by section 403 may be imposed in addition to any term of imprisonment authorized by this subsection.

Except to the extent a greater minimum sentence is otherwise provided by section 403, a person shall be sentenced under this subsection to a term of imprisonment of not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

(b) SECOND OR SUBSEQUENT OFFENSES.—Whoever violates subsection (a) after a prior conviction under subsection (a) is punishable—

(1) by the greater of—

(A) a term of imprisonment of not less than three years and not more than life imprisonment; or

(B) three times the maximum punishment authorized by section 403 for a first offense; and

(2) at least three times any term of supervised release authorized by section 403 for a first offense.

A fine up to three times that authorized by section 403 may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 403.

(c) SPECIAL RULE FOR USING CHILDREN.—Notwithstanding any other law, whoever, being at least 21 years of age, knowingly—

(1) employs, hires, uses, persuades, induces, entices, or coerces a child to violate this section; or

(2) employs, hires, uses, persuades, induces, entices, or coerces a child to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 403.

(d) In the case of any mandatory minimum sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

(e) DEFINITIONS.—As used in this section—

(1) the term ''playground'' means any outdoor facility (including any parking lot appurtenant thereto) intended

for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards;

(2) the term ''youth center'' means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

(3) the term ''video arcade facility'' means any facility, legally accessible to children, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten machines that are either pinball or video machines; and

(4) the term ''swimming pool'' includes any parking lot appurtenant thereto.

§ 408. Listed chemicals

(a) OFFENSE.—Whoever knowingly—

(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by the Controlled Substances Act;

(2) possesses or distributes, a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by the Controlled Substances Act; or

(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310 of the Controlled Substances Act, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be imprisoned not more than 20 years in the case of a violation of paragraph (1) or (2) involving a list I chemical or not more than 10 years in any other case.

(b) INJUNCTIONS.—In addition to any other applicable penalty, any person convicted of a felony violation of this sec-

tion relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(c) ADDITIONAL OFFENSES.—

(1) Whoever knowingly distributes a listed chemical in violation of the Controlled Substances Act (other than in violation of a recordkeeping or reporting requirement of section 310), or attempts or conspires to do so, shall be imprisoned not more than 5 years.

(2) Whoever knowingly possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 310 of such Act have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation, or attempts or conspires to do so, shall be imprisoned not more than one year.

§ 409. Domestic regulatory offenses

(a) UNLAWFUL CONDUCT GENERALLY.—It shall be unlawful for any person—

(1) who is subject to the requirements of part C of the Controlled Substances Act to distribute or dispense a controlled substance in violation of section 309 of that Act;

(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 the Controlled Substances Act;

(4) to remove, alter, or obliterate a symbol or label required by section 305 of the Controlled Substances Act;

(5) to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required

under the Controlled Substances Act or the Controlled Substances Import and Export Act;

(6) to refuse any entry into any premises or inspection authorized by the Controlled Substances Act or the Controlled Substances Import and Export Act;

(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 304(f) or 511 of the Controlled Substances Act or to remove or dispose of substances so placed under seal;

(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this title or title III, any information acquired in the course of an inspection authorized by the Controlled Substances Act concerning any method or process which as a trade secret is entitled to protection, or to use to his own advantage or reveal (other than as authorized by section 310 of that Act) any information that is confidential under such section;

(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 310(a)(3) of the Controlled Substances Act;

(10) negligently to fail to keep a record or make a report under section 310 of that Act; or

(11) to distribute a laboratory supply to a person who uses, or attempts to use, that laboratory supply to manufacture a controlled substance or a listed chemical, in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act, with reckless disregard for the illegal uses to which such a laboratory supply will be put.

(b) DEFINITION.—As used in subsection (a)(11), the term ''laboratory supply'' means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of that sub-

section, there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm distributes and 2 weeks or more after the notification the notified firm distributes a laboratory supply to the customer.

(c) SCHEDULE I AND II SUBSTANCES.—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 the registration and by a quota assigned to that registrant pursuant to section 306 of the Controlled Substances Act; or

(2) in excess of a quota assigned to that registrant pursuant to section 306.

(d)(1)(A) Except as provided in subparagraph (B) of this paragraph and 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.

(B) In the case of a violation of paragraph (5) or (10) of subsection (a), the civil penalty shall not exceed $10,000.

(2)(A) Whoever knowingly violates, or attempts or conspires to violate, this section shall, except as otherwise provided in subparagraph (B), be imprisoned not more than one year.

(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 any law of the United States relating to controlled substances, 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.

(C) In addition to the penalties set forth elsewhere in this title, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be sub-

ject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.

(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.

§ 410. Additional domestic regulatory offenses

(a) GENERALLY.—It shall be unlawful for any person knowingly—

(1) as a registrant to distribute a controlled substance classified in schedule I or II, in the course of legitimate business, except pursuant to an order or an order form as required by section 308 of the Controlled Substances Act;

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

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

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act, or (B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present identification under section 310(a) of the Controlled Substances Act;

(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;

(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title, the Controlled Substances Act, or the Controlled Substances Import and Export Act;

(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this title, the Controlled Substances Act, or the Controlled Substances Import and Export Act or, in the case of an exportation, in violation of this title, the Controlled Substances Act, the Controlled Substances Import and Export Act, or of the laws of the country to which it is exported;

(8) to create a chemical mixture for the purpose of evading a requirement of section 310 of the Controlled Substances Act or to receive a chemical mixture created for that purpose; or

(9) to distribute, import, or export a list I chemical without the registration required by the Controlled Substances Act or the Controlled Substances Import and Export Act.

(b) USE OF COMMUNICATION FACILITY.—

(1) 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 fel-

ony under this chapter or the Controlled Substances Act or the Controlled Substances Import and Export Act.

(2) Each separate use of a communication facility shall be a separate offense under this subsection.

(3) As used in this subsection, the term ''communication facility'' means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

(c) ADVERTISING.—

(1) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a schedule I controlled substance.

(2) As used in this subsection the term ''advertisement'' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a schedule I controlled substance. The term ''advertisement'' does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not attempt to propose or facilitate an actual transaction in a schedule I controlled substance.

(d) PENALTIES.—

(1) Except as provided in paragraph (2), whoever knowingly violates this section shall be imprisoned not more than 4 years; except that if any person commits such a violation after being convicted for a felony under any law of the United States relating to controlled substances, narcotic drugs, marihuana, or depressant or stimulant substances, such person shall be sentenced to a term of imprisonment of not more than 8 years.

(2) Whoever, with the intent to manufacture or to facilitate the manufacture of methamphetamine, violates paragraph (6) or (7) of subsection (a), shall be imprisoned not more than 10 years; except that if any person commits such a violation after one or more prior convictions of that persons for a violation of any law of the United States or any State relating to controlled substances or listed chemicals, such person shall be imprisoned not more than 20 years.

(e) INJUNCTION RELATING TO ENGAGING IN TRANSACTIONS.— In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

(f) DECLARATORY AND OTHER RELIEF.—

(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to a violation of this section, section 402, or section 406.

(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain the violation.

(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

§ 411. Penalty for simple possession

(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any person knowingly—

(1) to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice, or except as otherwise authorized by the Controlled Substances Act or the Controlled Substances Import and Export Act;

(2) to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of the Controlled Substances Act or section 1008 of the Controlled Substances Import and Export Act, if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration.

(b) PUNISHMENT.—

(1) GENERALLY.—Whoever violates subsection (a) shall be imprisoned not more than 1 year, except that the offense is after a prior conviction of the offender under the Controlled Substances Act or the Controlled Substances Import and Export Act, or for any drug, narcotic, or chemical offense chargeable under the law of any State, the offender shall be imprisoned not less than 15 days nor more than 2 years, and shall be fined a minimum of $2,500, and if the offense is after two or more such convictions, the offender shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years, and shall be fined a minimum of $5,000.

(2) COCAINE BASE.—Notwithstanding paragraph (a), a person convicted under this section for the possession of a mixture or substance which contains cocaine base shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams,

or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram.

(3) FLUNITRAZEPAM.—Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years, shall be fined as otherwise provided in this section, or both. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred.

(4) COSTS.—Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines the defendant lacks the ability to pay.

(c) DEFINITION.—As used in this section, the term ''drug, narcotic, or chemical offense'' means any offense which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under the Controlled Substances Act.

§ 412. Civil penalty for possession of small amounts of certain controlled substances

(a) IN GENERAL.—An individual who knowingly possesses a controlled substance described in section 403(a) in violation of section 411 in an amount that, as specified by regulation of the Attorney General, is a personal use amount shall be liable to the United States for a civil penalty in an amount not to exceed $10,000.

(b) INCOME AND NET ASSETS.—The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this section or to pros-

ecute the individual criminally. However, in determining the amount of a penalty under this section, the income and net assets of an individual shall be considered.

(c) PRIOR CONVICTION.—A civil penalty may not be assessed under this section if the individual previously was convicted of a Federal or State offense relating to a controlled substance.

(d) LIMITATION ON NUMBER OF ASSESSMENTS.—A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

(e) ASSESSMENT.—A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(f) COMPROMISE.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(g) JUDICIAL REVIEW.—If the Attorney General issues an order pursuant to subsection (e) after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined de novo, and shall include the right of a trial by jury, the right to counsel, and the right to confront witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

(h) CIVIL ACTION.—If an individual does not request a hearing pursuant to subsection (e) and the Attorney General issues an order pursuant to such subsection, or if an individual

does not under subsection (g) seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in subsection (g). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(i) LIMITATION.—The Attorney General may not under this section commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

(j) EXPUNGEMENT PROCEDURES.—The Attorney General shall dismiss the proceedings under this section against an individual upon application of such individual at any time after the expiration of 3 years if—

(1) the individual has not previously been assessed a civil penalty under this section;

(2) the individual has paid the assessment;

(3) the individual has complied with any conditions imposed by the Attorney General;

(4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and

(5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding

under this section or the results thereof in response to an inquiry made of him for any purpose.

§ 413. Continuing criminal enterprise

(a) ENGAGING IN ENTERPRISE.—

(1) Whoever engages in a continuing criminal enterprise shall be imprisoned for any term of years not less than 20, or for life and fined not more than $2,000,000.

(2) If a person engages in such activity after a prior conviction of that person under this section, the offender shall be imprisoned any term of years not less than 30, or for life, and fined not to exceed the greater of twice the amount otherwise authorized in this chapter, or $4,000,000.

(b) AGGRAVATED OFFENSE.—Whoever engages in a continuing criminal enterprise shall be imprisoned for life and fined under subsection (a), if—

(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

(2)(A) the violation referred to in subsection (c)(1) involved at least 300 times the quantity of a substance described in section 403(b), or

(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 403(b).

(c) WHAT CONSTITUTES ''ENGAGING''.—For purposes of this section, a person is engaged in a continuing criminal enterprise if—

(1) that person violates any provision of this chapter the punishment for which is a felony, and

(2) such violation is a part of a continuing series of violations of chapter—

(A) which are undertaken by such person in concert with five or more other persons with respect to

whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

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

(d) SPECIAL RULE FOR SENTENCING.—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 the Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), shall not apply.

(e) DEATH PENALTY.—

(1) In addition to the other penalties set forth in this section whoever—

(A) while engaging in or working in furtherance of a continuing criminal enterprise, or engaging in an offense punishable under section 403(a) intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; and

(B) during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this chapter intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results.

shall be imprisoned any term of year not less than 20, or for life, or may be sentenced to death.

(2) As used in paragraph (1)(B), the term ''law enforcement officer'' means a public servant authorized by law to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

§ 414. Drug paraphernalia

(a) OFFENSE.—Whoever—

(1) sells or offers for sale drug paraphernalia;

(2) uses a facility of interstate or foreign commerce to transport drug paraphernalia; or

(3) imports or exports drug paraphernalia.

shall be imprisoned not more than three years.

(b) FORFEITURE.—Any drug paraphernalia involved in any violation of subsection (a) of this section shall be subject to seizure and forfeiture upon the conviction of a person for such violation. Any such paraphernalia shall be delivered to the Administrator of General Services, General Services Administration, who may order such paraphernalia destroyed or may authorize its use for law enforcement or educational purposes by Federal, State, or local authorities.

(c) DEFINITION.—The term ''drug paraphernalia'' means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under the Controlled Substances Act (title II of Public Law 91–513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as—

(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(2) water pipes;

(3) carburetion tubes and devices;

(4) smoking and carburetion masks;

(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(6) miniature spoons with level capacities of one-tenth cubic centimeter or less;

(7) chamber pipes;

(8) carburetor pipes;

(9) electric pipes;

(10) air-driven pipes;

(11) chillums;

(12) bongs;

(13) ice pipes or chillers;

(14) wired cigarette papers; or

(15) cocaine freebase kits.

(e) FACTORS WHICH MAY BE CONSIDERED.—In determining whether an item constitutes drug paraphernalia, in addition to all other logically relevant factors, the following may be considered:

(1) Instructions, oral or written, provided with the item concerning its use.

(2) Descriptive materials accompanying the item which explain or depict its use.

(3) National and local advertising concerning its use.

(4) The manner in which the item is displayed for sale.

(5) Whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(6) Direct or circumstantial evidence of the radio of sales of the item to the total sales of the business enterprise.

(7) The existence and scope of legitimate uses of the item in the community.

(8) Expert testimony concerning its use.

(f) EXCLUSIONS.—This section shall not apply to—

(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

§ 415. Proceedings to establish prior convictions

(a) FILING OF INFORMATION.—

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

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

(b) AFFIRMATION OR DENIAL OF PREVIOUS CONVICTION.—If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c) DENIAL, WRITTEN RESPONSE, AND HEARING.—

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the

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

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

(d) IMPOSITION OF SENTENCE.—

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

(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as a matter of law, the court shall, at the request of the United States attorney, postpone sentence to allow an appeal from

that determination. If no such request is made, the court shall impose sentence as provided by this part. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(e) No person who is convicted of an offense under this chapter 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.

§ 416. Anhydrous ammonia

(a) It is unlawful for any person—

(1) to steal anhydrous ammonia, or

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

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

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

§ 417. Controlled substances import and export listed chemical offenses

Whoever knowingly—

(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of the Controlled Substances Act or the Controlled Substances Import and Export Act;

(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation

of the Controlled Substances Act or the Controlled Substances Import or Export Act;

(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported;

(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) of the Controlled Substances Import and Export Act by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported;

(6) imports or exports a listed chemical in violation of section 1007 or 1018; or

(7) manufactures, possesses with intent to distribute, or distributes a listed chemical in violation of section 1009.

shall be imprisoned not more than 20 years in the case of a violation of paragraph (1) or (3) involving a list I chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical, or both.

CHAPTER 19—ORGANIZED CRIME

Subchapter	Sec.
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SUBCHAPTER A—RACKETEERING

Sec.
501. Interference with commerce by threats or violence.
502. Interstate and foreign travel or transportation in aid of racketeering enterprises.
503. Interstate transportation of wagering paraphernalia.
504. Offer, acceptance, or solicitation to influence operations of employee benefit plan.

505. Prohibition of illegal gambling businesses.
506. Use of interstate commerce facilities in the commission of murder-for-hire.
507. Violent crimes in aid of racketeering activity.
508. Prohibition of unlicensed money transmitting businesses.

§ 501. Interference with commerce by threats or violence

(a) OFFENSE.—Whoever affects interstate or foreign commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be imprisoned not more than 20 years.

(b) DEFINITIONS.—As used in this section—

(1) The term ''robbery'' means the unlawful taking or obtaining of personal property from the person or presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term ''extortion'' means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(c) EXCLUSIONS.—This section does not repeal, modify or affect section 6 or 20 of the Clayton Act, the Norris-LaGuardia Act, the Labor Management Relations Act, 1947, or the Railway Labor Act.

§ 502. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) ELEMENTS OF OFFENSE.—

(1) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

(A) distribute the proceeds of any unlawful activity;

(B) commit any crime of violence to further any unlawful activity; or

(C) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity;

and thereafter performs or attempts to engage in the conduct so intended shall be punished as provided in subsection (b).

(b) PUNISHMENT.—The punishment for an offense under subsection (a)—

(1) with respect to conduct described in subparagraph (A) or (C) shall be imprisoned not more than 5 years; or

(B) with respect to conduct described in subparagraph (B) shall be imprisoned for not more than 20 years and if death results shall be imprisoned for any term of years or for life.

(c) DEFINITIONS.—As used in this section the term ''unlawful activity'' means—

(1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States;

(2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States; or

(3) any act which is indictable under subchapter II of chapter 53 of title 31, or under section 1451 or 1452.

§ 503. Interstate transportation of wagering paraphernalia

(a) OFFENSE.—Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any device to be used—

(1) bookmaking;

(2) wagering pools with respect to a sporting event; or

(3) in a numbers, policy, bolita, or similar game

shall be imprisoned for not more than five years.

(b) EXCLUSION.—This section does not apply to—

(1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law;

(2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State;

(3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication;

(4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law; or

(5) the transportation in foreign commerce to a destination in a foreign country of equipment, tickets, or materials designed to be used within that foreign country in a lottery which is authorized by the laws of that foreign country.

(c) EFFECT ON STATE PROSECUTIONS.—Nothing in this section creates immunity from criminal prosecution under any laws of a.

(d) DEFINITIONS.— As used in this section—

(1) the term''foreign country'' means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions); and

(2) the term ''lottery'' means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers, but does not include the placing or accepting of bets or wagers on sporting events or contests.

§ 504. Offer, acceptance, or solicitation to influence operations of employee benefit plan

(a) OFFENSE.—Whoever, being—

(1) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan;

(2) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

(3) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

(4) a person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan;

receives or agrees to receive or solicits anything of value because of or with intent to be influenced with respect to, any of the actions, decisions, or other duties relating to any question or matter concerning such plan or any person who directly or indirectly gives or offers, or promises to give or offer, anything prohibited by this section shall be imprisoned not more than three years:

(b) EXCLUSION.—This section does not prohibit the payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as such person, administrator, officer, trustee, custodian, counsel, agent, or employee of such plan, employer, employee organization, or organization providing benefit plan services to such plan.

(c) DEFINITIONS.—As used in this section—

(1) the term ''any employee welfare benefit plan'' or ''employee pension benefit plan'' means any employee welfare benefit plan or employee pension benefit plan, respectively, subject to any provision of title I of the Employee Retirement Income Security Act of 1974; and

(2) the term ''employee organization'' and ''administrator'' have the meanings given those terms, respectively, in sections 3(4) and (3)(16) of the Employee Retirement Income Security Act of 1974.

§ 505. Prohibition of illegal gambling businesses

(a) OFFENSE.—Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined under this title or imprisoned not more than five years, or both.

(b) DEFINITIONS.—As used in this section—

(1) the term ''illegal gambling business'' means a gambling business which—

(A) is a violation of the law of a State or political subdivision in which it is conducted;

(B) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(C) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross revenue of $2,000 in any single day.;

(2) the term ''gambling'' includes pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(c) ESTABLISHMENT OF PROBABLE CAUSE.—If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

(d) FORFEITURE.—Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizures, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to in-

formers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

(e) EXCLUSION.—This section does not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended, if no part of the gross receipts derived from such activity inures to the benefits of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity.

§ 506. Use of interstate commerce facilities in the commission of murder-for-hire

(a) OFFENSE.—Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, or who conspires to do so, shall be imprisoned for not more than ten years; and if personal injury results, shall be imprisoned for not more than twenty years; and if death results, shall be punished by death or life imprisonment.

(b) DEFINITION.—As used in this section and section 507—

(1) the term ''anything of pecuniary value'' means anything of value in the form of money, a negotiable in-

strument, a commercial interest, or anything else the primary significance of which is economic advantage; and

(2) the term ''facility of interstate or foreign commerce'' includes means of transportation and communication.

§ 507. Violent crimes in aid of racketeering activity

(a) OFFENSE.—Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

(1) for murder, by death or life imprisonment; and for kidnapping, by imprisonment for any term of years or for life;

(2) for maiming, by imprisonment for not more than thirty years;

(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years;

(4) for threatening to commit a crime of violence, by imprisonment for not more than five years;

(5) for attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than ten years; and

(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years.

(b) DEFINITIONS.—As used in this section—

(1) the term ''racketeering activity'' has the meaning set forth in section 511; and

(2) the term ''enterprise'' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.

§ 508. Prohibition of unlicensed money transmitting businesses

(a) OFFENSE.—Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be imprisoned not more than 5 years.

(b) DEFINITION.—As used in this section—

(1) the term ''unlicensed money transmitting business'' means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—

(A) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;

(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, United States Code, or regulations prescribed under such section; or

(C) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity; and

(2) the term ''money transmitting'' includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country

or to locations abroad by wire, check, draft, facsimile, or courier.

SUBCHAPTER B—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Sec.
511. Definitions.
512. Prohibited activities.
513. Criminal penalties.
514. Civil remedies.
515. Venue and process.
516. Expedition of actions.
517. Evidence.
518. Civil investigative demand.

§511. Definitions

As used in this subchapter—

(1) the term ''racketeering activity'' means—

(A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year;

(B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 991 (relating to bribery), section 1007 (relating to sports bribery), sections 692, 693, and 694 (relating to counterfeiting), section 647 (relating to theft from interstate shipment) if the act indictable under section 647 is felonious, section 652 (relating to embezzlement from pension and welfare funds), sections 155, 156, 157, 159 (relating to extortionate credit transactions), section 783 (relating to fraud and related activity in connection with identification documents), section 784 (relating to fraud and related activity in connection with access devices), section 1381 (relating to the transmission of gambling information), section 801 (relating to mail fraud), section 803 (relating to wire fraud), section 804 (relating to financial institution

fraud), section 325 (relating to the procurement of citizenship or nationalization unlawfully), section 316 (relating to the sale of naturalization or citizenship papers), 318 (relating to bringing in or harboring certain aliens), 321 (relating to aiding or assisting certain aliens to enter the United States), (if the violation of section 318 or 321 was committed for financial gain) sections 1441–1443 (relating to obscene matter), section 1132 (relating to obstruction of justice), section 1135 (relating to obstruction of criminal investigations), section 1137 (relating to the obstruction of State or local law enforcement), section 1138 (relating to tampering with a witness, victim, or an informant), section 1139 (relating to retaliating against a witness, victim, or an informant), section 311 (relating to false statement in application and use of passport), section 312 (relating to forgery or false use of passport), section 313 (relating to misuse of passport), section 314 (relating to fraud and misuse of visas, permits, and other documents), sections 1261–1266 (relating to peonage, slavery, and trafficking in persons), section 501 (relating to interference with commerce, robbery, or extortion), section 502 (relating to racketeering), section 503 (relating to interstate transportation of wagering paraphernalia), section 504 (relating to unlawful welfare fund payments), section 505 (relating to the prohibition of illegal gambling businesses), section 1451 (relating to the laundering of monetary instruments), section 1452 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 506 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 221, 222, and 223 (relating to sexual exploitation of children), sections 671 and 672 (relating to interstate transportation of stolen motor vehicles), sections 674 and 675 (relating to interstate transportation of stolen property), section 676 (relating to trafficking

in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 678 (relating to criminal infringement of a copyright), section 679 (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 680 (relating to trafficking in goods or services bearing counterfeit marks), section 682 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 1411–1415 (relating to trafficking in contraband cigarettes), sections 211–214 (relating to white slave traffic), sections 621–627 (relating to biological weapons), sections 363 (relating to chemical weapons), section 601 (relating to nuclear materials);

(C) any act which is indictable under section 302 of the Labor Management Relations Act, 1947, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds);

(D) any offense involving fraud connected with a case under title 11 (except a case under section 875 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States;

(E) any act which is indictable under the Currency and Foreign Transactions Reporting Act;

(F) any act which is indictable under section 278 of the Immigration and Nationality Act, if the act indictable under such section of such Act was committed for the purpose of financial gain; or

(G) any act that is indictable under any provision listed in section 274(g)(5)(B);

(2) the term ''person'' includes any individual or entity capable of holding a legal or beneficial interest in property;

(3) the term ''enterprise'' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

(4) the term ''pattern of racketeering activity'' requires at least two acts of racketeering activity, one of which occurred after October 15, 1970 and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity;

(6) the term ''unlawful debt'' means a debt—

(A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury; and

(B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate;

(7) the term ''racketeering investigator'' means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

(8) the term ''racketeering investigation'' means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this subchapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this subchapter;

(9) the term ''documentary material'' includes any book, paper, document, record, recording, or other material; and

(10) the term ''Attorney General'' includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter, and any department or agency so designated may use in investigations authorized by this subchapter either the investigative provisions of this subchapter or the investigative power of such department or agency otherwise conferred by law.

§ 512. Prohibited activities

(a) USING OR INVESTING PROCEEDS.—It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) MAINTAINING INTEREST OR CONTROL.—It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) CONDUCTING AFFAIRS.—It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) CONSPIRACIES.—It shall be unlawful for any person to conspire to violate subsection (a), (b), or (c).

§ 513. Criminal penalties

Whoever violates section 512 shall be imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment).

§ 514. Civil remedies

(a) PREVENTION AND RESTRAINT OF VIOLATIONS.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 512 by issuing appropriate orders, including—

(1) ordering any person to divest any interest in any enterprise; and

(2) imposing reasonable restrictions on the future activities or investments of any person, including—

(A) prohibiting that person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or

(B) ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

(b) PRELIMINARY MATTERS.—The Attorney General may institute proceedings under this section. Pending final deter-

mination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

(c) PRIVATE RIGHT OF ACTION.—Any person injured in his business or property by reason of a violation of section 512 may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney's fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 512. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.

(d) ESTOPPEL.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

§ 515. Venue and process

(a) VENUE.—Any civil action or proceeding under this subchapter may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

(b) SUMMONS.—In any action under section 514 in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

(c) SUBPOENAS.—In any civil or criminal action or proceeding instituted by the United States under this subchapter in the district court of the United States for any judicial dis-

trict, subpoenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

(d) OTHER PROCESS.—All other process in any action or proceeding under this subchapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts affairs.

§ 516. Expedition of actions

In any civil action instituted under this subchapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in the Attorney General's opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or, in the absence of the chief judge, to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine the action.

§ 517. Evidence

In any proceeding ancillary to or in any civil action instituted by the United States under this subchapter the proceedings may be open or closed to the public at the discretion of the court after consideration of the rights of affected persons.

§ 518. Civil investigative demand

(a) ISSUANCE.—If the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary materials relevant to a racketeering investigation, the Attorney General may, before the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such material for examination.

(b) CONTENTS.—Each such demand shall—

(1) state the nature of the conduct constituting the alleged racketeering violation which is under investigation and the provision of law applicable thereto;

(2) describe the class or classes of documentary material produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

(3) state that the demand is returnable forthwith or prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(4) identify the custodian to whom such material shall be made available.

(c) LIMITATION.—No such demand shall—

(1) contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation; or

(2) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation.

(d) SERVICE.—Service of any such demand or any petition filed under this section may be made upon a person by—

(1) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

(2) delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

(3) depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

(e) RETURN.—A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

(f) DOCUMENT CUSTODIAN.—

(1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as the Attorney General shall determine from time to time to be necessary to serve as deputies to such officer.

(2) Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the posses-

sion of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

(5) Upon the completion of—

(A) the racketeering investigation for which any documentary material was produced under this subchapter, and

(B) any case or proceeding arising from such investigation,

the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

(6) When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary ma-

terial other than copies thereof made pursuant to this subsection so produced by such person.

(7) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly—

(A) designate another racketeering investigator to serve as custodian thereof, and

(B) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated.

Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon the predecessor custodian with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before the successor's designation as custodian.

(g) ENFORCEMENT PETITION.—Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

(h) MODIFICATION OR SETTING ASIDE.—Within 20 days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district

court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

(i) ORDERING CUSTODIAN TO PERFORM DUTY.—At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

(j) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

SUBCHAPTER C—CRIMINAL STREET GANGS

Sec.
521. Criminal street gangs.

§ 521. Criminal street gangs

(a) DEFINITIONS.—In this section—

(1) the term ''conviction'' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony; and

(2) the term ''criminal street gang'' means an ongoing group, club, organization, or association of 5 or more persons—

(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and

(C) the activities of which affect interstate or foreign commerce.

(b) PENALTY.—The sentence of a person convicted of an offense described in subsection (c) shall be increased by not more than 10 years if the offense is committed under the circumstances described in subsection (d).

(c) OFFENSES.—The offenses described in this section are—

(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years;

(2) a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and

(3) a conspiracy to commit an offense described in paragraph (1) or (2).

(d) CIRCUMSTANCES.—The circumstances described in this section are that the offense described in subsection (c) was committed by a person who—

(1) participates in a criminal street gang with knowledge that its members engage in or have engaged in a continuing series of offenses described in subsection (c);

(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

(3) has been convicted within the past 5 years for—

(A) an offense described in subsection (c);

(B) a State offense—

(i) involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21

U.S.C. 802)) for which the maximum penalty is not less than 5 years' imprisonment; or

(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

CHAPTER 21—ARSON, FIREARMS, EXPLOSIVES, AND WEAPONS CRIMES

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SUBCHAPTER A—ARSON

Sec.
571. Arson within special maritime and territorial jurisdiction.

§ 571. Arson within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years. If the building is a dwelling or if the life of any person is placed in jeopardy, the offender shall be imprisoned for any term of years or for life.

SUBCHAPTER B—FIREARMS

Sec.
581. Definitions.
582. Unlawful acts.
583. Licensing.
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585. Exceptions: Relief from disabilities.
586. Remedy for erroneous denial of firearm.
587. Rules and regulations.
588. Interstate transportation of firearms.
589. Carrying of concealed firearms by qualified law enforcement officers.
590. Carrying of concealed firearms by qualified retired law enforcement officers.
591. Effect on State law.
592. Use of restricted ammunition.
593. Possession of firearms and dangerous weapons in Federal facilities.
594. Prohibition on purchase, ownership, or possession of body armor by violent felons.

§ 581. Definitions

For the purposes of this subchapter.—

(1) The term ''firearm'' means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(2) The term ''destructive device'' means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

Such term does not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(3) The term ''shotgun'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(4) The term ''short-barreled shotgun'' means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(5) The term ''rifle'' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(6) The term ''short-barreled rifle'' means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration,

modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(7) The term ''importer'' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term ''licensed importer'' means any such person licensed under the provisions of this chapter.

(8) The term ''manufacturer'' means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term ''licensed manufacturer'' means any such person licensed under the provisions of this chapter.

(9) The term ''dealer'' means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term ''licensed dealer'' means any dealer who is licensed under the provisions of this chapter.

(10) The term ''pawnbroker'' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(11) The term ''collector'' means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term ''licensed collector'' means any such person licensed under the provisions of this chapter.

(12) The term ''indictment'' includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(13) The term ''fugitive from justice'' means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(14) The term ''antique firearm'' means—

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica—

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term ''antique firearm'' shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(15)(A) The term ''ammunition'' means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm.

(B) The term ''armor piercing ammunition'' means—

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term ''armor piercing ammunition'' does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(16) The term ''published ordinance'' means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(17) The term ''crime punishable by imprisonment for a term exceeding one year'' does not include—

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(18) The term ''engaged in the business'' means—

(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manu-

facturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(19) The term ''with the principal objective of livelihood and profit'' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents,

such as improving or liquidating a personal firearms collection: Provided, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term ''terrorism'' means activity, directed against United States persons, which—

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(20) The term ''machinegun'' has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(21) The terms ''firearm silencer'' and ''firearm muffler'' mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(22) The term ''school zone'' means—

(A) in, or on the grounds of, a public, parochial or private school; or

(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(23) The term ''school'' means a school which provides elementary or secondary education, as determined under State law.

(24) The term ''motor vehicle'' has the meaning given such term in section 13102 of title 49, United States Code.

(25) The term ''semiautomatic rifle'' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(26) The term ''handgun'' means—

(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

(27) The term ''intimate partner'' means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(28)(A) The term ''misdemeanor crime of domestic violence'' means an offense that—

(i) is a misdemeanor under Federal or State law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless—

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(29) The term ''secure gun storage or safety device'' means—

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(30) The term ''body armor'' means any product sold or offered for sale, in interstate or foreign commerce, as

personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(31) A member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

§ 582. Unlawful acts

(a) It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed

dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of this title, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any fire arm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the

Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to—

(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the manufacture of such ammunition for the purpose of exportation; and

(C) any manufacture or importation for the purposes of testing or experimentation authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, except that this paragraph shall not apply to—

(A) the sale or delivery by a manufacturer or importer of such ammunition for use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof;

(B) the sale or delivery by a manufacturer or importer of such ammunition for the purpose of exportation;

(C) the sale or delivery by a manufacturer or importer of such ammunition for the purposes of testing or experimenting authorized by the Attorney General; and

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable

cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph

(4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if—

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of chapter 44 of title 18, United States Code, from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are — — —

with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) is an alien and—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) has been discharged from the Armed Forces under dishonorable conditions.

(7) was a citizen of the United States, and has renounced that citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate

partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

This subsection does not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 585 is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 585.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or con-

tract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment transportation, or receipt thereof would be in violation of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien—

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that—

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearms or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(l) Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection—

(A) the term ''firearm'' does not include the frame or receiver of any such weapon;

(B) the term ''major component'' means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term ''Security Exemplar'' means an object, to be fabricated at the direction of the Attorney General, that is—

(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17–4 PH stainless steel in a shape resembling a handgun; and

(ii) suitable for testing and calibrating metal detectors: Provided, however, That at the close of such 12-month period, and

at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a ''Security Exemplar'' which contains 3.7 ounces of material type 17–4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which—

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that—

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves--even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm—

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is—

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm—

(i) on private property not part of school grounds;

(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

(iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State

or any department, agency, or political subdivision thereof; or

(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 923, unless—

(A) after the most recent proposal of such transfer by the transferee—

(i) the transferor has—

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the hand-

gun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that—

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee—

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who—

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has com-

plied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term ''chief law enforcement officer'' means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and

disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

(C) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in section 1028(d) of this title) of the transferee containing a photograph of the transferee.

(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if—

(A)(i) such other person has presented to the licensee a permit that—

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than $5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess—

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to—

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile—

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except—

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's

parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term ''juvenile'' means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''alien'' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term ''nonimmigrant visa'' has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is—

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) WAIVER.—

(A) CONDITIONS FOR WAIVER.—Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if—

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) PETITION.—Each petition under subparagraph (B) shall—

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

§ 583. Licensing

(a) No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

(1) If the applicant is a manufacturer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;

(B) of firearms other than destructive devices, a fee of $50 per year; or

(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.

(2) If the applicant is an importer—

(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.

(3) If the applicant is a dealer—

(A) in destructive devices or ammunition for destructive devices, a fee of $1,000 per year; or

(B) who is not a dealer in destructive devices, a fee of $200 for 3 years, except that the fee for renewal of a valid license shall be $90 for 3 years.

(b) Any person desiring to be licensed as a collector shall file an application for such license with the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility as the Attorney General shall by regulation prescribe. The fee for such license shall be $10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

(c) Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person

other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory, except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity: Provided, That no other recordkeeping shall be required.

(d)(1) Any application submitted under subsection (a) or (b) of this section shall be approved if—

(A) the applicant is twenty-one years of age or over;

(B) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 922(g) and (n) of this chapter;

(C) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a

collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

(F) the applicant certifies that—

(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;

(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license; and

(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

(2) The Attorney General must approve or deny an application for a license within the 60-day period beginning on the date it is received. If the Attorney General fails to act within such period, the applicant may file an action under section

1361 of title 28 to compel the Attorney General to act. If the Attorney General approves an applicant's application, such applicant shall be issued a license upon the payment of the prescribed fee.

(e) The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this chapter or any rule or regulation prescribed by the Attorney General under this chapter or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement to make available such a device). The Attorney General may, after notice and opportunity for hearing, revoke the license of a dealer who willfully transfers armor piercing ammunition. The Attorney General's action under this subsection may be reviewed only as provided in subsection (f) of this section.

(f)(1) Any person whose application for a license is denied and any holder of a license which is revoked shall receive a written notice from the Attorney General stating specifically the grounds upon which the application was denied or upon which the license was revoked. Any notice of a revocation of a license shall be given to the holder of such license before the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes, a license, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation of a license, the Attorney General shall upon the request of the holder of the license stay the effective date of the revocation. A hearing held under this paragraph shall be held at a location convenient to the aggrieved party.

(3) If after a hearing held under paragraph (2) the Attorney General decides not to reverse his decision to deny an application or revoke a license, the Attorney General shall give notice of his decision to the aggrieved party. The aggrieved party may at any time within sixty days after the date notice was given under this paragraph file a petition with the United States district court for the district in which he resides or has his principal place of business for a de novo judicial review of such denial or revocation. In a proceeding conducted under this subsection, the court may consider any evidence submitted by the parties to the proceeding whether or not such evidence was considered at the hearing held under paragraph (2). If the court decides that the Attorney General was not authorized to deny the application or to revoke the license, the court shall order the Attorney General to take such action as may be necessary to comply with the judgment of the court.

(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information.

(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Attorney General, when he

has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate judge and securing from such magistrate judge a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

(B) The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

(ii) for ensuring compliance with the record keeping requirements of this chapter—

(I) not more than once during any 12-month period; or

(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee.; or

(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(C) The Attorney General may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Attorney General designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Attorney General to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Attorney General seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Attorney General may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

(2) Each licensed collector shall maintain in a bound volume the nature of which the Attorney General may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Attorney General reports and information with respect to

such records and the contents thereof, except as expressly required by this section.

(3)(A) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Attorney General and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency of the local jurisdiction in which the sale or other disposition took place, not later than the close of business on the day that the multiple sale or other disposition occurs.

(B) Except in the case of forms and contents thereof regarding a purchaser who is prohibited by subsection (g) or (n) of section 922 of this title from receipt of a firearm, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall not disclose any such form or the contents thereof to any person or entity, and shall destroy each such form and any record of the contents thereof no more than 20 days from the date such form is received. No later than the date that is 6 months after the effective date of this subparagraph, and at the end of each 6-month period thereafter, the department of State police or State law enforcement agency or local law enforcement agency of the local jurisdiction shall certify to the Attorney General of the United States that no disclosure contrary to this subparagraph has been made and that all forms and any record of the contents thereof have been destroyed as provided in this subparagraph.

(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Attorney

General. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Attorney General may arrange for the delivery of such records to such other responsible authority.

(5)(A) Each licensee shall, when required by letter issued by the Attorney General, and until notified to the contrary in writing by the Attorney General, submit on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.

(B) The Attorney General may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Attorney General, and the Attorney General approves such alternate method of reporting.

(6) Each licensee shall report the theft or loss of a firearm from the licensee's inventory or collection, within 48 hours after the theft or loss is discovered, to the Attorney General and to the appropriate local authorities.

(7) Each licensee shall respond immediately to, and in no event later than 24 hours after the receipt of, a request by the Attorney General for information contained in the records required to be kept by this chapter as may be required for determining the disposition of 1 or more firearms in the course of a bona fide criminal investigation. The requested information shall be provided orally or in writing, as the Attorney General may require. The Attorney General shall implement a system whereby the licensee can positively identify and establish that an individual requesting information via telephone is employed by and authorized by the agency to request such information.

(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Attorney General, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Attorney General at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Attorney General to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of

the enactment of the Firearms Owners' Protection Act, including the right of a licensee to conduct ''curios or relics'' firearms transfers and business away from their business premises with another licensee without regard as to whether the location of where the business is conducted is located in the State specified on the license of either licensee.

(k) Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Attorney General by regulation. The Attorney General shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition as defined in section 921(a)(17)(B).

(l) The Attorney General shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.

§ 584. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 592, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 582;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 582(l); or

(D) knowingly violates any other provision of this chapter,

shall be imprisoned not more than five years.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 582 shall be imprisoned not more than 10 years.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 582,

shall be imprisoned not more than one year.

(4) Whoever violates section 582(q) shall be imprisoned for not more than 5 years. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 582(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 582 shall be imprisoned for not more than 1 year.

(6)(A)(i) A juvenile who violates section 582(x) shall be imprisoned not more than 1 year, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 582(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 582(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 582(x) or a similar State law, but not including any other offense

consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 582(x)—

(i) shall be imprisoned not more than 1 year; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be imprisoned not more than 10 years.

(7) Whoever knowingly violates section 594 shall be imprisoned not more than 3 years.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be imprisoned not more than ten years.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a second or subsequent conviction under this subsection, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term ''drug trafficking crime'' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(3) For purposes of this subsection the term ''crime of violence'' means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term ''brandish'' means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 582, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 582(l), or knowing violation of section 584, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture

of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 584(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 582(a)(1), 582(a)(3), 582(a)(5), or 582(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 582(a)(1), 582(a)(3), 582(a)(5), or 582(b)(3) of this title;

(D) any offense described in section 582(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

(E) any offense described in section 582(i), 582(j), 582(l), 582(n), or 584(b) of this title; and

(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

(e)(1) In the case of a person who violates section 582(g) of this title and has three previous convictions by any court referred to in section 582(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 582(g).

(2) As used in this subsection—

(A) the term ''serious drug offense'' means—

(i) an offense under chapter 17 or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) for which a maximum term of imprisonment of ten years or more is prescribed by law; or

(ii) an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), for which a maximum term of imprisonment of ten years or more is prescribed by law;

(B) the term ''violent felony'' means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term ''conviction'' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

(f) In the case of a person who knowingly violates section 582(p), such person shall be or imprisoned not more than 5 years.

(g) Whoever, with the intent to engage in conduct which—

(1) constitutes an offense listed in section 1961(1),

(2) is punishable under chapter 17 or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years.

(h) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years.

(i)(1) A person who knowingly violates section 582(u) shall be imprisoned not more than 10 years.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any

provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(j) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in that section.

(k) A person who, with intent to engage in or to promote conduct that—

(1) is punishable under chapter 17 or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years.

(l) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years.

(l) A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years.

(m) A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be imprisoned not more than 10 years.

(n) A person who, with the intent to engage in conduct that constitutes a violation of section 582(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State

in furtherance of such purpose shall be imprisoned for not more than 10 years.

(o) A person who conspires to commit an offense under subsection (c) shall be imprisoned for not more than 20 years; and if the firearm is a machinegun or destructive device, or is equipped with a firearm silencer or muffler, shall be imprisoned for any term of years or life.

§ 585. Exceptions: Relief from disabilities

(a)(1) The provisions of this chapter, except for sections 582(d)(9) and 582(g)(9) and provisions relating to firearms subject to the prohibitions of section 582(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(2) The provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), shall not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Secretary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recog-

nized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

(4) When established to the satisfaction of the Attorney General to be consistent with the provisions of this chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), and other applicable Federal and State laws and published ordinances, the Attorney General may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the 60-day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

§ 586. Remedy for erroneous denial of firearm

Any person denied a firearm pursuant to subsection (s) or (t) of section 582—

(1) due to the provision of erroneous information relating to the person by any State or political subdivision thereof, or by the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 582,

may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be. In any action under this section, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

§ 587. Rules and regulations

(a) The Attorney General may prescribe only such rules and regulations as are necessary to carry out the provisions of this chapter, including—

(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license;

(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection; and

(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 582.

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Nothing in this section expands or restricts the Attorney General's authority to inquire into the disposition of any firearm in the course of a criminal investigation.

(b) The Attorney General shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

(c) The Attorney General shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 615 to complete affidavits or forms attesting to that exemption.

§ 588. Interstate transportation of firearms

Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof,

any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

§ 589. Carrying of concealed firearms by qualified law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term ''qualified law enforcement officer'' means an employee of a governmental agency who—

(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest;

(2) is authorized by the agency to carry a firearm;

(3) is not the subject of any disciplinary action by the agency;

(4) meets standards, if any, established by the agency which require the employee to regularly qualify in the use of a firearm;

(5) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(6) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is the photographic identification issued by the governmental agency for which the individual is employed as a law enforcement officer.

(e) As used in this section, the term ''firearm'' does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 581 of this title); and

(3) any destructive device (as defined in section 581 of this title).

§ 590. Carrying of concealed firearms by qualified retired law enforcement officers

(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law enforcement officer and who is carrying the identification required by subsection (d) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce, subject to subsection (b).

(b) This section shall not be construed to supersede or limit the laws of any State that—

(1) permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property; or

(2) prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park.

(c) As used in this section, the term ''qualified retired law enforcement officer'' means an individual who—

(1) retired in good standing from service with a public agency as a law enforcement officer, other than for reasons of mental instability;

(2) before such retirement, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest;

(3)(A) before such retirement, was regularly employed as a law enforcement officer for an aggregate of 15 years or more; or

(B) retired from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency;

(4) has a nonforfeitable right to benefits under the retirement plan of the agency;

(5) during the most recent 12-month period, has met, at the expense of the individual, the State's standards for training and qualification for active law enforcement officers to carry firearms;

(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

(7) is not prohibited by Federal law from receiving a firearm.

(d) The identification required by this subsection is—

(1) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the standards established by the agency for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm; or

(2)(A) a photographic identification issued by the agency from which the individual retired from service as a law enforcement officer; and

(B) a certification issued by the State in which the individual resides that indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State to meet the standards established by the State for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm.

(e) As used in this section, the term ''firearm'' does not include—

(1) any machinegun (as defined in section 5845 of the National Firearms Act);

(2) any firearm silencer (as defined in section 581 of this title); and

(3) a destructive device (as defined in section 581 of this title).

§ 591. Effect on State law

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

§ 592. Use of restricted ammunition

(a)(1) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm, shall, in addition to the punishment provided for the commission of such crime of violence or drug traf-

ficking crime be sentenced to a term of imprisonment for not less than five years.

(2) For purposes of this subsection, the term ''drug trafficking crime'' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

(b) Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed.

§ 593. Possession of firearms and dangerous weapons in Federal facilities

(a) Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be imprisoned not more than 1 year.

(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be imprisoned not more than 5 years.

(c) A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, or attempts or conspires to do such an act, shall be punished as provided in subchapter A of chapter 10.

(d) Subsection (a) shall not apply to—

(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to

engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be imprisoned not more than 2 years.

(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

(f) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

(g) As used in this section:

(1) The term ''Federal facility'' means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

(2) The term ''dangerous weapon'' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.

(3) The term ''Federal court facility'' means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States.

(h) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and notice of subsection (e) shall be posted conspicuously at each public entrance to each Federal court facility, and no person shall be convicted of an offense under subsection (a) or (e) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a) or (e), as the case may be.

§ 594. Prohibition on purchase, ownership, or possession of body armor by violent felons

(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

(1) a crime of violence; or

(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

(b) AFFIRMATIVE DEFENSE.—

(1) IN GENERAL.—It shall be an affirmative defense under this section that—

(A) the defendant obtained prior written certification from his or her employer that the defendant's purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

(B) the use and possession by the defendant were limited to the course of such performance.

(2) EMPLOYER.—In this subsection, the term ''employer'' means any other individual employed by the defendant's business that supervises defendant's activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.

SUBCHAPTER C—EXPLOSIVES

Sec.
601. Prohibited transactions involving nuclear materials.

§ 601. Prohibited transactions involving nuclear materials

(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material or nuclear byproduct material and—

(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property or to the environment; or

(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;

(2) with intent to deprive another of nuclear material or nuclear byproduct material, knowingly—

(A) takes and carries away nuclear material or nuclear byproduct material of another without authority;

(B) makes an unauthorized use, disposition, or transfer, of nuclear material or nuclear byproduct material belonging to another; or

(C) uses fraud and thereby obtains nuclear material or nuclear byproduct material belonging to another;

(3) knowingly—

(A) uses force; or

(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material or nuclear byproduct material belonging to another from the person or presence of any other;

(4) intentionally intimidates any person and thereby obtains nuclear material or nuclear byproduct material belonging to another;

(5) with intent to compel any person, international organization, or governmental entity to do or refrain from

doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

(6) knowingly threatens to use nuclear material or nuclear byproduct material to cause death or serious bodily injury to any person or substantial damage to property or to the environment under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under—

(1) paragraphs (1) through (7) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

(ii) for not more than 20 years in any other case; and

(2) paragraph (8) of subsection (a) of this section is—

(A) a fine under this title; and

(B) imprisonment—

(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

(ii) for not more than 10 years in any other case.

(c) The circumstances referred to in subsection (a) of this section are that—

(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) an offender or a victim is—

(A) a national of the United States; or

(B) a United States corporation or other legal entity;

(3) after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States;

(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material or nuclear byproduct material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States; or

(5) either—

(A) the governmental entity under subsection (a)(5) is the United States; or

(B) the threat under subsection (a)(6) is directed at the United States.

(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if—

(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary's discretion).

(2) As used in this subsection, the term ''emergency situation'' means a circumstance—

(A) that poses a serious threat to the interests of the United States; and

(B) in which—

(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

(ii) civilian law enforcement personnel are not capable of enforcing the law.

(3) Assistance under this section may include—

(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

(f) As used in this section—

(1) the term ''nuclear material'' means material containing any—

(A) plutonium ;

(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

(C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

(D) uranium 233;

(2) the term ''nuclear byproduct material'' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;

(3) the term ''international organization'' means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

(7) the term ''United States corporation or other legal entity'' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.

SUBCHAPTER D—IMPORTATION, MANUFACTURE, DISTRIBUTION AND STORAGE OF EXPLOSIVE MATERIALS

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§ 611. Definitions

In this subchapter the following definitions apply:

(1) The term ''explosive materials'' means explosives, blasting agents, and detonators.

(2) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 614, the term ''explosives'' means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Attorney General shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this chapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 614, the term ''explosive'' is defined in subsection (j) of such section 614.

(3) The term ''blasting agent'' means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: Provided, That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined.

(4) The term ''detonator'' means any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

(5) The term ''importer'' means any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

(6) The term ''manufacturer'' means any person engaged in the business of manufacturing explosive materials

for purposes of sale or distribution or for that person's own use.

(7) The term ''dealer'' means any person engaged in the business of distributing explosive materials at wholesale or retail.

(8) The term ''permittee'' means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.

(9) The term ''Attorney General'' means the Attorney General of the United States.

(10) The term ''crime punishable by imprisonment for a term exceeding one year'' shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Attorney General may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(11) The term ''crime punishable by imprisonment for a term exceeding one year'' shall not mean (1) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Attorney General may by regulation designate, or (2) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

(12) The term ''licensee'' means any importer, manufacturer, or dealer licensed under the provisions of this chapter.

(13) The term ''distribute'' means sell, issue, give, transfer, or otherwise dispose of.

(14) The term ''convention on the Marking of Plastic Explosives'' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

(15) The term ''detection agent'' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

(A) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

(B) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),

(C) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

(D) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

(E) any other substance in the concentration specified by the Attorney General, after consultation with the Secretary of State and the Secretary of Defense, that has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

(16) The term ''plastic explosive'' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10-<SUP>4 Pa at a temperature of 25/C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.

(17) The term ''alien'' means any person who is not a citizen or national of the United States.

(18) The term ''responsible person'' means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.

§ 612. Unlawful acts

(a) It shall be unlawful for any person—

(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive for the purpose of obtaining explosive materials, or a license, permit, exemption, or relief from disability under the provisions of this chapter;

(3) other than a licensee or permittee knowingly—

(A) to transport, ship, cause to be transported, or receive any explosive materials; or

(B) to distribute explosive materials to any person other than a licensee or permittee; or

(4) who is a holder of a limited permit—

(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.

(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

(1) a licensee;

(2) a holder of a user permit; or

(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

(c) It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

(d) It shall be unlawful for any person knowingly to distribute explosive materials to any individual who:

(1) is under twenty-one years of age;

(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;

(4) is a fugitive from justice;

(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(6) has been adjudicated a mental defective or who has been committed to a mental institution;

(7) is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, trans-

porting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(8) has been discharged from the armed forces under dishonorable conditions;

(9) having been a citizen of the United States, has renounced the citizenship of that person.

(e) It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

(f) It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require, including, but not limited to, a statement of intended use, the name, date, place of

birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

(g) It shall be unlawful for any licensee or permittee knowingly to make any false entry in any record which he is required to keep pursuant to this section or regulations promulgated under section 617.

(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.

(i) It shall be unlawful for any person—

(1) who is under indictment for, or who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who is an alien, other than an alien who—

(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act);

(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status

under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

(C) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Attorney General in consultation with the Secretary of Defense, who is present in the United States under military orders for training or other military purpose authorized by the United States and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the authorized military purpose; or

(D) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

(6) who has been discharged from the armed forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced the citizenship of that person;

(j) It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General. In promulgating such

regulations, the Attorney General shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

(k) It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Attorney General and to appropriate local authorities.

(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

(2) This subsection does not apply to—

(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person during the period beginning on that date and ending 3 years after that date of enactment; or

(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of this subsection, to fail to report to the Attorney General within 120 days after such date of enactment the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Attorney General may prescribe by regulation.

(p) DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''destructive device'' has the same meaning as in section 581;

(B) the term ''explosive'' has the same meaning as in section 614; and

(C) the term ''weapon of mass destruction'' has the same meaning as in section 271.

(2) PROHIBITION.—It shall be unlawful for any person—

(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching,

demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.

§ 613. Licenses and user permits

(a) An application for a user permit or limited permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Attorney General shall by regulation prescribe, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person. Each applicant for a license or permit shall pay a fee to be charged as set by the Attorney General, said fee not to exceed $50 for a limited permit and $200 for any other license or permit. Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) Upon the filing of a proper application and payment of the prescribed fee, and subject to the provisions of this chapter and other applicable laws, the Attorney General shall issue to such applicant the appropriate license or permit if—

(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with re-

spect to the applicant) is not a person described in section 612(i);

(2) the applicant has not willfully violated any of the provisions of this chapter or regulations issued hereunder;

(3) the applicant has in a State premises from which he conducts or intends to conduct business;

(4)(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Attorney General determines appropriate, that the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Attorney General by regulations shall prescribe; and

(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and

(5) the applicant has demonstrated and certified in writing that he is familiar with all published State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 612(i); and

(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

(c) The Attorney General shall approve or deny an application within a period of 90 days for licenses and permits, beginning on the date such application is received by the Attorney General.

(d) The Attorney General may revoke any license or permit issued under this section if in the opinion of the Attorney General the holder thereof has violated any provision of this

chapter or any rule or regulation prescribed by the Attorney General under this chapter, or has become ineligible to acquire explosive materials under section 612(d). The Attorney General's action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

(e)(1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Attorney General stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

(2) If the Attorney General denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Attorney General may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Attorney General shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary's written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701 through 706 of title 5.

(f) Licensees and holders of user permits shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and licensees and permittees shall submit to the Attorney General such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Attorney General may enter during business hours the premises (including places of storage) of any licensee or holder of a user permit, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under the provisions of this chapter or reg-

ulations issued hereunder, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials. The Attorney General may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).

(g) Licenses and user permits issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the premises covered by the license and permit.

(h)(1) If the Attorney General receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 612(i). In making the determination, the Attorney General may take into account a letter or document issued under paragraph (2).

(2)(A) If the Attorney General determines that the responsible person or the employee is not one of the persons described in any paragraph of section 612(i), the Attorney General shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

(B) If the Attorney General determines that the responsible person or employee is one of the persons described in any paragraph of section 612(i), the Attorney General shall notify the employer in writing or electronically of the determination

and issue to the responsible person or the employee, as the case may be, a document that—

(i) confirms the determination;

(ii) explains the grounds for the determination;

(iii) provides information on how the disability may be relieved; and

(iv) explains how the determination may be appealed.

(i) Furnishing of Samples—

(1) In general-Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

(A) samples of such explosive materials or ammonium nitrate;

(B) information on chemical composition of those products; and

(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

(2) REIMBURSEMENT.—The Attorney General shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.

§614. Penalties

(a) Any person—

(1) who violates any of subsections (a) through (i) or (l) through (o) of section 614 shall be imprisoned for not more than 10 years; and

(2) violates subsection (p)(2) of section 612, shall be imprisoned not more than 20 years.

(b) Any person who violates any other provision of section 612 of this chapter shall be imprisoned not more than one year.

(c)(1) Any explosive materials involved or used or intended to be used in any violation of the provisions of this chapter or any other rule or regulation promulgated thereunder or any violation of any criminal law of the United States shall be subject to seizure and forfeiture, and all provisions of the Internal

Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture in which it would be impracticable or unsafe to remove the materials to a place of storage or would be unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least 1 credible witness. The seizing officer shall make a report of the seizure and take samples as the Attorney General may by regulation prescribe.

(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of (including any person having an interest in) the property so destroyed may make application to the Attorney General for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Attorney General that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Attorney General shall make an allowance to the claimant not exceeding the value of the property destroyed.

(d) Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years; and if death results to any person, including

any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(e) Whoever, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than 10 years.

(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance, shall be imprisoned for not less than 5 years and not more than 20 years.

(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years.

(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life.

(g)(1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency

thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years.

(2) The provisions of this subsection shall not be applicable to—

(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Pipeline and Hazardous Materials Safety Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

(h) Whoever—

(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States,

including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for 10 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

(i) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment for any term of years, or to the death penalty or to life imprisonment.

(j) For the purposes of subsections (d), (e), (f), (g), (h), and (i) of this section and section 612(p)(2), the term ''explosive'' means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuzes (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, other explosive or incendiary devices within the meaning of paragraph (5) of section 232 of this title, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

(k) A person who steals any explosives materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years.

(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or from any permittee shall be imprisoned not more than 10 years.

(l) A person who steals any explosive material from a licensed importer, licensed manufacturer, or licensed dealer, or

from any permittee shall be imprisoned not more than 10 years.

(m) A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20.

(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense the commission of which was the object of the conspiracy.

(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 584(c)(3)) or drug trafficking crime (as defined in section 584(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.

(p) THEFT REPORTING REQUIREMENT.—

(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Attorney General not later than 24 hours after the discovery of the theft.

(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be imprisoned not more than 5 years.

§ 615. Exceptions; relief from disabilities

(a) Except in the case of subsection (l), (m), (n), or (o) of section 612 and subsections (d), (e), (f), (g), (h), and (i) of section 614 of this title, this chapter does not apply to—

(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof, and which pertain to safety;

(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

(4) small arms ammunition and components thereof;

(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section 581(a)(16) of title 18 of the United States Code, or in antique devices as exempted from the term ''destructive device'' in section 581(a)(4) of title 18 of the United States Code; and

(6) the manufacture under the regulation of the military department of the United States of explosive materials for, or their distribution to or storage or possession by the military or naval services or other agencies of the United States; or to arsenals, navy yards, depots, or other establishments owned by, or operated by or on behalf of, the United States.

(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 612(i) may apply to the Attorney General for relief from such prohibition.

(2) The Attorney General may grant the relief requested under paragraph (1) if the Attorney General determines that the circumstances regarding the applicability of section 612(i), and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under

the license or permit pending final action on an application for relief filed pursuant to this section.

(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 612 if the proponent proves by a preponderance of the evidence that the plastic explosive—

(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

(A) research, development, or testing of new or modified explosive materials;

(B) training in explosives detection or development or testing of explosives detection equipment; or

(C) forensic science purposes; or

(2) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

(3) For purposes of this subsection, the term ''military device'' includes, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.

§ 616. Additional powers of the Attorney General

(a) The Attorney General is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Attorney General is authorized to enter into or upon any property where

explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this chapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigatory authority they have with respect to violations of provisions of this chapter, the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 614.

(b) The Attorney General is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Attorney General pursuant to such regulations as deemed necessary to carry out the provisions of this subsection. The repository shall also contain information on incidents voluntarily reported to the Attorney General by State and local authorities.

§ 617. Rules and regulations

The administration of this subchapter shall be vested in the Attorney General. The Attorney General may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Attorney General shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

§ 618. Effect on State law

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

SUBCHAPTER E—BIOLOGICAL WEAPONS

Sec.
621. Prohibitions with respect to biological weapons.
622. Requests for military assistance to enforce prohibition in certain emergencies.
623. Possession by restricted persons.
624. Variola virus.
625. Seizure, forfeiture, and destruction.
626. Injunctions.
627. Definitions.

§ 621. Prohibitions with respect to biological weapons

(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, or attempts, threatens, or conspires to do the same, shall be imprisoned for life or any term of years. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

(b) ADDITIONAL OFFENSE.—Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose, shall be imprisoned not more than 10 years. In this subsection, the terms ''biological agent'' and ''toxin'' do not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(c) DEFINITION.—For purposes of this section, the term ''for use as a weapon'' includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, bona fide research, or other peaceful purposes.

§ 622. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 621 in an emergency situation involving a biological weapon of mass destruction. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

§ 623. Possession by restricted persons

(a)(1) No restricted person shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.

(2) Whoever knowingly violates this section shall be imprisoned not more than 10 years, but the prohibition contained in this section shall not apply with respect to any duly authorized United States governmental activity.

(b) TRANSFER TO UNREGISTERED PERSON.—

(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be imprisoned for not more than 5 years.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or

(c) of section 212 of such Act shall be imprisoned for not more than 5 years.

(c) UNREGISTERED FOR POSSESSION.—

(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be or imprisoned for not more than 5 years.

(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be imprisoned for not more than 5 years.

(d) In this section:

(1) The term ''select agent'' means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(2) The term ''restricted person'' means an individual who—

(A) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(B) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(C) is a fugitive from justice;

(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(E) is an alien illegally or unlawfully in the United States;

(F) has been adjudicated as a mental defective or has been committed to any mental institution;

(G)(i) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;

(H) has been discharged from the Armed Services of the United States under dishonorable conditions; or

(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).

(3) The term ''alien'' has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(4) The term ''lawfully admitted for permanent residence'' has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

§ 624. Variola virus

(a) UNLAWFUL CONDUCT.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or

indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

(1) the offense occurs in or affects interstate or foreign commerce;

(2) the offense occurs outside of the United States and is committed by a national of the United States;

(3) the offense is committed against a national of the United States while the national is outside the United States;

(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

(c) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

(2) OTHER CIRCUMSTANCES.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be imprisoned for not less than 30 years or imprisoned for life.

(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person's violation of subsection (a), the person shall be punished by imprisonment for life.

(d) DEFINITION.—As used in this section, the term "variola virus" means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.

§ 625. Seizure, forfeiture, and destruction

(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

(A) pertains to conduct prohibited under section 621; or

(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

§ 626. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 621 of this title;

(2) the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 621; or

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

§ 627. Definitions

As used in this chapter—

(1) the term ''biological agent'' means any microorganism (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of causing—

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

(2) the term ''toxin'' means the toxic material or product of plants, animals, microorganisms (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—

(A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(B) any poisonous isomer or biological product, homolog, or derivative of such a substance;

(3) the term ''delivery system'' means—

(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

(B) any vector;

(4) the term ''vector'' means a living organism, or molecule, including a recombinant or synthesized molecule, capable of carrying a biological agent or toxin to a host; and

SUBCHAPTER F—CHEMICAL WEAPONS

Sec.
631. Prohibited activities.
632. Penalties.
633. Individual self-defense devices.
634. Injunctions.
635. Requests for military assistance to enforce prohibition in certain emergencies.
636. Definitions.

§ 631. Prohibited activities

(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

(2) to assist or induce, in any way, any person to violate paragraph (1), or to attempt or conspire to violate paragraph (1).

(b) EXEMPTED AGENCIES AND PERSONS.—

(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a department, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

(1) takes place in the United States;

(2) takes place outside of the United States and is committed by a national of the United States;

(3) is committed against a national of the United States while the national is outside the United States; or

(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States.

§ 632. Penalties

(a) CRIMINAL PENALTIES.—

(1) IN GENERAL.—Any person who violates section 631 of this title shall be imprisoned for any term of years.

(2) DEATH PENALTY.—Any person who violates section 631 of this title and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 631 of this title and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(2) RELATION TO OTHER PROCEEDINGS.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) REIMBURSEMENT OF COSTS.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

§ 633. Individual self-defense devices

This subchapter does not prohibit any individual self-defense device, including one using a pepper spray or chemical mace.

§ 634. Injunctions

The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 631 or 674; or

(2) the preparation or solicitation to engage in conduct prohibited under section 631 or 675.

§ 635. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 631 in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

§ 636. Definitions

In this chapter the following apply:

(1) CHEMICAL WEAPON.—The term ''chemical weapon'' means the following, together or separately:

(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B).

(2) CHEMICAL WEAPONS CONVENTION; CONVENTION.—The terms ''Chemical Weapons Convention'' and ''Convention'' mean the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(3) KEY COMPONENT OF A BINARY OR MULTICOMPONENT CHEMICAL SYSTEM.—The term ''key component of a binary or multicomponent chemical system'' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly

with other chemicals in the binary or multicomponent system.

(4) PRECURSOR.—

(A) IN GENERAL.—The term ''precursor'' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. The term includes any key component of a binary or multicomponent chemical system.

(B) LIST OF PRECURSORS.—Precursors which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

(5) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ''purposes not prohibited by this chapter'' means the following:

(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

(6) TOXIC CHEMICAL.—

(A) IN GENERAL.—The term ''toxic chemical'' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their ori-

gin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

CHAPTER 23—THEFT AND RELATED CRIMES

Subchapter	Sec.
A. Embezzlement and theft	**641**
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SUBCHAPTER A—EMBEZZLEMENT AND THEFT

Sec.
641. Public money, property or records.
642. Accounting generally for public money.
643. Officer or employee of United States converting property of another.
644. Theft, embezzlement, or misapplication by bank officer or employee.
645. Lending, credit and insurance institutions.
646. Property mortgaged or pledged to farm credit agencies.
647. Interstate or foreign shipments by carrier; State prosecutions.
649. Carrier's funds derived from commerce; State prosecutions.
650. Within special maritime and territorial jurisdiction.
651. Receiving stolen property within special maritime and territorial jurisdiction.
652. Theft or embezzlement from employee benefit plan.
653. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations.
654. Theft or bribery concerning programs receiving Federal funds.
655. Theft of major artwork.
656. Theft or embezzlement in connection with health care.
657. Embezzlement of labor organization assets.

§641. Public money, property or records

(a) OFFENSE.—Whoever—

(1) embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

(2) receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted;

shall be imprisoned not more than ten years; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be imprisoned not more than one year.

(b) DEFINITION.—As used in this section the term ''value'' means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

§ 642. Accounting generally for public money

Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be or imprisoned not more than ten years; but if the amount embezzled does not exceed $1,000, he shall be imprisoned not more than one year.

§ 643. Officer or employee of United States converting property of another

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be imprisoned not more than ten years; but if the sum embezzled is $1,000 or less, he shall be imprisoned not more than one year.

§ 644. Theft, embezzlement, or misapplication by bank officer or employee

(a) OFFENSE.—Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or

section 25(a) of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or knowingly misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be imprisoned not more than 30 years; but if the amount embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be imprisoned not more than one year.

(b) DEFINITIONS.—As used in this section—

(1) the term ''member bank'' means any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks;

(2) the term ''insured bank'' means any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the term ''branch or agency of a foreign bank'' means a branch or agency described in section 20(9) of this title; and

(4) the term ''depository institution holding company'' has the meaning given such term in section 3 of the Federal Deposit Insurance Act.

§ 645. Lending, credit and insurance institutions

Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the

Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or knowingly misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be imprisoned not more than 30 years; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be imprisoned not more than one year.

§ 646. Property mortgaged or pledged to farm credit agencies

Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any regional agricultural credit corporation, or any bank for cooperatives, shall be imprisoned not more than five years; but if the value of such property does not exceed $1,000, he shall be imprisoned not more than one year.

§ 647. Interstate or foreign shipments by carrier; State prosecutions

(a) OFFENSE.—Whoever—

(1) embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motortruck, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight, express, or other property;

(2) buys or receives or has in his possession any such goods or chattels, knowing the same to have been embezzled or stolen;

(3) embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

(4) embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any passenger thereon any money, baggage, goods, or chattels, or whoever buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been embezzled or stolen;

shall be imprisoned not more than ten years, but if the amount or value of such money, baggage, goods or chattels does not exceed $1,000, shall be imprisoned not more than one year.

(b) BAR TO PROSECUTION.—A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. Nothing contained in this section shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this section operate to the exclusion of State laws on the same subject matter, nor shall any provision of this section be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this section or any provision thereof.

§ 649. Carrier's funds derived from commerce; State prosecutions

(a) OFFENSE.—Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or knowingly misapplies, or knowingly permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or knowingly converts the same to his own use or to the use of another, shall be imprisoned not more than ten years.

(b) VENUE.—The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property or assets.

(c) BAR TO PROSECUTION.—A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

§ 650. Within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, takes and carries away, with in-

tent to steal or purloin, any personal property of another shall, if the property taken is of a value exceeding $1,000, or is taken from the person of another, be imprisoned not more than five years, and in all other cases, imprisoned not more than one year.

§ 651. Receiving stolen property within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be imprisoned not more than three years, but if the amount or value of thing so taken, stolen or embezzled does not exceed $1,000, the offender shall be imprisoned not more than one year.

§ 652. Theft or embezzlement from employee benefit plan

(a) OFFENSE.—Whoever embezzles, steals, or unlawfully and knowingly abstracts or converts any property of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be imprisoned not more than five years.

(b) DEFINITION.—As used in this section, the term ''any employee welfare benefit plan or employee pension benefit plan'' means any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974.

§ 653. Theft or embezzlement from employment and training funds; improper inducement; obstruction of investigations

(a) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS.—Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 knowingly enrolls an ineligible

participant, embezzles, knowingly misapplies, steals, or obtains by fraud any property that is the subject of a financial assistance agreement or contract pursuant to such Act shall be imprisoned for not more than 2 years, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $1,000, the offender shall be imprisoned not more than 1 year.

(b) IMPROPER INDUCEMENT.—Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be imprisoned not more than 1 year.

§ 654. Theft or bribery concerning programs receiving Federal funds

(a) OFFENSE.—Whoever, as made applicable by subsection (b)—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts or intentionally misapplies, property that—

(i) is valued at $5,000 or more, and

(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be imprisoned not more than 10 years.

(b) APPLICABILITY.—Subsection (a) applies if the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

(c) EXCLUSION.—This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(d) DEFINITIONS.—As used in this section—

(1) the term ''agent'' means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

(2) the term ''government agency'' means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program;

(3) the term ''local'' means of or pertaining to a political subdivision within a State; and

(4) the term ''in any one-year period'' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense.

Such period may include time both before and after the commission of the offense.

§ 655. Theft of major artwork

(a) OFFENSES.—A person who—

(1) steals or obtains by fraud from the care, custody, or control of a museum any object of cultural heritage; or

(2) knowing that an object of cultural heritage has been stolen or obtained by fraud, if in fact the object was stolen or obtained from the care, custody, or control of a museum (whether or not that fact is known to the person), receives, conceals, exhibits, or disposes of the object,

shall be imprisoned not more than 10 years.

(b) DEFINITIONS.—In this section—

(1) the term ''museum'' means an organized and permanent institution, the activities of which affect interstate or foreign commerce, that—

(A) is situated in the United States;

(B) is established for an essentially educational or aesthetic purpose;

(C) has a professional staff; and

(D) owns, utilizes, and cares for tangible objects that are exhibited to the public on a regular schedule; and

(2) the term ''object of cultural heritage'' means an object that is—

(A) over 100 years old and worth in excess of $5,000; or

(B) worth at least $100,000.

§ 656. Theft or embezzlement in connection with health care

Whoever knowingly embezzles, steals, or otherwise without authority converts or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property, or other assets of a health care benefit program, shall be imprisoned not more than 10 years, but if the value of such property does not exceed the sum of $100 the offender shall be imprisoned not more than one year.

§ 657. Embezzlement of labor organization assets.

(a) OFFENSE.—Whoever, being an officer or employee of a labor organization, embezzles, steals, or unlawfully and knowingly abstracts or converts any of the property of the organization shall be imprisoned for not more than five years.

(b) DEFINITION.—As used in this section the term ''labor organization'' has the meaning given that term in the National Labor Relations Act.

SUBCHAPTER B—STOLEN PROPERTY

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672. Sale or receipt of stolen vehicles.
673. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.
674. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.
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§ 671. Transportation of stolen vehicles

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be imprisoned not more than 10 years.

§ 672. Sale or receipt of stolen vehicles

Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any motor vehicle or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen, shall be imprisoned not more than 10 years.

§ 673. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

Whoever—

(1) transports, transmits, or transfers in interstate or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to have been stolen, converted or taken by fraud;

(2) having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in interstate or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of $5,000 or more;

(3) with unlawful intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited;

(4) with unlawful intent, transports in interstate or foreign commerce any traveler's check bearing a forged countersignature; or

(5) with unlawful intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof;

shall be imprisoned not more than ten years.

§ 674. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

Whoever—

(1) receives, possesses, conceals, stores, barters, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of $5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of $500 or more, which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlawfully converted, or taken;

(2) receives, possesses, conceals, stores, barters, sells, or disposes of any falsely made, forged, altered, or counterfeited securities or tax stamps, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities or tax stamps, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

(3) receives in interstate or foreign commerce, or conceals, stores, barters, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof;

shall be imprisoned not more than ten years.

§ 675. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging

(a) OFFENSE.—Whoever, as made applicable by subsection (c), knowingly traffics in—

(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

(A) a phonorecord;

(B) a copy of a computer program;

(C) a copy of a motion picture or other audiovisual work;

(D) a copy of a literary work;

(E) a copy of a pictorial, graphic, or sculptural work;

(F) a work of visual art; or

(G) documentation or packaging; or

(2) counterfeit documentation or packaging, shall be fined under this title or imprisoned for not more than 5 years.

(b) DEFINITIONS.—As used in this section—

(1) the term ''counterfeit label'' means an identifying label or container that appears to be genuine, but is not;

(2) the term ''traffic'' means to transport, transfer or otherwise dispose of, to another, as consideration for anything of value or to make or obtain control of with intent to so transport, transfer or dispose of;

(3) the terms ''copy'', ''phonorecord'', ''motion picture'', ''computer program'', ''audiovisual work'', ''literary work'', ''pictorial, graphic, or sculptural work'', ''sound recording'', ''work of visual art'', and ''copyright owner'' have, respectively, the meanings given those terms in section 101 (relating to definitions) of title 17;

(4) the term ''illicit label'' means a genuine certificate, licensing document, registration card, or similar labeling component—

(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

(B) that is, without the authorization of the copyright owner—

(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to be affixed by the respective copyright owner; or

(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless

that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner's distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

(5) the term ''documentation or packaging'' means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

(6) the term ''counterfeit documentation or packaging'' means documentation or packaging that appears to be genuine, but is not.

(c) APPLICATION.—Subsection (a) applies if—

(1) the offense is committed within the special maritime and territorial jurisdiction of the United States; or within the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

(2) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense;

(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

(B) a copy of a copyrighted computer program;

(C) a copy of a copyrighted motion picture or other audiovisual work;

(D) a copy of a literary work;

(E) a copy of a pictorial, graphic, or sculptural work;

(F) a work of visual art; or

(G) copyrighted documentation or packaging; or

(4) the counterfeited documentation or packaging is copyrighted.

(d) FORFEITURE.—When any person is convicted of any violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order the forfeiture and destruction or other disposition of all counterfeit labels or illicit labels and all articles to which counterfeit labels or illicit labels have been affixed or which were intended to have had such labels affixed, and of any equipment, device, or material used to manufacture, reproduce, or assemble the counterfeit labels or illicit labels.

(e) APPLICATION OF SECTION 509 OF TITLE XVII.—Except to the extent they are inconsistent with the provisions of this title, all provisions of section 509, title 17, are applicable to violations of subsection (a).

(f) CIVIL REMEDIES.—

(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

(C) may award to the injured party—

(i) reasonable attorney fees and costs; and

(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

(II) statutory damages, as provided in paragraph (4).

(II) statutory damages, as provided in paragraph (4).

(3) ACTUAL DAMAGES AND PROFITS.—

(A) IN GENERAL.—The injured party is entitled to recover—

(i) the actual damages suffered by the injured party as a result of a violation of subsection (a), as provided in subparagraph (B) of this paragraph; and

(ii) any profits of the violator that are attributable to a violation of subsection (a) and are not taken into account in computing the actual damages.

(B) CALCULATION OF DAMAGES.—The court shall calculate actual damages by multiplying—

(i) the value of the phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging, by

(ii) the number of phonorecords, copies, or works of visual art which are, or are intended to be, affixed with, enclosed in, or accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

(C) DEFINITION.—For purposes of this paragraph, the ''value'' of a phonorecord, copy, or work of visual art is—

(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of

an authorized copy of that motion picture or audio-visual work;

(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and

(vi) in the case of a work of visual art, the retail value of that work.

(4) STATUTORY DAMAGES.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

(5) SUBSEQUENT VIOLATION.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

(6) LIMITATION ON ACTIONS.—A civil action may not be commenced under section unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).

§ 676. Criminal infringement of a copyright

(a)SECTION 506A OFFENSES IN GENERAL.—Whoever violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsections (b), (c), and (d) and such penalties shall be in addition to any other provisions of title 17 or any other law.

(b) SUBSECTION (a)(1)(A) OFFENSES.—Whoever commits an offense under section 506(a)(1)(A) of title 17—

(1) shall be imprisoned not more than 5 years, if the offense consists of the reproduction or distribution, includ-

ing by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than $2,500;

(2) shall be imprisoned not more than 10 years if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year in any other case.

(c) SUBSECTION (a)(1)(B) OFFENSES.—Whoever commits an offense under section 506(a)(1)(B) of title 17—

(1) shall be imprisoned not more than 3 years, if the offense consists of the reproduction or distribution of 10 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of $2,500 or more;

(2) shall be imprisoned not more than 6 years, or if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or if the offense consists of the reproduction or distribution of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000.

(d) SUBSECTION (A)(1)(C) OFFENSES.—Whoever commits an offense under section 506(a)(1)(C) of title 17—

(1) shall be imprisoned not more than 3 years;

(2) shall be imprisoned not more than 5 years if the offense was committed for purposes of commercial advantage or private financial gain;

(3) shall be imprisoned not more than 6 years if the offense is a second or subsequent offense; and

(4) shall be imprisoned not more than 10 years if the offense is a second or subsequent offense under paragraph (2).

(e) VICTIM IMPACT.—

(1) IN GENERAL.—During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive,

a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) PERSONS PERMITTED TO SUBMIT.—Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(f) DEFINITIONS.—As used in this section—

(1) the terms ''phonorecord'' and ''copies'' have, respectively, the meanings set forth in section 101 (relating to definitions) of title 17;

(2) the terms ''reproduction'' and ''distribution'' refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections 107 through 122, of title 17;

(3) the term ''financial gain'' has the meaning given the term in section 101 of title 17; and

(4) the term ''work being prepared for commercial distribution'' has the meaning given the term in section 506(a) of title 17.

§ 677. Copyright infringement

(a) CRIMINAL INFRINGEMENT.—

(1) IN GENERAL.—Any person who knowingly infringes a copyright shall be punished as provided under section 676, if the infringement was committed—

(A) for purposes of commercial advantage or private financial gain;

(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copy-

1 righted works, which have a total retail value of more
2 than $1,000; or
3 (C) by the distribution of a work being prepared
4 for commercial distribution, by making it available on
5 a computer network accessible to members of the pub-
6 lic, if such person knew or should have known that the
7 work was intended for commercial distribution.
8 (2) EVIDENCE.—For purposes of this subsection, evi-
9 dence of reproduction or distribution of a copyrighted work,
10 by itself, shall not be sufficient to establish knowing in-
11 fringement of a copyright.
12 (3) DEFINITION.—In this subsection, the term ''work
13 being prepared for commercial distribution'' means—
14 (A) a computer program, a musical work, a mo-
15 tion picture or other audiovisual work, or a sound re-
16 cording, if, at the time of unauthorized distribution—
17 (i) the copyright owner has a reasonable ex-
18 pectation of commercial distribution; and
19 (ii) the copies or phonorecords of the work
20 have not been commercially distributed; or
21 (B) a motion picture, if, at the time of unauthor-
22 ized distribution, the motion picture—
23 (i) has been made available for viewing in a
24 motion picture exhibition facility; and
25 (ii) has not been made available in copies for
26 sale to the general public in the United States in
27 a format intended to permit viewing outside a mo-
28 tion picture exhibition facility.
29 (b) FORFEITURE AND DESTRUCTION.—When any person
30 is convicted of any violation of subsection (a), the court in its
31 judgment of conviction shall, in addition to the penalty therein
32 prescribed, order the forfeiture and destruction or other dis-
33 position of all infringing copies or phonorecords and all imple-
34 ments, devices, or equipment used in the manufacture of such
35 infringing copies or phonorecords.
36 (c) FRAUDULENT COPYRIGHT NOTICE.—Any person who,
37 with fraudulent intent, places on any article a notice of copy-

right or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

(d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—Any person who, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409 of title 17, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a) of title 17.

§ 678. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

(a) OFFENSE.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court shall order the forfeiture and destruction of any copies or phonorecords created in violation thereof, as well as any plates, molds, matrices, masters, tapes, and film negatives by means of which such copies or phonorecords may be made. The court may also, in its discretion, order the forfeiture and destruction of any other equipment by means of which such copies or phonorecords may be reproduced, taking into account the nature, scope, and proportionality of the use of the equipment in the offense.

(c) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of the Treasury shall, not later than 60 days after the date of the enactment of the Uruguay Round Agreements Act, issue regulations to carry out this subsection, including regulations by which any performer may, upon payment of a specified fee, be entitled to notification by the United States Customs Service of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in such works; and

(C) the legal representatives of such producers, sellers, and holders.

(e) DEFINITIONS.—As used in this section—

(1) the terms ''copy'', ''fixed'', ''musical work'', ''phonorecord'', ''reproduce'', ''sound recordings'', and ''transmit'' mean those terms within the meaning of title 17; and

(2) the term ''traffic in'' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.

(f) APPLICABILITY.—This section shall apply to any conduct that occurs on or after the date of the enactment of the Uruguay Round Agreements Act.

§ 679. Unauthorized recording of motion pictures in a motion picture exhibition facility

(a) OFFENSE.—Any person who, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

(1) be imprisoned for not more than 3 years; or

(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years.

The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

(b) FORFEITURE AND DESTRUCTION.—When a person is convicted of a violation of subsection (a), the court in its judgment of conviction shall, in addition to any penalty provided,

order the forfeiture and destruction or other disposition of all unauthorized copies of motion pictures or other audiovisual works protected under title 17, or parts thereof, and any audiovisual recording devices or other equipment used in connection with the offense.

(c) AUTHORIZED ACTIVITIES.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

(d) IMMUNITY FOR THEATERS.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summoning a law enforcement officer; and

(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

(e) VICTIM IMPACT STATEMENT.—

(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

(A) producers and sellers of legitimate works affected by conduct involved in the offense;

(B) holders of intellectual property rights in the works described in subparagraph (A); and

(C) the legal representatives of such producers, sellers, and holders.

(f) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the laws of any State.

(g) DEFINITIONS.—In this section, the following definitions shall apply:

(1) TITLE 17 DEFINITIONS.—The terms ''audiovisual work'', ''copy'', ''copyright owner'', ''motion picture'', ''motion picture exhibition facility'', and ''transmit'' have, respectively, the meanings given those terms in section 101 of title 17.

(2) AUDIOVISUAL RECORDING DEVICE.—The term ''audiovisual recording device'' means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

§ 680. Trafficking in counterfeit goods or services

(a)OFFENSE.—Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services shall, if an individual, be imprisoned not more than 10 years, and, if an organization, be fined not more than $5,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person convicted, if an individual, shall be imprisoned not more than 20 years, and if an organization, shall be fined not more than $15,000,000.

(b) DESTRUCTION.—Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

(c) DEFENSE, AFFIRMATIVE DEFENSES, AND LIMITATIONS ON REMEDIES.—All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section.

(d) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

(2) Persons permitted to submit victim impact statements shall include—

(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

(B) holders of intellectual property rights in such goods or services; and

(C) the legal representatives of such producers, sellers, and holders.

(e) DEFINITIONS.—For the purposes of this section—

(1) the term ''counterfeit mark'' means—

(A) a spurious mark—

(i) that is used in connection with trafficking in goods or services;

(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation

as to which the remedies of the Lanham Act are made available by reason of section 220506 of title 36

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;

(2) the term ''traffic'' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of; and

(3) the term ''Lanham Act'' means the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.).

(f) REPORT.—(1) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit labels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of this title), criminal infringement of copyrights (as defined in section 2319 of this title), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of this title), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of this title):

(A) The number of open investigations.

(B) The number of cases referred by the United States Customs Service.

(C) The number of cases referred by other agencies or sources.

(D) The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of title 18.

(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

(ii) The number of online infringement cases.

(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

(iv) The total amount of restitution ordered in all copyright infringement cases.

(B) In this paragraph, the term ''online infringement cases'' as used in paragraph (2) means those cases where the infringer—

(i) advertised or publicized the infringing work on the Internet; or

(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.

§682. Trafficking in certain motor vehicles or motor vehicle parts

(a) OFFENSE.—Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed,

obliterated, tampered with, or altered, shall be imprisoned not more than ten years.

(b) NONAPPLICABILITY.—Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2) is not a violation of section 718.

(c) DEFINITIONS.—As used in this section, the terms ''identification number'' and ''motor vehicle'' have the meaning given those terms in section 718.

§ 683. Chop shops

(a) IN GENERAL.—

(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by imprisonment for not more than 15 years. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

(b) DEFINITION.—For purposes of this section, the term ''chop shop'' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

§ 684. Definitions

The following definitions apply in this subchapter:

(1) The term ''aircraft'' means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air.

(2) The term ''cattle'' means one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof.

(3) The term ''livestock'' means any domestic animals raised for home use, consumption, or profit, such as horses, pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the carcasses thereof.

(4) The term ''money'' means the legal tender of the United States or of any foreign country, or any counterfeit thereof.

(5) The term ''motor vehicle'' means an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails.

(6) The term ''securities'' means any note, stock certificate, bond, debenture, check, draft, warrant, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle title; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a ''security'', or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing.

(7) The term ''tax stamp'' means any tax stamp, tax token, tax meter imprint, or any other form of evidence of

an obligation running to a State, or evidence of the discharge thereof.

(8) The term ''value'' means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof.

SUBCHAPTER C—COUNTERFEITING AND FORGERY

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§ 691. Counterfeit acts committed outside the United States

Whoever outside the United States, engages in the act of—

(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

(2) making, dealing, or possessing any plate, stone, analog, digital, or electronic image, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 692, 693, or 694 if committed within the United States, shall be punished as is provided for the like offense within the United States.

§ 692. Obligations or securities of United States

Whoever, with intent to defraud, falsely makes, forges, counterfeits, or alters any obligation or other security of the United States, shall be imprisoned not more than 20 years.

§ 693. Uttering counterfeit obligations or securities

Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be imprisoned not more than 20 years.

§ 694. Dealing in counterfeit obligations or securities

Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be imprisoned not more than 20 years.

§ 695. Plates, stones, or analog, digital, or electronic images for counterfeiting obligations or securities

(a) OFFENSE.—Whoever—

(1) having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, uses such plate, stone, or other thing, or any part thereof, or know-

ingly suffers the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof;

(2) makes or executes any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security;

(3) with intent to defraud, makes, executes, acquires, scans,captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States;

(4) sells any such plate, stone, or other thing, or brings into the United States any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States;

(5) has in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof;

(6) has in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or

(7) prints, photographs, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or sells any such engraving, photograph, print, or impression, except to the United States, or brings

into the United States, any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States;

shall be imprisoned not more than 25 years.

(b) DEFINITION.—For purposes of this section, the term ''analog, digital, or electronic image'' includes any analog, digital, or electronic method used for the making, execution, acquisition, scanning, capturing, recording, retrieval, transmission, or reproduction of any obligation or security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.

§ 696. Deterrents to counterfeiting of obligations and securities

(a) OFFENSE.—Whoever—

(1) has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury; or

(2) has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury;

shall be imprisoned for not more than 25 years.

(b) DEFINITIONS.—As used in this section—

(1) the term ''distinctive paper'' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

(2) the term ''distinctive counterfeit deterrent'' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

(A) in which the United States has an exclusive property interest; or

(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.

§ 697. Taking impressions of tools used for obligations or securities

Whoever, without authority from the United States, takes, procures, or makes an impression, stamp, analog, digital, or electronic image, or imprint of, from or by the use of any tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any obligation or other security of the United States, shall be imprisoned not more than 25 years.

§ 698. Possessing or selling impressions of tools used for obligations or securities

Whoever—

(1) with intent to defraud, possesses, keeps, safeguards, or controls, without authority from the United States, any imprint, stamp, analog, digital, or electronic image, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument or thing, used, fitted or intended to be used, for any of the purposes mentioned in section 476 of this title; or

(2) with intent to defraud, sells, gives, or delivers any such imprint, stamp, analog, digital, or electronic image, or impression to any other person;

shall be imprisoned not more than 25 years.

§ 699. Foreign obligations or securities

Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bond, certifi-

cate, obligation, or other security of any foreign government, purporting to be or in imitation of any such security issued under the authority of such foreign government, or any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money, shall be imprisoned not more than 20 years.

§ 700. Uttering counterfeit foreign obligations or securities

Whoever, within the United States, knowingly and with intent to defraud, utters, passes, or puts off, in payment or negotiation, any false, forged, or counterfeited bond, certificate, obligation, security, treasury note, bill, or promise to pay, mentioned in section 478 of this title, whether or not the same was made, altered, forged, or counterfeited within the United States, shall be imprisoned not more than 20 years.

§ 701. Possessing counterfeit foreign obligations or securities

Whoever, within the United States, knowingly and with intent to defraud, possesses or delivers any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, shall be imprisoned not more than 20 years.

§ 702. Plates, stones, or analog, digital, or electronic images for counterfeiting foreign obligations or securities

Whoever—

(1) within the United States except by lawful authority, controls, holds, or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any counterfeit note, bond, obligation, or other security, in whole or in part, of any foreign government, bank, or corporation, or uses such plate, stone, or other thing, or knowingly permits or suffers the same to be used in counterfeiting such foreign obligations, or any part thereof;

(2) except by lawful authority, makes or engraves any plate, stone, or other thing in the likeness or similitude of any plate, stone, or other thing designated for the printing of the genuine issues of the obligations of any foreign government, bank, or corporation; or

(3) with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person's control, custody, or possession, an analog, digital, or electronic image of any bond, certificate, obligation, or other security of any foreign government, or of any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money; or

(4) except by lawful authority, prints, photographs, or makes, executes, or sells any engraving, photograph, print, or impression in the likeness of any genuine note, bond, obligation, or other security, or any part thereof, of any foreign government, bank, or corporation; or

(5) brings into the United States any counterfeit plate, stone, or other thing, engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation;

shall be imprisoned not more than 25 years.

§ 703. Uttering counterfeit foreign bank notes

Whoever, within the United States, utters, passes, puts off, or tenders in payment, with intent to defraud, any such false, forged, altered, or counterfeited bank note or bill, mentioned in section 482 of this title, knowing the same to be so false, forged, altered, and counterfeited, whether or not the same was made, forged, altered, or counterfeited within the United States, shall be imprisoned not more than 20 years.

§ 704. Connecting parts of different notes

Whoever so places or connects together different parts of two or more notes, bills, or other genuine instruments issued under the authority of the United States, or by any foreign government, or corporation, as to produce one instrument, with intent to defraud, shall be guilty of forgery in the same manner

as if the parts so put together were falsely made or forged, and shall be imprisoned not more than 10 years.

§ 705. Tokens or paper used as money

(a) OFFENSE.—Whoever—

(1) being 18 years of age or over, not lawfully authorized, makes, issues, or passes any coin, card, token, or device in metal, or its compounds, intended to be used as money, or whoever, being 18 years of age or over, with intent to defraud, makes, utters, inserts, or uses any card, token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States or any coin or other currency not legal tender in the United States, to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States; or

(2) manufactures, sells, offers, or advertises for sale, or exposes or keeps with intent to furnish or sell any token, slug, disk, device, paper, or other thing similar in size and shape to any of the lawful coins or other currency of the United States, or any token, disk, paper, or other device issued or authorized in connection with rationing or food and fiber distribution by any agency of the United States, with knowledge or reason to believe that such tokens, slugs, disks, devices, papers, or other things are intended to be used unlawfully or fraudulently to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coinbox telephone, parking meter, or other lawful receptacle, depository, or contrivance designed to receive or to be operated by lawful coins or other currency of the United States;

shall be imprisoned not more than one year.

(b) NONPREEMPTION.—Nothing contained in this section shall create immunity from criminal prosecution under the laws of any State.

§ 706. Forfeiture of counterfeit paraphernalia

(a) IN GENERAL.—All counterfeits of any coins or obligations or other securities of the United States or of any foreign government, or any articles, devices, and other things made, possessed, or used in violation of this subchapter or of sections 851 and 852, or any material or apparatus used or fitted or intended to be used, in the making of such counterfeits, articles, devices or things, found in the possession of any person without authority from the Secretary of the Treasury or other proper officer, shall be forfeited to the United States.

(b) FAILING OR REFUSING TO SURRENDER POSSESSION.—Whoever, having the custody or control of any such counterfeits, material, apparatus, articles, devices, or other things, fails or refuses to surrender possession thereof upon request by any authorized agent of the Treasury Department, or other proper officer, shall be imprisoned not more than one year.

(c) REMISSION OR MITIGATION.—

(1) SECRETARY OF TREASURY.—Whenever, except as hereinafter in this section provided, any person interested in any article, device, or other thing, or material or apparatus seized under this section files with the Secretary of the Treasury, before the disposition thereof, a petition for the remission or mitigation of such forfeiture, the Secretary of the Treasury, if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.

(2) ATTORNEY GENERAL.—If the seizure involves offenses other than offenses against the coinage, currency, obligations or securities of the United States or any foreign government, the petition for the remission or mitigation of

forfeiture shall be referred to the Attorney General, who may remit or mitigate the forfeiture upon such terms as he deems reasonable and just.

§ 707. Bonds and obligations of certain lending agencies

Whoever—

(1) falsely makes, forges, counterfeits or alters any note, bond, debenture, coupon, obligation, instrument, or writing in imitation or purporting to be in imitation of, a note, bond, debenture, coupon, obligation, instrument or writing, issued by the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners' Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, or any land bank, intermediate credit bank, insured credit union, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States; or

(2) passes, utters, or publishes, or attempts to pass, utter or publish any note, bond, debenture, coupon, obligation, instrument or document knowing the same to have been falsely made, forged, counterfeited or altered, contrary to the provisions of this section;

shall be imprisoned not more than 10 years.

§ 708. Contracts, deeds, and powers of attorney

Whoever—

(1) falsely makes, alters, forges, or counterfeits any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States or any officers or agents thereof, any sum of money;

(2) utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or

(3) transmits to, or presents at any office or officer of the United States, any such writing in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited;

shall be imprisoned not more than ten years.

§ 709. Military or naval discharge certificates

Whoever forges, counterfeits, or falsely alters any certificate of discharge from the military or naval service of the United States, or uses, unlawfully possesses or exhibits any such certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be imprisoned not more than one year.

§ 710. Military, naval, or official passes

Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or knowingly allows any other person to have or use any such pass or permit, issued for his use alone, shall be imprisoned not more than five years.

§ 711. Money orders

Whoever—

(1) with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a blank money order or a money order issued by or under the direction of the Post Office Department or Postal Service;

(2) forges or counterfeits the signature or initials of any person authorized to issue money orders upon or to any money order, postal note, or blank therefor provided or issued by or under the direction of the Post Office Department or Postal Service, or post office department or corporation of any foreign country, and payable in the United States, or any material signature or indorsement thereon,

or any material signature to any receipt or certificate of identification thereof;

(3) falsely alters, in any material respect, any such money order or postal note;

(4) with intent to defraud, passes, utters or publishes or attempts to pass, utter or publish any such forged or altered money order or postal note, knowing any material initials, signature, stamp impression or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made;

(5) issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States or Postal Service, or any officer, employee, or agent thereof, any sum of money whatever;

(6) embezzles, steals, or knowingly converts to his own use or to the use of another, or without authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service;

(7) receives or possesses any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted;

(8) with intent to defraud the United States, the Postal Service, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same—

(A) to contain any forged or counterfeited signature, initials, or any stamped impression,

(B) to contain any material alteration therein unlawfully made,

(C) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or

(D) to have been stamped without lawful authority; or

(9) steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any stamp, tool, or instrument specifically designed to be used in preparing or filling out the blanks on postal money order forms;

shall be imprisoned not more than five years.

§ 712. Postage stamps, postage meter stamps, and postal cards

Whoever—

(1) forges or counterfeits any postage stamp, postage meter stamp, or any stamp printed upon any stamped envelope, or postal card, or any die, plate, or engraving thereof;

(2) makes or prints, or knowingly uses or sells, or possesses with intent to use or sell, any such forged or counterfeited postage stamp, postage meter stamp, stamped envelope, postal card, die, plate, or engraving;

(3) makes, or knowingly uses or sells, or possesses with intent to use or sell, any paper bearing the watermark of any stamped envelope, or postal card, or any fraudulent imitation thereof;

(4) makes or prints, or authorizes to be made or printed, any postage stamp, postage meter stamp, stamped envelope, or postal card, of the kind authorized and provided by the Post Office Department or by the Postal Service, without the special authority and direction of the Department or Postal Service; or

(5) after such postage stamp, postage meter stamp, stamped envelope, or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive it;

shall be imprisoned not more than five years.

§ 713. Printing and filming of United States and foreign obligations and securities

Notwithstanding any other provision of this subchapter, the following are permitted:

(1) The printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of illustrations of—

(A) postage stamps of the United States,

(B) revenue stamps of the United States,

(C) any other obligation or other security of the United States, and

(D) postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation.

Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

(i) all illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government and stamps issued under the Migratory Bird Hunting Stamp Act of 1934 may be in color;

(ii) all illustrations (including illustrations of uncanceled postage stamps in color and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by subparagraph (A), (B), (C), or (D) of this paragraph, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and

(iii) the negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section. The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.

(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted.

(3) The making or importation of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or securities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of paragraph (1), without the permission of the Secretary of the Treasury. For the purposes of this section the term ''postage stamp''

includes postage meter stamps.

§ 715. Seals of courts; signatures of judges or court officers

Whoever forges the signature of any judge, register, or other officer of any court of the United States, or of any Territory thereof, or forges or counterfeits the seal of any such court, or knowingly concurs in using any such forged or counterfeit signature or seal, for the purpose of authenticating any proceeding or document, or tenders in evidence any such proceeding or document with a false or counterfeit signature of

any such judge, register, or other officer, or a false or counterfeit seal of the court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, shall be imprisoned not more than five years.

§ 716. Seals of departments or agencies

(a) OFFENSE.—Whoever—

(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be imprisoned not more than 5 years.

(b) INCREASED PENALTY.—Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

(1) so forged, counterfeited, mutilated, or altered;

(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or

(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import,

with the intent or effect of facilitating an alien's application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and

3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term ''Federal benefit'' means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act (19 U.S.C. 1396b(v))), disability, veterans, public housing, education, food stamps, or unemployment benefit, or any similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States; and

(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.

§ 717. Forging endorsements on Treasury checks or bonds or securities of the United States

(a) IN GENERAL.—Whoever, with intent to defraud—

(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature;

shall be imprisoned not more than ten years.

(b) SALE EXCHANGE AND SIMILAR CONDUCT.—Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or

security of the United States shall be imprisoned not more than ten years.

(c) REDUCED PENALTY.—If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $1,000, in any of the above-mentioned offenses, the penalty shall be imprisonment for not more than one year.

§ 718. Altering or removing motor vehicle identification numbers

(a) OFFENSE.—Whoever—

(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be imprisoned not more than 5 years.

(b) EXCLUSION.—

(1) GENERALLY.—Subsection (a) does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) (unless such person knows that the vehicle or part involved is stolen).

(2) PERSONS REFERRED TO IN PARAGRAPH (1).—The persons referred to in paragraph (1) of this subsection are—

(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair;

(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law; and

(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

(i) the owner or his authorized agent;

(ii) applicable State or local law; or

(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.

(c) DEFINITIONS FOR SECTION.—As used in this section—

(1) the term ''identification number'' means a number or symbol that is inscribed or affixed for purposes of identification under chapter 301 and part C of subtitle VI of title 49;

(2) the term ''motor vehicle'' has the meaning given that term in section 32101 of title 49;

(3) the term ''motor vehicle demolisher'' means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

(4) the term ''motor vehicle scrap processor'' means a person—

(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;

(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

(C) whose principal product is metallic scrap for recycling;

but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part; and

(5) the term ''tampers with'' includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.

§ 719. Securities of the States and private entities

(a) COUNTERFEIT SECURITIES.—Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization that operates in or affecting commerce, with intent to deceive another person shall be imprisoned for not more than ten years.

(b) IMPLEMENTS.—Whoever makes, receives, possesses, sells or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged security with the intent that it be so used shall be punished by imprisonment for not more than ten years.

(c) DEFINITIONS.—As used in this section—

(1) the term ''counterfeited'' means a document that purports to be genuine but is not, because it has been falsely made or manufactured in its entirety;

(2) the term ''forged'' means a document that purports to be genuine but is not because it has been falsely altered, completed, signed, or endorsed, or contains a false addition thereto or insertion therein, or is a combination of parts of two or more genuine documents; and

(3) the term ''security'' means—

(A) a note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, bill, check, draft, warrant, debit instrument as defined in section 916(c) of the Electronic Fund Transfer Act, money order, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest in or participation in any profit-sharing agreement, collateral-trust certificate, pre-reorganization certificate of subscription, transferable share, investment contract,

voting trust certificate, or certificate of interest in tangible or intangible property;

(B) an instrument evidencing ownership of goods, wares, or merchandise;

(C) any other written instrument commonly known as a security;

(D) a certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing; or

(E) a blank form of any of the foregoing.

§ 720. Fictitious obligations

(a) OFFENSE.—Whoever, with the intent to defraud—

(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport, ship, move, transfer, or attempts or causes the same, to, from, or through the United States,

any false or fictitious instrument, document, or other item appearing, representing, purporting, or contriving through scheme or artifice, to be an actual security or other financial instrument issued under the authority of the United States, a foreign government, a State or other political subdivision of the United States, or an organization, shall be imprisoned for not more than 25 years.

(b) DEFINITIONS.—For purposes of this section, any term used in this section that is defined in section 719(c) has the same meaning given such term in section 719(c).

(c) AUTHORITY OF THE UNITED STATES SECRET SERVICE.—The United States Secret Service, in addition to any

other agency having such authority, shall have authority to investigate offenses under this section.

CHAPTER 25—FRAUD AND FALSE STATEMENT CRIMES

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SUBCHAPTER A—FRAUD AND FALSE STATEMENTS

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795. False information and hoaxes.

§ 771. Definitions

As used in this subchapter—

(1) the term ''member bank'' means any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks;

(2) the term ''insured bank'' includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the term ''branch or agency of a foreign bank'' means a branch or agency described in paragraph (E) of the definition of financial institution in section 1 of this title; and

(4) the term ''depository institution holding company'' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.

§ 772. Statements or entries generally

(a) OFFENSE.—Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years.

(b) EXCLUSION.—Subsection (a) does not apply to a party to a judicial proceeding, or that party's counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) APPLICATION TO MATTERS WITHIN THE JURISDICTION OF THE LEGISLATIVE BRANCH.—With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support

services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

§ 773. Bank entries, reports and transactions

Whoever—

(1) being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation any notes of such bank, branch, agency, or organization or company;

(2) without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree;

(3) makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System; or

(4) with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits

through any transaction, loan, commission, contract, or any other act of any such financial institution;

shall be imprisoned not more than 30 years.

§ 774. Federal credit institution entries, reports and transactions

Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank, the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any

other act of any such corporation, institution, or association, shall be imprisoned not more than 30 years.

§ 775. Federal Deposit Insurance Corporation transactions

Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be imprisoned not more than 30 years.

§ 776. Department of Housing and Urban Development and Federal Housing Administration transactions

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such Department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or knowingly overvalues any security, asset, or income, shall be imprisoned not more than two years.

§ 777. Department of Housing and Urban Development transactions

Whoever—

(1) with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

(2) receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

(3) induces or influences such Department to purchase or acquire any property or to enter into any contract and knowingly fails to disclose any interest which that person has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract;

shall be imprisoned not more than one year.

§ 778. Farm loan bonds and credit bank debentures

Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan bond, or coupon, issued by any Federal land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the face of said bond or coupon, shall be imprisoned not more than one year.

§ 779. Loan and credit applications generally; renewals and discounts; crop insurance

Whoever knowingly makes any false statement or report, or knowingly overvalues any land, property or security, for the purpose of influencing in any way the action of the Farm Credit Administration, Federal Crop Insurance Corporation or a company the Corporation reinsures, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or a Federal land bank, a Federal land bank association, a Fed-

eral Reserve bank, a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958, or the Small Business Administration in connection with any provision of that Act, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Farm Credit System Insurance Corporation, or the National Credit Union Administration Board, a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be imprisoned not more than 30 years.

§ 780. Naturalization, citizenship or alien registry

(a) OFFENSE.—Whoever

(1) knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens;

(2) knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted;

(3) uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained;

(4) knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens;

(5) knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

(6) knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum);

shall be imprisoned not more than five years.

(b) EXCLUSION.—Subsection (a)(5) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.

§ 781. Highway projects

Whoever—

(1) being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifica-

tions, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation;

(2) knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

(3) knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented;

shall be imprisoned not more than five years.

§ 782. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974

Whoever, in any document required by title I of the Employee Retirement Income Security Act of 1974 to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such title or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such title to be published or any information required by such title to be certified, shall be imprisoned not more than five years.

§ 783. Fraud and related activity in connection with identification documents, authentication features, and information

(a) OFFENSE.—Whoever, as made applicable by subsection (c)—

(1) knowingly and without lawful authority produces an identification document, authentication feature, or a false identification document;

(2) knowingly transfers an identification document, authentication feature, or a false identification document knowing that such document or feature was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor), authentication feature, or a false identification document, with the intent such document or feature be used to defraud the United States;

(5) knowingly produces, transfers, or possesses a document-making implement or authentication feature with the intent such document-making implement or authentication feature will be used in the production of a false identification document or another document-making implement or authentication feature which will be so used;

(6) knowingly possesses an identification document or authentication feature that is or appears to be an identification document or authentication feature of the United States which is stolen or produced without lawful authority knowing that such document or feature was stolen or produced without such authority;

(7) knowingly transfers, posseses, or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, or in connection with, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; or

(8) knowingly traffics in false or actual authentication features for use in false identification documents, document-making implements, or means of identification;

shall be punished as provided in subsection (b).

(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

(1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is—

(A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be—

(i) an identification document or authentication feature issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents, authentication features, or false identification documents;

(C) an offense under paragraph (5) of such subsection; or

(D) an offense under paragraph (7) of such subsection that involves the transfer, possession, or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;

(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 5 years, or both, if the offense is—

(A) any other production, transfer, or use of a means of identification, an identification document, authentication feature, or a false identification document; or

(B) an offense under paragraph (3) or (7) of such subsection;

(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(A) to facilitate a drug trafficking crime (as defined in section 592(a)(2));

(B) in connection with a crime of violence (as defined in section 584(c)(3)); or

(C) after a prior conviction under this section becomes final;

(4) a fine under this title or imprisonment for not more than 30 years, or both, if the offense is committed to facilitate an act of domestic terrorism (as defined under section 283) or an act of international terrorism (as defined in section 283(1)); and

(5) a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) APPLICABILITY.—Subsection (a) applies if—

(1) the identification document, authentication feature, or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document, authentication feature, or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) either—

(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce, including the transfer of a document by electronic means; or

(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) DEFINITIONS.—In this section and section 784—

(1) the term ''authentication feature'' means any hologram, watermark, certification, symbol, code, image, se-

quence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified;

(2) the term ''document-making implement'' means any implement, impression, template, computer file, computer disc, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(3) the term ''identification document'' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(4) the term ''false identification document'' means a document of a type intended or commonly accepted for the purposes of identification of individuals that—

(A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(B) appears to be issued by or under the authority of the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international governmental or quasi-governmental organization;

(5) the term ''false authentication feature'' means an authentication feature that—

(A) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or

(C) appears to be genuine, but is not;

(6) the term ''issuing authority''—

(A) means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and

(B) includes the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization;;

(7) the term ''means of identification'' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(8) the term ''personal identification card'' means an identification document issued by a State or local government solely for the purpose of identification;

(9) the term ''produce'' includes alter, authenticate, or assemble;

(10) the term ''transfer'' includes selecting an identification document, false identification document, or document-making implement and placing or directing the placement of such identification document, false identification document, or document-making implement on an online location where it is available to others;

(11) the term ''traffic'' means—

(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

(e) EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

§ 784. Aggravated identity theft

(a) OFFENSES.—

(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 273(g)(5)(B), knowingly transfers, possesses, or uses, with-

out lawful authority, a means of identification of another person or a false identification document shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

(1) a court shall not place on probation any person convicted of a violation of this section;

(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

(c) DEFINITION.—For purposes of this section, the term ''felony violation enumerated in subsection (c)'' means any offense that is a felony violation of—

(1) section 641 (relating to theft of public money, property, or rewards), section 644 (relating to theft, embez-

zlement, or misapplication by bank officer or employee), or section 652 (relating to theft from employee benefit plans);

(2) section 1091 (relating to false personation of citizenship);

(3) section 582(a)(6) (relating to false statements in connection with the acquisition of a firearm);

(4) any provision contained in this subchapter (relating to fraud and false statements), other than this section or section 783(a)(7);

(5) any provision contained in subchapter B of chapter 25 (relating to mail, bank, and wire fraud);

(6) any provision contained in subchapter F of chapter 15 (relating to nationality and citizenship);

(7) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

(8) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to knowingly failing to leave the United States after deportation and creating a counterfeit alien registration card);

(9) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

(10) section 208, 811, 1107(b), 1128B(a), or 1632 of the Social Security Act (42 U.S.C. 408, 1011, 1307(b), 1320a-7b(a), and 1383a) (relating to false statements relating to programs under the Act).

§ 785. Fraudulent use of credit card

(a) OFFENSE.—Whoever

(1) knowingly in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more;

(2) with unlawful intent, transports or attempts or conspires to transport in interstate or foreign commerce a

counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

(3) with unlawful intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which—

(A)(i) within any one-year period has a value aggregating $1,000 or more; or

(ii) has moved in interstate or foreign commerce; and

(B) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card;

(5) Whoever knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (1) within any one-year period have a value aggregating $500 or more, and (2) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

(6) in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

shall be imprisoned not more than ten years.

(b) DEFINITIONS.—A term used in this section that has a definition for the purposes of the Consumer Credit Protection Act has that same definition for the purposes of this section.

§ 786. Fraud and related activity in connection with access devices

(a) OFFENSE.—Whoever—

(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating $1,000 or more during that period;

(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;

(4) knowingly and with intent to defraud produces, traffics in, has control or custody of, or possesses device-making equipment;

(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than $1,000;

(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

(A) offering an access device; or

(B) selling information regarding or an application to obtain an access device;

(7) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services;

(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured to insert or modify telecommunication identifying information associated with or contained in a telecommunications instrument so that such instrument may be used to obtain telecommunications service without authorization; or

(10) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

(b) PENALTIES.—The punishment for an offense under subsection (a) is—

(1) in the case of an offense that does not occur after a conviction for another offense under this section—

(A) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

(B) if the offense is under paragraph (4), (5), (8), or (9) of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both; and

(2) in the case of an offense that occurs after a conviction for another offense under this section, a fine under this title or imprisonment for not more than 20 years, or both.

(c) EXTRATERRITORIAL JURISDICATION.—There is extraterritorial jurisdiction over an offense under this subsection if—

(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.

(d) AUTHORITY OF UNITED STATES SECRET SERVICE.—The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) OFFICIAL DUTY EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) BUSSINESS EXCLUSION.—It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person engaged in business with, a facilities-based carrier, to engage in conduct (other than trafficking) otherwise prohibited by that subsection for the purpose of protecting the property or legal rights of that carrier, unless such conduct is for the purpose of obtaining telecommunications service provided by another facilities-based carrier without the authorization of such carrier.

(g)AFFIRMATIVE DEFENSE.—In a prosecution for a violation of subsection (a)(9), (other than a violation consisting of producing or trafficking) it is an affirmative defense that the conduct charged was engaged in for research or development in connection with a lawful purpose.

(h) DEFINITIONS.—As used in this section—

(1) the term ''access device'' means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be

used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) the term ''counterfeit access device'' means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(3) the term ''unauthorized access device'' means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

(4) the term ''produce'' includes design, alter, authenticate, duplicate, or assemble;

(5) the term ''traffic'' means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of;

(6) the term ''device-making equipment'' means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device;

(7) the term ''credit card system member'' means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system;

(8) the term ''scanning receiver'' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119 or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument;

(9) the term ''telecommunications service'' has the meaning given such term in section 3 of title I of the Communications Act of 1934 (47 U.S.C. 153);

(10) the term ''facilities-based carrier'' means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facili-

ties, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934; and

(11) the term ''telecommunication identifying information'' means electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.

§ 787. Fraud and related activity in connection with computers

(a) OFFENSE.—Whoever—

(1) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation knowingly communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or knowingly retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;

(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains—

(A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(B) information from any department or agency of the United States; or

(C) information from any protected computer if the conduct involved an interstate or foreign communication;

(3) intentionally, without authorization to access any nonpublic computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects that use by or for the Government of the United States;

(4) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than $5,000 in any 1-year period;

(5)(A)(i) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

(ii) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

(iii) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage; and

(B) by conduct described in clause (i), (ii), or (iii) of subparagraph (A), caused (or, in the case of an attempted offense, would, if completed, have caused)—

(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting

1 or more other protected computers) aggregating at least $5,000 in value;

(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

(iii) physical injury to any person;

(iv) a threat to public health or safety; or

(v) damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security;

(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

(A) such trafficking affects interstate or foreign commerce; or

(B) such computer is used by or for the Government of the United States.

(7) with intent to extort from any person any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;

shall be punished as provided in subsection (c) of this section.

(b) PUNISHMENT.—The punishment for an offense under subsection (a) or (b) of this section is—

(1)(A) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a conviction for another offense under this section, or an

attempt to commit an offense punishable under this subparagraph;

(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2) or an attempt to commit an offense punishable under this subparagraph, if—

(i) the offense was committed for purposes of commercial advantage or private financial gain;

(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

(iii) the value of the information obtained exceeds $5,000; and

(C) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subparagraph;

(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this section which occurs after a conviction for another offense

under this section, or an attempt to commit an offense punishable under this subparagraph;

(4)(A) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

(C) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section; and

(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.

(c) INVESTIGATIVE AUTHORITY.—

(1) UNITED STATES SECRET SERVICE.—The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

(2) FEDERAL BUREAU OF INVESTIGATION.—The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined

in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

(3) AGREEMENT.—Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(d) DEFINITIONS.—As used in this section—

(1) the term ''computer'' means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(2) the term ''protected computer'' means a computer—

(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or

(B) which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States;

(3) The term ''financial record'' means information derived from any record held by a financial institution pertaining to a customer's relationship with the financial institution.

(4) the term ''exceeds authorized access'' means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

(5) the term ''department of the United States'' means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of title 5;

(6) the term ''damage'' means any impairment to the integrity or availability of data, a program, a system, or information;

(7) the term ''government entity'' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country;

(8) the term ''conviction'' shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer; and

(9) the term ''loss'' means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

(e) EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(f) CIVIL ACTION.—Whoever suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to eco-

nomic damages.. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage. No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.

§ 788. Major fraud against the United States

(a) OFFENSE.—Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

(1) to defraud the United States; or

(2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be imprisoned not more than 10 years.

(b) INCREASED FINE.—The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and—

(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or

(2) the offense involves a conscious or reckless risk of serious personal injury.

(c) INCREASED FINE ON MULTIPLE COUNTS.—The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10,000,000.

(d) DISCLAIMER.—Nothing in this section shall preclude a court from imposing any other sentences available under this title, including a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to section 3571(d).

(e) LIMITATION.—A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

(f) WHISTLEBLOWER.—Any individual who—

(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

(2) was not a participant in the unlawful activity that is the subject of such prosecution;

may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

§ 789. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

Whoever—

(1) knowingly conceals an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13 of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

(2) corruptly impedes the functions of such Corporation, Board, or conservator; or

(3) corruptly places an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be imprisoned not more than 5 years.

§ 790. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

(a) FALSE STATEMENT OFFENSE.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or knowingly and materially overvalues any land, property or security—

(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

(b) EMBEZZLEMENT AND SIMILAR CONDUCT.—(1) Whoever—

(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

knowingly embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be imprisoned not more than one year.

(c) FALSE ENTRIES.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

(d) OBSTRUCTION.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be imprisoned not more than 10 years.

(e) DISQUALIFICATION FOR INSURANCE BUSINESS.—(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who knowingly engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be imprisoned not more than 5 years.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who knowingly permits the participation described in subparagraph (A) shall be imprisoned not more than 5 years.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(f) DEFINITIONS.—As used in this section—

(1) the term ''business of insurance'' means—

(A) the writing of insurance, or

(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

(2) the term ''insurer'' means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

§ 791. Civil penalties and injunctions for violations of section 790

(a) CIVIL PENALTY.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 790 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(b) ORDER PROHIBITING.—If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 790, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

§ 792. False statements relating to health care matters

Whoever, in any matter involving a health care benefit program, knowingly—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or

(2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be imprisoned not more than 5 years.

§ 793. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport

(a) OFFENSE.—Whoever, by any fraud or false pretense, enters or attempts to enter—

(1) any real property belonging in whole or in part to, or leased by, the United States;

(2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States; or

(3) any secure area of any airport, shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

(1) a fine under this title or imprisonment for not more than 5 years, or both, if the offense is committed with the intent to commit a felony; or

(2) a fine under this title or imprisonment for not more than 6 months, or both, in any other case.

(c) DEFINITIONS.—As used in this section—

(1) the term ''secure area'' means an area access to which is restricted by the airport authority or a public agency; and

(2) the term ''airport'' has the meaning given such term in section 47102 of title 49.

§ 794. Fraud and related activity in connection with electronic mail

(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly—

(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

(2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

(3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,

(4) registers, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

(5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet Protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses, or conspires to do so, shall be punished as provided in subsection (b).

(b) PENALTIES.—The punishment for an offense under subsection (a) is—

(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving the transmission of multiple commercial electronic mail messages or unauthorized access to a computer system;

(2) a fine under this title, imprisonment for not more than 3 years, or both, if—

(A) the offense is an offense under subsection (a)(1);

(B) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain name registrations;

(C) the volume of electronic mail messages transmitted in furtherance of the offense exceeded 2,500 during any 24-hour period, 25,000 during any 30-day period, or 250,000 during any 1-year period;

(D) the offense caused loss to one or more persons aggregating $5,000 or more in value during any 1-year period;

(E) as a result of the offense any individual committing the offense obtained anything of value aggregating $5,000 or more during any 1-year period; or

(F) the offense was undertaken by the defendant in concert with three or more other persons with respect to whom the defendant occupied a position of organizer or leader; and

(3) a fine under this title or imprisonment for not more than 1 year, or both, in any other case.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term ''loss'' has the meaning given that term in section 787;

(2) for purposes of paragraphs (3) and (4) of subsection (a), header information or registration information is materially falsified if it is altered or concealed in a manner that would impair the ability of a recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation;

(3) the term ''multiple'' means more than 100 electronic mail messages during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or more than 10,000 electronic mail messages during a 1-year period; and

(4) any other term has the meaning given that term by section 3 of the CAN-SPAM Act of 2003.

§ 795. False information and hoaxes

(a) CRIMINAL VIOLATION.—

(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A of chapter 33 and subchapters B, D, E, and F of chapter 21, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

(A) be imprisoned not more than 5 years;

(B) if serious bodily injury results, be imprisoned not more than 20 years; and

(C) if death results, be imprisoned for any number of years up to life.

(2) ARMED FORCES.—Any person who makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged—

(A) shall be imprisoned not more than 5 years;

(B) if serious bodily injury results, shall be imprisoned not more than 20 years; and

(C) if death results, shall be imprisoned for any number of years or for life.

(b) CIVIL ACTION.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A of chapter 33 and subchapters B, D, E, and F of chapter 21, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

(c) REIMBURSEMENT.—

(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.

SUBCHAPTER B—MAIL FRAUD

Sec.
801. Frauds and swindles.

802. Fictitious name or address.
803. Fraud by wire, radio, or television.
804. Bank fraud.
805. Definition of "scheme or artifice to defraud".
806. Health care fraud.
807. Securities fraud.
808. Failure of corporate officers to certify financial reports.

§ 801. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be imprisoned not more than 20 years. If the violation affects a financial institution, such person shall be imprisoned not more than 30 years.

§ 802. Fictitious name or address

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Postal Service, any scheme or device mentioned in section 801 or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than

his or her own proper name, shall be imprisoned not more than five years.

§ 803. Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be imprisoned not more than 20 years. If the violation affects a financial institution, such person shall be imprisoned not more than 30 years.

§ 804. Bank fraud

Whoever knowingly executes, a scheme or artifice—

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be imprisoned not more than 30 years.

§ 805. Definition of "scheme or artifice to defraud"

For the purposes of this subchapter, the term ''scheme or artifice to defraud'' includes a scheme or artifice to deprive another of the intangible right of honest services.

§ 806. Health care fraud

Whoever knowingly executes a scheme or artifice—

(1) to defraud any health care benefit program; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program;

in connection with the delivery of or payment for health care benefits, items, or services, shall be imprisoned not more than 10 years. If the violation results in serious bodily injury (as defined in section 1204 of this title), such person shall be imprisoned not more than 20 years; and if the violation results in

death, such person shall be imprisoned for any term of years or for life.

§ 807. Securities fraud

Whoever knowingly executes a scheme or artifice—

(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934; or

(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934;

shall be imprisoned not more than 25 years.

§ 808. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

(c) CRIMINAL PENALTIES.—Whoever knowingly—

(1) certifies any statement as set forth in subsections (a) and (b) knowing that the periodic report accompanying the statement does not comport with all the requirements

set forth in this section shall be imprisoned not more than 10 years; or

(2) certifies any statement as set forth in subsections (a) and (b) knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section

shall be imprisoned not more than 20 years.

CHAPTER 27—CRIMES RELATED TO FEDERAL GOVERNMENT RESPONSIBILITIES

Subchapter	Sec.
A. Coins and currency	**851**
B. Customs	**861**
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SUBTITLE A—COINS AND CURRENCY

Sec.
851. Mutilation, diminution, and falsification of coins.
852. Mutilation of national bank obligations.

§ 851. Mutilation, diminution, and falsification of coins

Whoever—

(1) fraudulently alters, defaces, mutilates, impairs, diminishes, falsifies, scales, or lightens any of the coins coined at the mints of the United States, or any foreign coins which are by law made current or are in actual use or circulation as money within the United States; or

(2) fraudulently possesses, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States, any such coin, knowing the same to be altered, defaced, mutilated, impaired, diminished, falsified, scaled, or lightened;

shall be imprisoned not more than five years.

§ 852. Mutilation of national bank obligations

Whoever mutilates, cuts, defaces, disfigures, or perforates, or unites or cements together, or does any other thing to any

bank bill, draft, note, or other evidence of debt issued by any national banking association, or Federal Reserve bank, or the Federal Reserve System, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued, shall be imprisoned not more than six months.

SUBCHAPTER B—CUSTOMS

Sec.
861. Entry of goods falsely classified.
862. Entry of goods by means of false statements.
863. Smuggling goods into the United States.
864. Smuggling goods into foreign countries.
865. Removing goods from customs custody; breaking seals.
866. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.

§ 861. Entry of goods falsely classified

Whoever knowingly effects any entry of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon a false classification as to quality or value, or by the payment of less than the amount of duty legally due, shall be imprisoned not more than two years.

§ 862. Entry of goods by means of false statements

(a) OFFENSE.—Whoever—

(1) enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties; or

(2) knowingly engages in an act or omission whereby the United States is or may be deprived of any lawful duties accruing upon merchandise embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission;

shall be imprisoned not more than two years.

(b) DEFINITION.—As used in this section, the term ''commerce of the United States'' does not include commerce with Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

§ 863. Smuggling goods into the United States

(a) OFFENSE.—Whoever—

(1) knowingly and with intent to defraud the United States, smuggles, or clandestinely introduces or attempts to smuggle or clandestinely introduce into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

(2) fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law;

shall be imprisoned not more than five years.

(b) DEFINITION.—The term ''United States'', as used in this section, does not include Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

§ 864. Smuggling goods into foreign countries

(a) OFFENSE.—Whoever, owning in whole or in part any vessel of the United States, employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, di-

rectly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assisting in any such purpose, shall be imprisoned not more than two years.

(b) HIRING OR CHARTERING OF VESSELS.—It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in this section and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose.

§ 865. Removing goods from customs custody; breaking seals

Whoever knowingly—

(1) without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package;

(2) without authority, removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody;

(3) enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to remove therefrom any merchandise or baggage therein, or unlawfully removes any merchandise or baggage in such vessel, vehicle, or bonded warehouse or otherwise in customs custody or control; or

(4) receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed;

shall be imprisoned not more than two years.

§ 866. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft

(a) OFFENSE.—Whoever knowingly imports, exports, or attempts to import or export—

(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

(2) any motor vehicle or off-highway mobile equipment or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered;

shall be imprisoned not more than 10 years.

(b) EXCLUSION.—Subsection (a)(2) does not apply if the removal, obliteration, tampering, or alteration—

(1) is caused by collision or fire; or

(2)(A) in the case of a motor vehicle, is not a violation of section 718 of this title (relating to altering or removing motor vehicle identification numbers); or

(B) in the case of off-highway mobile equipment, would not be a violation of section 718 of this title if such equipment were a motor vehicle.

(c) As used in this section—

(1) the term ''motor vehicle'' has the meaning given that term in section 32101 of title 49;

(2) the term ''off-highway mobile equipment'' means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

(3) the term ''vessel'' has the meaning given that term in section 401 of the Tariff Act of 1930;

(4) the term ''aircraft'' has the meaning given that term in section 40102(a) of title 49; and

(5) the term ''identification number''—

(A) in the case of a motor vehicle, has the meaning given that term in section 718 of this title; and

(B) in the case of any other vehicle or equipment covered by this section, means a number or symbol assigned to the vehicle or equipment, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, or part.

SUBCHAPTER C—INDIANS

Sec.
871. Indian country defined.
872. Laws governing.
873. Offenses committed within Indian country.
874. State jurisdiction over offenses committed by or against Indians in the Indian country.
875. Embezzlement and theft from Indian tribal organizations.
876. Theft from gaming establishments on Indian lands.
877. Theft by officers or employees of gaming establishments on Indian lands.
878. Reporting of child abuse.
879. Illegal trafficking in Native American human remains and cultural items.

§ 871. Indian country defined

The term ''Indian country'', as used in this subchapter, means—

(1) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(2) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

§ 872. Laws governing

(a) GENERALLY.—Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

(b) LIMITATION.—This section does not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

§ 873. Offenses committed within Indian country

(a) MAJOR CRIMES.—Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under subchapter A of chapter 13, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) DEFINITION OF CERTAIN OFFENSES.—Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

§ 874. State jurisdiction over offenses committed by or against Indians in the Indian country

(a) IN GENERAL.—Each State listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

State or Territory of	Indian country affected
Alaska	All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

(b) NON-CRIMINAL MATTERS NOT AFFECTED.—Nothing in this section—

(1) authorizes the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or

(2) authorizes regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or

(3) deprives any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

(c) Sections 872 and 873 do not apply within the areas of Indian country listed in subsection (a) as areas over which a State has exclusive jurisdiction.

§ 875. Embezzlement and theft from Indian tribal organizations

(a) OFFENSE.—Whoever embezzles, steals, unlawfully converts, knowingly misapplies, or knowingly permits to be misapplied, any of the property belonging to any Indian tribal organization or entrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization shall be imprisoned not more than five years; but if the value of such property does not exceed the sum of $1,000, shall be imprisoned not more than one year.

(b) DEFINITION.—As used in this section, the term ''Indian tribal organization'' means any tribe, band, or community of Indians which is subject to the laws of the United States relating to Indian affairs or any corporation, association, or group which is organized under any of such laws.

§ 876. Theft from gaming establishments on Indian lands

Whoever abstracts, purloins, knowingly misapplies, or takes and carries away with intent to steal, any money, funds, or other property belonging to a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be imprisoned for not more than ten years, but if the value of such property does not exceed $1,000, shall be imprisoned not more than one year.

§ 877. Theft by officers or employees of gaming establishments on Indian lands

Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment shall be imprisoned for not more than 20 years, but if the value of such property is $1,000 or less shall be imprisoned not more than five years.

§ 878. Reporting of child abuse

(a) BASIC REPORTING OFFENSE.—Whoever—

(1) is a—

(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

(E) psychiatrist, psychologist, or psychological assistant,

(F) licensed or unlicensed marriage, family, or child counselor,

(G) person employed in the mental health profession, or

(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

(2) knows, or has reasonable suspicion, that—

(A) a child was abused in Indian country, or

(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be imprisoned for not more than 6 months.

(b) OFFENSE BY SUPERVISORS.—Any person who—

(1) supervises, or has authority over, a person described in subsection (a)(1), and

(2) inhibits or prevents that person from making the report described in subsection (a),

shall be imprisoned for not more than 6 months.

(c) DEFINITIONS.—As used in this section—

(1) the term ''abuse'' includes—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(2) the term ''child'' means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) the term ''local child protective services agency'' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

(4) the term ''local law enforcement agency'' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

(d) IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR REPORTING.—Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.

§ 879. Illegal trafficking in Native American human remains and cultural items

(a) HUMAN REMAINS.—Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be imprisoned not more than 12 months, and in the case of a second or subsequent violation, be imprisoned not more than 5 years.

(b) CULTURAL ITEMS.—Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be imprisoned not more than one year, and in the case of a second or subsequent violation, be imprisoned not more than 5 years.

SUBCHAPTER D—BANKRUPTCY

Sec.
881. Concealment of assets; false oaths and claims; bribery.
882. Embezzlement against estate.
883. Adverse interest and conduct of officers.
884. Fee agreements in cases under title 11 and receiverships.
885. Bankruptcy fraud.
886. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent Statements in bankruptcy schedules.
887. Definition.

§ 881. Concealment of assets; false oaths and claims; bribery

Whoever—

(1) knowingly conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

(2) knowingly makes a false oath or account in or in relation to any case under title 11;

(3) knowingly makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

(4) knowingly presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

(5) knowingly receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

(6) knowingly and corruptly gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly transfers or conceals any of his property or the property of such other person or corporation;

(8) after the filing of a case under title 11 or in contemplation thereof, knowingly conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

(9) after the filing of a case under title 11, knowingly withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be imprisoned not more than 5 years.

§ 882. Embezzlement against estate

(a) OFFENSE.—Whoever, being described in subsection (b), knowingly and unlawfully appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be imprisoned not more than 5 years.

(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or

documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

§ 883. Adverse interest and conduct of officers

Whoever, being a custodian, trustee, marshal, or other officer of the court—

(1) knowingly purchases any property of the estate of which the person is such an officer in a case under title 11;

(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined under this title and shall forfeit the person's office, which shall thereupon become vacant.

§ 884. Fee agreements in cases under title 11 and receiverships

Whoever, being a party in interest, whether as a debtor, creditor, receiver, trustee or representative of any of them, or attorney for any such party in interest, in any receivership or case under title 11 in any United States court or under its supervision, knowingly and corruptly enters into any agreement, express or implied, with another such party in interest or attorney for another such party in interest, for the purpose of fixing the fees or other compensation to be paid to any party in interest or to any attorney for any party in interest for services rendered in connection therewith, from the assets of the estate, shall be imprisoned not more than one year.

§ 885. Bankruptcy fraud

Whoever for the purpose of executing or concealing a scheme or artifice to defraud—

(1) files a petition under title 11, including a fraudulent involuntary bankruptcy petition under section 303 of such title;

(2) files a document in a proceeding under title 11; or

(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be imprisoned not more than 5 years.

§ 886. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules

(a) IN GENERAL.—The Attorney General of the United States shall designate the individuals described in subsection (b) to have primary responsibility in carrying out enforcement activities in addressing violations of section 871 or 875 relating to abusive reaffirmations of debt. In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 871 or 875 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.

(b) UNITED STATES ATTORNEYS AND AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION.—The individuals referred to in subsection (a) are—

(1) the United States attorney for each judicial district of the United States; and

(2) an agent of the Federal Bureau of Investigation for each field office of the Federal Bureau of Investigation.

(c) BANKRUPTCY INVESTIGATIONS.—Each United States attorney designated under this section shall, in addition to any other responsibilities, have primary responsibility for carrying out the duties of a United States attorney under section 3057.

(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case that may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.

§ 887. Definition

As used in this subchapter, the term ''debtor'' means a debtor concerning whom a petition has been filed under title 11.

SUBCHAPTER E—CIVIL RIGHTS

Sec.
891. Conspiracy against rights.
892. Deprivation of rights under color of law.
893. Exclusion of jurors on account of race or color.
894. Discrimination against person wearing uniform of armed forces.
895. Federally protected activities.
896. Deprivation of relief benefits.
897. Damage to religious property; obstruction of persons in the free exercise of religious beliefs.
898. Freedom of access to clinic entrances.
899. Voting Rights Act violations.
900. Prevention of intimidation in fair housing cases.

§ 891. Conspiracy against rights

If two or more persons—

(1) conspire to injure, oppress, threaten, or intimidate any person in any State in the free exercise or enjoyment of any right or privilege secured to that person by the Constitution or laws of the United States, or because of that person's having so exercised the same; or

(2) go in disguise on the highway, or on the premises of another, with intent to prevent or hinder that other's free exercise or enjoyment of any right or privilege so secured;

each shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, each shall be imprisoned for any term of years or for life, or may be sentenced to death.

§ 892. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, knowingly subjects any person in any State to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years or for life, or may be sentenced to death.

§ 893. Exclusion of jurors on account of race or color

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than $5,000.

§ 894. Discrimination against person wearing uniform of armed forces

Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any territory, or possession of the United States, causes any person wearing the uniform of any of the armed forces of the United States to be discriminated against because of that uniform, shall be fined under this title.

§ 895. Federally protected activities

(a) CONSTRUCTION.—

(1) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section, nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law. No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice, which function of certification may not be delegated.

(2) Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

(b) OFFENSE.—Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with—

(1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election;

(B) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States;

(C) applying for or enjoying employment, or any perquisite thereof, by any agency of the United States;

(D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States;

(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or

(2) any person because of his race, color, religion or national origin and because he is or has been—

(A) enrolling in or attending any public school or public college;

(B) participating in or enjoying any benefit service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;

(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;

(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;

(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;

(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any mo-

tion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and (i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments, and (ii) which holds itself out as serving patrons of such establishments; or

(3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

(4) any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

(B) affording another person or class of persons opportunity or protection to so participate; or

(5) any citizen because that person is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate—

shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years or for life or may be sentenced to death.

(c) DEFINITION.— As used in this section, the term ''participating lawfully in speech or peaceful assembly'' shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection shall apply to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as the proprietor's residence.

(d) LAW ENFORCEMENT DUTIES NOT AFFECTED.—Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term ''law enforcement officer'' means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests be-

cause of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State.

§ 896. Deprivation of relief benefits

Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be imprisoned not more than one year.

§ 897. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

(a) RELIGIOUS PROPERTY OFFENSE RELATING TO RELIGIOUS CHARACTER.—Whoever, in or affecting interstate or foreign commerce—

(1) knowingly defaces, damages, or destroys any religious real property, because of the religious character of that property; or

(2) knowingly obstructs, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs;

shall be punished as provided in subsection (c) .

(b) PROPERTY OFFENSE MOTIVATED BY RACIAL AND OTHER CHARACTERISTICS.—Whoever knowingly defaces, damages, or destroys any religious real property because of the race, color, or ethnic characteristics of any individual associated with that religious property, shall be punished as provided in subsection (c).

(c) PUNISHMENT.—The punishment for a violation of subsection (a) is—

(1) if death results from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, imprisonment for any term of years or for life, or death;

(2) if bodily injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, and the violation is by means of fire or an explosive, or imprisonment for more that 40 years;

(3) if bodily injury to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, imprisonment for not more than 20 years; and

(4) in any other case, imprisonment for not more than one year.

(d) CERTIFICATION.—No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or his designee that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice.

(e) DEFINITION.—As used in this section, the term ''religious real property'' means any church, synagogue, mosque, religious cemetery, or other religious real property, including fixtures or religious objects contained within a place of religious worship.

(f) LIMITATION.—No person shall be prosecuted, tried, or punished for any noncapital offense under this section unless the indictment is found or the information is instituted not later than 7 years after the date on which the offense was committed.

§ 898. Freedom of access to clinic entrances

(a) PROHIBITED ACTIVITIES.—Whoever—

(1) by force or threat of force or by physical obstruction, knowingly injures, intimidates or interferes with any person because that person is or has been, or in order to intimidate such person or any other person or any class of

persons from, obtaining or providing reproductive health services;

(2) by force or threat of force or by physical obstruction, knowingly injures, intimidates or interferes with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) knowingly damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or knowingly damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) PENALTIES.—Whoever violates this section shall—

(1) in the case of a first offense, be imprisoned not more than one year; and

(2) in the case of a second or subsequent offense after a prior conviction under this section, be imprisoned not more than 3 years;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall, notwithstanding section 3571, not be more than $10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding section 3571, be not more than $25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) CIVIL REMEDIES.—

(1) RIGHT OF ACTION.—

(A) IN GENERAL.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in sub-

paragraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

(2) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—

(A) IN GENERAL.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

(i) in an amount not exceeding $10,000 for a nonviolent physical obstruction and $15,000 for other first violations; and

(ii) in an amount not exceeding $15,000 for a nonviolent physical obstruction and $25,000 for any other subsequent violation.

(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;

(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or

(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

(e) DEFINITIONS.—As used in this section—

(1) the term ''facility'' includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

(2) the term ''interfere with'' means to restrict a person's freedom of movement.

(3) the term ''intimidate'' means to place a person in reasonable apprehension of bodily harm to him-or herself or to another.

(4) the term ''physical obstruction'' means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

(5) the term ''reproductive health services'' means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

§ 899. Voting Rights Act violations

(a) Whoever deprives any person of any right secured by section 2, 3, 4, 5, 7, or 10 of the Voting Rights Act of 1965 or violates section 11(a) of such Act, shall be imprisoned not more than five years.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed under the Voting Rights Act of 1965—

(1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election; or

(2) alters any official record of voting in such election tabulated from a voting machine or otherwise;

shall be imprisoned not more than five years.

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of section 12 of the Voting Rights Act of 1965, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) of such Act shall be imprisoned not more than five years.

§900. Prevention of intimidation in fair housing cases

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with—

(1) any person because of that person's race, color, religion, sex, handicap (as such term is defined in section 802 of the Fair Housing Act), familial status (as such term is defined in section 802 of that Act), or national origin and because that person is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(2) any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from—

(A) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of the Fair Housing Act), familial status (as such term is defined in section 802 of that Act), or national origin, in any of the activities, services, organizations or facilities described in section 901(a) of that Act; or

(B) affording another person or class of persons opportunity or protection so to participate; or

(C) any citizen because that citizen is or has been, or in order to discourage such citizen or any other citizen

from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of the Fair Housing Act), familial status (as such term is defined in section 802 of that Act), or national origin, in any of the activities, services, organizations or facilities described in subsection 901(a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate;

shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years or for life.

SUBCHAPTER F—FOREIGN RELATIONS

Sec.
921. Agents of foreign governments.
922. Diplomatic codes and correspondence.
923. False Statements influencing foreign government.
924. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.
925. Enlistment in foreign service.
926. Expedition against friendly nation.
927. Detention of armed vessel.
928. Protection of property occupied by foreign governments.

§ 921. Agents of foreign governments

(a) OFFENSE.—Whoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Attorney General if required in subsection (b), shall be imprisoned not more than ten years.

(b) RULES AND REGULATIONS.—The Attorney General shall promulgate rules and regulations establishing requirements for notification.

(c) TRANSMISSION.—The Attorney General shall, upon receipt, promptly transmit one copy of each notification statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so shall not be a bar to prosecution under this section.

(d) DEFINITION.—As used in this section, the term ''agent of a foreign government'' means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—

(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;

(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

(4) any person engaged in a legal commercial transaction.

(e) ADDITIONAL BASIS FOR DETERMINING AGENCY.—Notwithstanding subsection (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

(2) such person—

(A) is an agent of Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section, unless the Attorney General, after consultation with the Secretary of State, determines and so reports to the Con-

gress that the national security or foreign policy interests of the United States require that the provisions of this section do not apply in specific circumstances to agents of such country; or

(B) has been convicted of, or has entered a plea of nolo contendere with respect to, any offense under section 301 through 303, 601, or 261 of this title or under section 11 of the Export Administration Act of 1979, except that the provisions of this subsection shall not apply to a person described in this clause for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere, as the case may be.

§ 922. Diplomatic codes and correspondence

Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, knowingly publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the United States, shall be or imprisoned not more than ten years.

§ 923. False statements influencing foreign government

Whoever, in relation to any dispute or controversy between a foreign government and the United States, knowingly makes any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure of or action by the United States or any department or agency thereof, to the injury of the United States, shall be imprisoned not more than ten years.

§ 924. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

(a) OFFENSE AGAINST PERSONS.—

(1) ELEMENTS.—Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in paragraph (2).

(2) PUNISHMENT.— The punishment for an offense under paragraph (1) is—

(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

(b) OFFENSE AGAINST PROPERTY.—Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.

§ 925. Enlistment in foreign service

(a) OFFENSE.—Whoever, within the United States, enlists or enters himself, or hires or retains another to enlist or enter himself, or to go beyond the jurisdiction of the United States with intent to be enlisted or entered in the service of any for-

eign prince, state, colony, district, or people as a soldier or as a marine or seaman on board any vessel of war, letter of marque, or privateer, shall be imprisoned not more than three years.

(b) EXCLUSIONS.—

(1) This section does not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this subsection shall be under regulations prescribed by the Secretary of the Army.

(2) This section and sections 957 and 958 do not apply to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United States and enlists or enters himself on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people who is transiently within the United States to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people.

§ 926. Expedition against friendly nation

Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be imprisoned not more than three years.

§ 927. Detention of armed vessel

(a) AUTHORITY OF PRESIDENT.—During a war in which the United States is a neutral nation, the President, or any person authorized by him, may detain any armed vessel owned wholly or in part by citizens of the United States, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with which the United States is at peace, and that the said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or upon the high seas.

(b) OFFENSE.—Whoever, in violation of this section takes, or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be imprisoned not more than ten years.

(c) FORFEITURE.—In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

§ 928. Protection of property occupied by foreign governments

(a) PROPERTY OFFENSE.—Whoever knowingly injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be imprisoned not more than five years.

(b) THREAT AND HARASSMENT OFFENSE.—Whoever, knowingly with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—

(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

(B) by a foreign official or any member of the foreign official's staff who is authorized by the foreign official to make such request;

(C) by an official guest or any member of the official guest's staff who is authorized by the official guest to make such request; or

(D) by any person present having law enforcement powers;

shall be imprisoned not more than six months.

(c) DEFINITIONS.—For the purpose of this section ''foreign government'', ''foreign official'', ''international organization'', and ''official guest'' shall have the same meanings as those provided in section 136.

SUBCHAPTER G—POSTAL SERVICE

Sec.
941. Obstruction of mails generally.
942. Obstruction of correspondence.
943. Delay or destruction of mail or newspapers.
944. Keys or locks stolen or reproduced.
945. Destruction of letter boxes or mail.
946. Theft of property used by Postal Service.
947. Theft or receipt of stolen mail matter generally.

948. Theft of mail matter by officer or employee.
949. Misappropriation of postal funds.
950. Injurious articles as nonmailable.
951. Franking privilege.

§ 941. Obstruction of mails generally

Whoever knowingly obstructs the passage of the mail, or any carrier or conveyance carrying the mail, shall be imprisoned not more than six months.

§ 942. Obstruction of correspondence

Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with intent to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be imprisoned not more than five years.

§ 943. Delay or destruction of mail or newspapers

(a) MAIL MATTER.—Whoever, being a Postal Service officer or employee, unlawfully secretes, destroys, detains, delays, or opens any letter, postal card, package, bag, or mail entrusted to that officer or employee or which shall come into his or her possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the Postal Service, shall be imprisoned not more than five years.

(b) NEWSPAPER.—Whoever, being a Postal Service officer or employee, improperly detains, delays, or destroys any newspaper, or permits any other person to detain, delay, or destroy the same, or opens, or permits any other person to open, any mail or package of newspapers not directed to the office where he is employed; or Whoever, without authority, opens, or destroys any mail or package of newspapers not directed to him, shall be imprisoned not more than one year.

§ 944. Keys or locks stolen or reproduced

Whoever—

(1) steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter;

(2) knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

(3) being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer;

shall be imprisoned not more than ten years.

§ 945. Destruction of letter boxes or mail

Whoever knowingly injures, tears down or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or knowingly injures, defaces or destroys any mail deposited therein, shall be imprisoned not more than three years.

§ 946. Theft of property used by Postal Service

Whoever steals, purloins, or embezzles any property used by the Postal Service, or appropriates any such property to any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be imprisoned not more than three years, but if the value of such

property does not exceed $1,000, the offender shall be imprisoned not more than one year.

§ 947. Theft or receipt of stolen mail matter generally

Whoever—

(1) steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein;

(2) steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

(3) buys, receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been stolen, taken, embezzled, or abstracted;

shall be imprisoned not more than five years.

§ 948. Theft of mail matter by officer or employee

Whoever, being a Postal Service officer or employee, embezzles any letter, postal card, package, bag, or mail, or any article or thing contained therein entrusted to him or which comes into his possession intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or of the Postal Service; or steals, abstracts, or removes from any

such letter, package, bag, or mail, any article or thing contained therein, shall be imprisoned not more than five years.

§ 949. Misappropriation of postal funds

(a) OFFENSE.—Whoever, being a Postal Service officer or employee, loans, uses, pledges, hypothecates, or converts to his own use, or deposits in any bank, or exchanges for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner, in the execution or under color of his office, employment, or service, whether or not the same shall be the money or property of the United States; or fails or refuses to remit to or deposit in the Treasury of the United States or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required to do so by law or the regulations of the Postal Service, or upon demand or order of the Postal Service, either directly or through a duly authorized officer or agent, is guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be imprisoned not more than ten years; but if the amount or value thereof does not exceed $1,000, he shall be imprisoned not more than one year.

(b) EXCLUSION.—This section does not prohibit any Postal Service officer or employee from depositing, under the direction of the Postal Service, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as Postal Service officer or employee any funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officers, or otherwise, when instructed or required so to do by the Postal Service, for the purpose of remitting surplus funds from one post office to another.

§ 950. Injurious articles as nonmailable

(a) IN GENERAL.—All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease

germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

(b) EXCEPTIONS.—The Postal Service may permit the transmission in the mails, under such rules and regulations as it shall prescribe as to preparation and packing, of any such articles which are not outwardly or of their own force dangerous or injurious to life, health, or property.

(c) SCORPIANS.—The Postal Service is authorized and directed to permit the transmission in the mails, under regulations to be prescribed by it, of live scorpions which are to be used for purposes of medical research or for the manufacture of antivenom. Such regulations shall include such provisions with respect to the packaging of such live scorpions for transmission in the mails as the Postal Service deems necessary or desirable for the protection of Postal Service personnel and of the public generally and for ease of handling by such personnel and by any individual connected with such research or manufacture. Nothing contained in this paragraph shall be construed to authorize the transmission in the mails of live scorpions by means of aircraft engaged in the carriage of passengers for compensation or hire.

(d) POISONOUS DRUGS AND MEDICINES.—The transmission in the mails of poisonous drugs and medicines may be limited by the Postal Service to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers, and veterinarians under such rules and regulations as it shall prescribe.

(e) POISONS FOR SCIENTIFIC USE.—The transmission in the mails of poisons for scientific use, and which are not outwardly dangerous or of their own force dangerous or injurious to life, health, or property, may be limited by the Postal Service to shipments of such articles between the manufacturers there-

of, dealers therein, bona fide research or experimental scientific laboratories, and such other persons who are employees of the Federal, a State, or local government, whose official duties are comprised, in whole or in part, of the use of such poisons, and who are designated by the head of the agency in which they are employed to receive or send such articles, under such rules and regulations as the Postal Service shall prescribe.

(f) INTOXICATING LIQUORS.—All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are nonmailable and shall not be deposited in or carried through the mails.

(g) KNIVES.—All knives having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both, are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such knives may be conveyed in the mails, under such regulations as the Postal Service shall prescribe—

(1) to civilian or Armed Forces supply or procurement officers and employees of the Federal Government ordering, procuring, or purchasing such knives in connection with the activities of the Federal Government;

(2) to supply or procurement officers of the National Guard, the Air National Guard, or militia of a State ordering, procuring, or purchasing such knives in connection with the activities of such organizations;

(3) to supply or procurement officers or employees of any State, or any political subdivision of a State or Territory, ordering, procuring, or purchasing such knives in connection with the activities of such government; and

(4) to manufacturers of such knives or bona fide dealers therein in connection with any shipment made pursuant to an order from any person designated in paragraphs (1), (2), and (3).

The Postal Service may require, as a condition of conveying any such knife in the mails, that any person proposing to mail

such knife explain in writing to the satisfaction of the Postal Service that the mailing of such knife will not be in violation of this section.

(h) ADVERTISING, PROMOTIONAL, OR SALES MATTER.—Any advertising, promotional, or sales matter which solicits or induces the mailing of anything declared nonmailable by this section is likewise nonmailable unless such matter contains wrapping or packaging instructions which are in accord with regulations promulgated by the Postal Service.

(i) BALLISTIC KNIVES.—

(1) GENERALLY.—Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

(2) DEFINITION.—As used in this subsection, the term ''ballistic knife'' means a knife with a detachable blade that is propelled by a spring-operated mechanism.

(j) OFFENSES.—

(1) COMPLIANCE WITH RULES AND REGULATIONS.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, unless in accordance with the rules and regulations authorized to be prescribed by the Postal Service, shall be imprisoned not more than one year.

(2) WITH INTENT TO KILL OR INJURE ANOTHER OR TO INJURE THE MAILS OR PROPERTY.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, whether or not transmitted in accordance with the rules and regulations authorized to be prescribed by the Postal Service, with intent to kill or injure another, or injure the mails or other property, shall be imprisoned not more than twenty years.

(3) DEATH PENALTY.—Whoever is convicted of any crime prohibited by this section, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

§ 951. Franking privilege

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title.

SUBCHAPTER H—SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF THE UNITED STATES

Sec.
961. Laws of States adopted for areas within Federal jurisdiction.

§ 961. Laws of States adopted for areas within Federal jurisdiction

(a) OFFENSE.—Whoever within the reserved or acquired special maritime or territorial jurisdiction of the United States, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b) OPERATING A MOTOR VEHICLE UNDER THE INFLUENCE OF ALCOHOL.—

(1) LIMITATION ON RIGHT OR PRIVILEGE TO OPERATE A MOTOR VEHICLE.—Subject to paragraph (2) and for purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed

under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.

(2) ADDITIONAL PUNISHMENT.—In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a child is caused, not more than 5 years, or if death of a child is caused, not more than 10 years, and an additional fine under this title, or both, if—

(A) a child (other than the offender) was present in the motor vehicle when the offense was committed; and

(B) the law of the State, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in subparagraph (A).

(c) TERRITORIAL SEA.—Whenever any waters of the territorial sea of the United States lie outside the territory of any State, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State that it would lie within if the boundaries of such State were extended seaward to the outer limit of the territorial sea of the United States.

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1 SUBCHAPTER A—BRIBERY, GRAFT, AND CONFLICTS
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3 **§ 991. Bribery of public officials and witnesses**

4 (a) DEFINITIONS.—As used in this section—

5 (1) the term ''public official'' means Member of Con-
6 gress, Delegate, or Resident Commissioner, either before or
7 after such official has qualified, or an officer or employee
8 or person acting for or on behalf of the United States, or
9 any department, agency or branch of Government thereof,
10 including the District of Columbia, in any official function,
11 under or by authority of any such department, agency, or
12 branch of Government, or a juror;

13 (2) the term ''person who has been selected to be a
14 public official'' means any person who has been nominated
15 or appointed to be a public official, or has been officially

informed that such person will be so nominated or appointed; and

(3) the term ''official act'' means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) BRIBERY.—Whoever—

(1) corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be imprisoned for not more than fifteen years and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) UNLAWFUL REWARDS.—Whoever—

(1) otherwise than as provided by law for the proper discharge of official duty—

(A) gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affir-

mation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be imprisoned for not more than two years.

(d) EXCLUSION.—Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

§ 992. Definitions for certain sections

(a) 993, 995, 997, 998, AND 999.—For the purpose of sections 993, 995, 997, 998, and 999 the term ''special Government employee'' means—

(1) an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one 130 during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the num-

ber of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28;

(2) every person serving as a part-time local representative of a Member of Congress in the Member's home district or State; and

(3) notwithstanding section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, while on active duty solely for training;

except that a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of 130 days shall be classified as an officer of the United States within the meaning of section 993 and sections 995 through 999 and 1005, and a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms ''officer or employee'' and ''special Government employee'' as used in sections 993, 995, 997 through 999, and 1005, does not include enlisted members of the Armed Forces.

(b) 995 AND 997.—For the purposes of sections 995 and 997, the term ''official responsibility'' means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) EXCLUSION FROM ''OFFICER'' AND ''EMPLOYEE''.—Except as otherwise provided in such sections, the terms ''officer'' and ''employee'' in sections 993, 995, 997 through 999, and 1005 does not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) ''MEMBER OF CONGRESS''.—The term ''Member of Congress'' in sections 994 and 997 means—

(1) a United States Senator; and

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) ADDITIONAL DEFINITIONS.—As used in this subchapter—

(1) the term ''executive branch'' includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

(2) the term ''judicial branch'' means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

(3) the term ''legislative branch'' means—

(A) the Congress; and

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

§ 993. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) FEDERAL MATTERS.—Whoever, otherwise than as provided by law for the proper discharge of official duties—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another—

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

shall be subject to the penalties set forth in section 216 of this title.

(b) DISTRICT OF COLUMBIA.—Whoever, otherwise than as provided by law for the proper discharge of official duties—

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, con-

troversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title.

(c) SPECIAL GOVERNMENT EMPLOYEES.—A special Government employee shall be subject to subsections (a) and (b) only in relation to a particular matter involving a specific party or parties—

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) EXCLUSION.—Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or as a special Government employee through decision, approval,

disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(e) CERTIFICATION OF NATIONAL INTEREST.—Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(f) TESTIMONY AND STATEMENTS.—Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.

§ 994. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Members of Congress

Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 1004 of this title.

§ 995. Activities of officers and employees in claims against and other matters affecting the Government

(a) FEDERAL MATTERS.—Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any

share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(b) DISTRICT OF COLUMBIA.—Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(c) SPECIAL GOVERNMENT EMPLOYEES.—A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency

no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) EXCLUSION WITH RESPECT TO CERTAIN PERSONS.—

(1) GENERALLY.—Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing—

(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

(2) EXCEPTION.—Paragraph (1)(B) does not apply with respect to a covered matter that—

(A) is a claim under subsection (a)(1) or (b)(1);

(B) is a judicial or administrative proceeding where the organization or group is a party; or

(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

(e) EXCLUSION WITH RESPECT FAMILY MEMBERS.—Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—

(1) in those matters in which he has participated personally and substantially as a Government employee or spe-

cial Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

(2) in those matters which are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(f) CERTIFICATION OF NATIONAL INTEREST.—Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(g) TESTIMONY AND STATEMENTS.—Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(h) DEFINITION.—For the purpose of this section, the term ''covered matter'' means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

(i) ADDITIONAL EXCLUSIONS.—Nothing in this section prevents an employee from acting pursuant to—

(1) chapter 71 of title 5;

(2) section 1004 or chapter 12 of title 39;

(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.

§ 996. Exemption of retired officers of the uniformed services

Sections 993 and 995 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

§ 997. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.—Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 1004 of this title.

(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—Any person subject to the restrictions contained in para-

graph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 1004.

(3) CLARIFICATION OF RESTRICTIONS.—The restrictions contained in paragraphs (1) and (2) shall apply—

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the

District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

(1) IN GENERAL.—Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 1004 of this title.

(2) DEFINITION.—For purposes of this paragraph—

(A) the term ''trade negotiation'' means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term ''treaty'' means an international agreement made by the President that requires the advice and consent of the Senate.

(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 1004 of this title.

(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which that person is paid at a rate of basic pay which is equal to or greater than 86.5 percent of the rate of basic pay for level II of the Executive Schedule, or, for a period of 2 years following the enactment of the National Defense Authorization Act for Fiscal Year 2004, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3,

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O-7 or above; OR

(v) assigned from a private sector organization to an agency under chapter 37 of title 5.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

(A) serves in the position of Vice President of the United States,

(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Execu-

tive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 1 year after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 1004 of this title.

(2) PERSONS WHO MAY NOT BE CONTACTED.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (ex-

cept the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.

(2) PERSONAL STAFF.—(A) Any person who is an employee of a Senator or an employee of a Member of the House of Representatives and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

(i) the Senator or Member of the House of Representatives for whom that person was an employee; and

(ii) any employee of that Senator or Member of the House of Representatives.

(3) COMMITTEE STAFF.—Any person who is an employee of a committee of Congress and who, within 1 year after the termination of that person's employment on such committee, knowingly makes, with the intent to influence,

any communication to or appearance before any person who is a Member or an employee of that committee or who was a Member of the committee in the year immediately prior to the termination of such person's employment by the committee, on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004 of this title.

(4) LEADERSHIP STAFF.—(A) Any person who is an employee on the leadership staff of the House of Representatives or an employee on the leadership staff of the Senate and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the following:

(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.

(5) OTHER LEGISLATIVE OFFICES.—(A) Any person who is an employee of any other legislative office of the Congress and who, within 1 year after the termination of

that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 1004 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(6) LIMITATION ON RESTRICTIONS.—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level V of the Senior Executive Service.

(7) DEFINITIONS.—As used in this subsection—

(A) the term ''committee of Congress'' includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term ''employee of the House of Representatives'' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

(D) the term ''employee of the Senate'' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

(G) the term ''employee of any other legislative office of the Congress'' means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the Copyright Royalty Tribunal, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), or (4) of this subsection;

(H) the term ''employee on the leadership staff of the House of Representatives'' means an employee of the office of a Member of the leadership of the House

of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

(I) the term ''employee on the leadership staff of the Senate'' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

(J) the term ''Member of Congress'' means a Senator or a Member of the House of Representatives;

(K) the term ''Member of the House of Representatives'' means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(L) the term ''Member of the leadership of the House of Representatives'' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

(M) the term ''Member of the leadership of the Senate'' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

(1) RESTRICTIONS.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 1004 of this title.

(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

(3) DEFINITION.—For purposes of this subsection, the term ''foreign entity'' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.—

(1) DESIGNATIONS.—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that

an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) DEFINITIONS.—For purposes of this section—

(1) the term ''officer or employee'', when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term ''participated'' means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(3) the term ''particular matter'' includes any investigation, application, request for a ruling or determination,

rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) EXCEPTIONS.—

(1) OFFICIAL GOVERNMENT DUTIES.—The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—-The restrictions contained in subsections

(a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term ''officer or employee'' includes the Vice President.

(6) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence—

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely

on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to—

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents,

(II) a person or entity who represents,

aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph—

(i) the term ''candidate'' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

(ii) the term ''authorized committee'' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as

an authorized committee for purposes of subparagraph (A);

(iii) the term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

(iv) the term ''national Federal campaign committee'' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) the term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

(vi) the term ''political party'' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

(A) the officer or employee covered by the waiver by name and by position, and

(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to

which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

(E) As used in this subsection, the term ''civil service'' has the meaning given that term in section 2101 of title 5.

(l) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 1004 of this title.

(l) Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 1004 of this title.

§ 998. Acts affecting a personal financial interest

(a) OFFENSE.—Except as permitted by subsection (b), whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency

of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest shall be subject to the penalties set forth in section 1004 of this title.

(b) EXCLUSIONS.—Subsection (a) shall not apply—

(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of subsection (a) as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

(3) in the case of a special Government employee serving on an advisory committee within the meaning of the

Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

(4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights—

(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

(c) DEEMING PROVISION.—(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an ex-

emption being granted pursuant to another paragraph of subsection (b).

(d) PUBLIC AVAILABILITY.—

(1) GENERALLY.—Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.

(2) UNIFORM REGULATIONS.—The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall—

(A) list and describe exemptions; and

(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.

§ 999. Salary of Government officials and employees payable only by United States

(a) OFFENSE.—Whoever—

(1) receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

(2) Whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection;

shall be subject to the penalties set forth in section 1004 of this title.

(b) EXCLUSION.—Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) SPECIAL GOVERNMENT EMPLOYEE.—This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) PAYMENTS UNDER CHAPTER 41 OF TITLE 5.—This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter 41 of title 5.

(e) RELOCATION EXPENSES.—This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency, if such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days or, in the case of participants in overseas assignments, in excess of 365 days.

(f) INJURIES DURING CERTAIN OFFENSE.—This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 102(7) or 102(8) of this title, of contributions or

payments from an organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and which is exempt from taxation under section 501(a) of such Code.

(g) PRIVATE SECTOR ORGANIZATION.—

(1) GENERALLY.—This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

(2) DEFINITION.—As used in this subsection, the term ''agency'' means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.

(h) RESERVER COMPONENTS OF ARMED FORCES.—This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.

§ 1000. Offer to procure appointive public office

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be imprisoned not more than one year.

§ 1001. Acceptance or solicitation to obtain appointive public office

(a) PROMISE OF OFFICE.—Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be imprisoned not more than one year.

(b) ADDING PERSON TO OBTAIN EMPLOYMENT.—Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be imprisoned not more than one year.

(c) EXCLUSION.—This section does not apply to such services rendered by an employment agency pursuant to the written request of an executive department or agency of the United States.

§ 1002. Acceptance of loan or gratuity by financial institution examiner

Whoever, being an examiner or assistant examiner, accepts a loan or gratuity from any bank, branch, agency, organization, corporation, association, or institution examined by the examiner or from any person connected with it, shall—

(1) be imprisoned not more than 1 year; and

(2) shall be disqualified from holding office as an examiner.

§ 1003. Receipt of commissions or gifts for procuring loans

(a) OFFENSE.—Whoever—

(1) corruptly gives, offers, or promises anything of value to any person, with intent to influence or reward an officer, director, employee, agent, or attorney of a financial institution in connection with any business or transaction of such institution; or

(2) as an officer, director, employee, agent, or attorney of a financial institution, corruptly solicits or demands for the benefit of any person, or corruptly accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business or transaction of such institution;

shall be imprisoned not more than 30 years, but if the value of the thing given, offered, promised, solicited, demanded, ac-

cepted, or agreed to be accepted does not exceed $1000, shall be imprisoned not more than one year.

(b) EXCLUSION.—This section shall not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

(c) GUIDELINES.—Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.

§ 1004. Penalties and injunctions

(a) CRIMINAL PENALTIES.—The punishment for an offense under section 993, 994, 995, 997, 998, or 999 of this title is the following:

(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year.

(2) Whoever knowingly engages in the conduct constituting the offense shall be imprisoned for not more than five years.

(b) CIVIL ACTION.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 993, 994, 995, 997, 998, or 999 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) COURT ORDER.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 993, 994, 995, 997, 998, or 999 of this title, the Attorney General may petition an appropriate United

States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

§ 1005. Voiding transactions in violation of chapter; recovery by the United States

In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, license, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate schedule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this chapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

§ 1006. Officers and employees acting as agents of foreign principals

(a) OFFENSE.—Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Disclosure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be imprisoned for not more than two years.

(b) EXCLUSION.—Nothing in this section shall apply to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employment is required in

the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

(c) DEFINITION.—As used in this section ''public official'' means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government.

§ 1007. Bribery in sporting contests

(a) OFFENSE.—Whoever knowingly engages in any scheme in or affecting interstate or foreign commerce to influence any sporting contest in any way by bribery, shall be imprisoned not more than 5 years.

(b) NONPREEMPTION.—This section shall not be construed as indicating an intent on the part of Congress to occupy the field in which this section operates to the exclusion of a law of any State, territory, Commonwealth, or possession of the United States, and no law of any State, territory, Commonwealth, or possession of the United States, which would be valid in the absence of the section shall be declared invalid, and no local authorities shall be deprived of any jurisdiction over any offense over which they would have jurisdiction in the absence of this section.

(c) DEFINITION.—As used in this section, the term ''sporting contest'' means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contestants therein), the occurrence of which is publicly announced before its occurrence.

§ 1008. Continuing financial crimes enterprise

(a) OFFENSE.—Whoever—

(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be imprisoned for a term of not less than 10 years and which may be life.

(b) DEFINITION.—As used in subsection (a), the term ''continuing financial crimes enterprise'' means a series of violations under section 1003, 644, 645, 773, 774, 775, 779, 789, 804, 801, and 803 affecting a financial institution, committed by at least 4 persons acting in concert.

SUBCHAPTER B—CLAIMS AND SERVICES IN MATTERS AFFECTING GOVERNMENT

Sec.
1017. False, fictitious or fraudulent claims.

§ 1017. False, fictitious or fraudulent claims

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years.

SUBCHAPTER C—CONTEMPTS

Sec.
1021. Power of court.
1022. Contempts constituting crimes.

§ 1021. Power of court

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—

(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) misbehavior of any of its officers in their official transactions; or

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

§ 1022. Contempts constituting crimes

(a) OFFENSE.—Whoever disobeys any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 and shall be imprisoned any term of years or for life.

(b) PAYMENT OF FINE AND LIMITATIONS ON FINE AND IMPRISONMENT.—Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of $1,000, nor shall such imprisonment exceed the term of six months.

(c) APPLICABILITY OF SECTION.—This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law.

SUBCHAPTER D—ELECTIONS AND POLITICAL ACTIVITIES

Sec.
1031. Intimidation of voters.
1032. Deprivation of employment or other benefit for political contribution.
1033. Solicitation of political contributions.
1034. Coercion of political activity.
1035. Voting by aliens.

§ 1031. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be imprisoned not more than one year.

§ 1032. Deprivation of employment or other benefit for political contribution

(a) OFFENSE.—Whoever knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or

(2) any payment or benefit of a program of the United States, a State, or a political subdivision of a State;

if such employment, position, work, compensation, payment, or benefit is provided for or made possible in whole or in part by an Act of Congress, shall be imprisoned not more than one year.

(b) DEFINITIONS.—As used in this section—

(1) the term ''candidate'' means an individual who seeks nomination for election, or election, to Federal, State, or local office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal, State, or local office, if he has (A) taken the action necessary under the law of a State to qualify himself for

nomination for election, or election, or (B) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(2) the term ''election'' means (A) a general, special primary, or runoff election, (B) a convention or caucus of a political party held to nominate a candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State; and

(3) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 1033. Solicitation of political contributions

(a) OFFENSE.—It shall be unlawful for—

(1) a candidate for the Congress;

(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(3) an officer or employee of the United States or any department or agency thereof; or

(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Whoever violates this section shall be imprisoned not more than 3 years.

(b) EXCLUSION.—The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the

United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

§ 1034. Coercion of political activity

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Whoever violates this section shall be imprisoned not more than three years.

§ 1035. Voting by aliens

(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—

(1) the election is held partly for some other purpose;

(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

(b) PUNISHMENT.—Any person who violates this section shall be imprisoned not more than one year.

(c) EXCLUSION.—Subsection (a) does not apply to an alien if—

(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization);

(2) the alien permanently resided in the United States prior to attaining the age of 16; and

(3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.

SUBCHAPTER E—EMBLEMS, INSIGNIA, AND NAMES

Sec.
1051. Desecration of the flag of the United States; penalties.
1052. Official badges, identification cards, other insignia.
1054. Uniform of armed forces and Public Health Service.
1055. Military medals or decorations.
1056. False advertising or misuse of names to indicate Federal agency.
1057. Misuse of names, words, emblems, or insignia.
1058. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress.
1059. Police badges.

§ 1051. Desecration of the flag of the United States; penalties

(a) OFFENSE.—Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be imprisoned for not more than one year.

(b) EXCLUSIONS.—This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.

(c) DEFINITION.—As used in this section, the term ''flag of the United States'' means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

(d) NONPREEMPTION.—Nothing in this section shall be construed as indicating an intent on the part of Congress to deprive any State, territory, possession, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

(e) EXPEDITED APPEAL.—

(1) NATURE OF CLAIM.— An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by

a United States district court ruling upon the constitutionality of subsection (a).

(2) PROCEDURAL EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.

§ 1052. Official badges, identification cards, other insignia

Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be imprisoned not more than six months.

§ 1054. Uniform of armed forces and Public Health Service

Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the armed forces of the United States, Public Health Service or any auxiliary of such, shall be imprisoned not more than six months.

§ 1055. Military medals or decorations

(a) IN GENERAL.—Whoever knowingly wears, manufactures, or sells any decoration or medal authorized by Congress for the armed forces of the United States, or any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration or medal, or any colorable imitation thereof, except when authorized under regulations made pursuant to law, shall be imprisoned not more than six months.

(b) CONGRESSIONAL MEDAL OF HONOR.—

(1) IN GENERAL.—If a decoration or medal involved in an offense under subsection (a) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be imprisoned not more than 1 year.

(2) DEFINITIONS.—(A) As used in subsection (a) with respect to a Congressional Medal of Honor, ''sells'' includes trades, barters, or exchanges for anything of value.

(B) As used in this subsection, ''Congressional Medal of Honor'' means—

(i) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

(ii) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

(iii) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.

§ 1056. False advertising or misuse of names to indicate Federal agency

(a) OFFENSE.—Whoever—

(1) except as permitted by the laws of the United States, uses the words ''national'', ''Federal'', ''United States'', ''reserve'', or ''Deposit Insurance'' as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business;

(2) falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system;

(3) except as expressly authorized by Federal law, uses the words ''Federal Deposit'', ''Federal Deposit Insurance'', or ''Federal Deposit Insurance Corporation'' or a combination of any three of these words, as the name or

a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States or by any instrumentality thereof, or whoever advertises that his or its deposits, shares, or accounts are federally insured, or falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which the deposit liabilities of an insured bank or banks are insured by the Federal Deposit Insurance Corporation;

(4) other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words ''National Credit Union'', ''National Credit Union Administration'', ''National Credit Union Board'', ''National Credit Union Share Insurance Fund'', ''Share Insurance'', or ''Central Liquidity Facility'', or the letters ''NCUA'', ''NCUSIF'', or ''CLF'', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise rep-

resents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act;

(5) not being organized under the Farm Credit Act of 1971, advertises or represents that it makes Federal Farm loans or advertises or offers for sale as Federal Farm loan bonds any bond not issued under the Farm Credit Act of 1971, or uses the word ''Federal'' or the words ''United States'' or any other words implying Government ownership, obligation or supervision in advertising or offering for sale any bond, note, mortgage or other security not issued by the Government of the United States under the Farm Credit Act of 1971; or

Whoever uses the words ''Federal Home Loan Bank'' or any combination or variation of these words alone or with other words as a business name or part of a business name, or falsely publishes, advertises or represents by any device or symbol or other means reasonably calculated to convey the impression that he or it is a Federal Home Loan Bank or member of or subscriber for the stock of a Federal Home Loan Bank;

(6) uses the words ''Federal intermediate credit bank'' as part of the business or firm name for any person, corporation, partnership, business trust, association or other business entity not organized as an intermediate credit bank under the laws of the United States;

(7) uses as a firm or business name the words ''Department of Housing and Urban Development'', ''Housing and Home Finance Agency'', ''Federal Housing Administration'', ''Government National Mortgage Association'', ''United States Housing Authority'', or ''Public Housing Administration'' or the letters ''HUD'', ''FHA'', ''PHA'', or ''USHA'', or any combination or variation of those words or the letters ''HUD'', ''FHA'', ''PHA'', or ''USHA'' alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the Department of Housing and Urban Development, the Housing

and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely claims that any repair, improvement, or alteration of any existing structure is required or recommended by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, for the purpose of inducing any person to enter into a contract for the making of such repairs, alterations, or improvements, or falsely advertises or falsely represents by any device whatsoever that any housing unit, project, business, or product has been in any way endorsed, authorized, inspected, appraised, or approved by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof;

(8) except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words ''Federal Bureau of Investigation'' or the initials ''F.B.I.'', or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation;

(9) except with written permission of the Director of the United States Secret Service, knowingly uses the words ''Secret Service'', ''Secret Service Uniformed Division'', the initials ''U.S.S.S.'', ''U.D.'', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division;

(10) except with the written permission of the Director of the United States Mint, knowingly uses the words ''United States Mint'' or ''U.S. Mint'' or any colorable imitation of such words, in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by or associated in any manner with, the United States Mint;

(11) uses the words ''Overseas Private Investment'', ''Overseas Private Investment Corporation'', or ''OPIC'', as part of the business or firm name of a person, corporation, partnership, business trust, association, or business entity;

(12) except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words ''Drug Enforcement Administration'' or the initials ''DEA'' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software

or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration; or

(13) except with the written permission of the Director of the United States Marshals Service, knowingly uses the words ''United States Marshals Service'', ''U.S. Marshals Service'', ''United States Marshal'', ''U.S. Marshal'', ''U.S.M.S.'', or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service; shall be punished fined.

(b) EXCLUSIONS.—

(1) LAWFUL BEFORE ENACTMENT.—This section does not make unlawful the use of any name or title which was lawful on June 25, 1948.

(2) INSURANCE.—This section shall not make unlawful the use of the word ''national'' as part of the name of any business or firm engaged in the insurance or indemnity business, whether such firm was engaged in the insurance or indemnity business prior or subsequent to the date of enactment of this paragraph.

A violation of this section may be enjoined at the suit of the United States Attorney, upon complaint by any duly authorized representative of any department or agency of the United States.

§ 1057. Misuse of names, words, emblems, or insignia

Whoever, in the course of collecting or aiding in the collection of private debts or obligations, or being engaged in furnishing private police, investigation, or other private detective services, uses or employs in any communication, correspondence, notice, advertisement, or circular the words ''national'', ''Federal'', or ''United States'', the initials ''U.S.'', or any emblem, insignia, or name, for the purpose of conveying and in a manner reasonably calculated to convey the false impression that such communication is from a department, agency, bureau, or instrumentality of the United States or in any manner represents the United States, shall be imprisoned not more than one year.

§ 1058. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress

(a) DISPLAY.—Whoever knowingly displays any printed or other likeness of the great seal of the United States, or of the seals of the President or the Vice President of the United States, or the seal of the United States Senate, or the seal of the United States House of Representatives, or the seal of the United States Congress, or any facsimile thereof, in, or in connection with, any advertisement, poster, circular, book, pamphlet, or other publication, public meeting, play, motion picture, telecast, or other production, or on any building, monument, or stationery, for the purpose of conveying, or in a manner reasonably calculated to convey, a false impression of sponsorship or approval by the Government of the United States or by any department, agency, or instrumentality thereof, shall be imprisoned not more than six months.

(b) LIKENESS ON ARTICLES.— Whoever, except as authorized under regulations promulgated by the President and published in the Federal Register, knowingly manufactures, repro-

duces, sells, or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

(c) SEAL OF THE UNITED STATES.—Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

(d) SEAL OF UNITED STATES HOUSE OF REPRESENTATIVES.—Whoever, except as directed by the United States House of Representatives, or the Clerk of the House of Representatives on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

(e) SEAL OF CONGRESS.—Whoever, except as directed by the United States Congress, or the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Congress, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

(f) VIOLATION MAY BE ENJOINED.—A violation of the provisions of this section may be enjoined at the suit of the Attorney General,

(1) in the case of the great seal of the United States and the seals of the President and Vice President, upon complaint by any authorized representative of any department or agency of the United States;

(2) in the case of the seal of the United States Senate, upon complaint by the Secretary of the Senate;

(3) in the case of the seal of the United States House of Representatives, upon complaint by the Clerk of the House of Representatives; and

(4) in the case of the seal of the United States Congress, upon complaint by the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly.

§ 1059. Police badges

(a) OFFENSE.—Whoever—

(1) knowingly transfers, transports, or receives, in interstate or foreign commerce, a counterfeit police badge;

(2) knowingly transfers, in interstate or foreign commerce, a genuine police badge to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official badge of the police;

(3) knowingly receives a genuine police badge in a transfer prohibited by paragraph (2); or

(4) being a person not authorized to possess a genuine police badge under the law of the place in which the badge is the official badge of the police, knowingly transports that badge in interstate or foreign commerce,

shall be imprisoned not more than 6 months.

(b) DEFENSE.—It is a defense to a prosecution under this section that the badge is used or is intended to be used exclusively—

(1) as a memento, or in a collection or exhibit;

(2) for decorative purposes;

(3) for a dramatic presentation, such as a theatrical, film, or television production; or

(4) for any other recreational purpose.

(c) DEFINITIONS.—As used in this section—

(1) the term ''genuine police badge'' means an official badge issued by public authority to identify an individual as a law enforcement officer having police powers; and

(2) the term ''counterfeit police badge'' means an item that so resembles a police badge that it would deceive an ordinary individual into believing it was a genuine police badge.

SUBCHAPTER F—ESCAPE AND RESCUE

Sec.
1071. Prisoners in custody of institution or officer.
1072. Instigating or assisting escape.
1073. Officer permitting escape.
1074. High speed flight from immigration checkpoint.
1075. Escape from hospitalization.

§1071. Prisoners in custody of institution or officer

(a) ADULTS.—Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be imprisoned not more than five years; or if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be imprisoned not more than one year.

(b) JUVENILES.—Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution or facility in which he is confined by direction of the Attorney General, or from any cus-

tody under or by virtue of any process issued under the laws of the United States by any court, judge, or magistrate judge, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be imprisoned not more than one year. Nothing in this section affects the discretionary authority vested in the Attorney General pursuant to section 5032 of this title.

§ 1072. Instigating or assisting escape

(a) ADULTS.—Whoever rescues or attempts to rescue or instigates, aids or assists the escape, or attempt to escape, of any person arrested upon a warrant or other process issued under any law of the United States, or committed to the custody of the Attorney General or to any institution or facility by his direction, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be imprisoned not more than five years; or, if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be imprisoned not more than one year.

(b) JUVENILES.—Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attorney General or his authorized representative, or of any person arrested upon a warrant or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the Attorney General, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person's eighteenth birthday, and as to whom the Attorney General has not specifically

directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034 of this title, be imprisoned not more than one year.

§ 1073. Officer permitting escape

Whoever, having in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge, or magistrate judge, voluntarily suffers such prisoner to escape, shall be imprisoned not more than 5 years; or if he negligently suffers such person to escape, he shall be imprisoned not more than one year.

§ 1074. High speed flight from immigration checkpoint

Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be imprisoned not more than five years.

§ 1075. Escape from hospitalization

Whoever escapes or attempts to escape from the custody of any facility or from any place in which or to which he is confined pursuant to this section 1826 of title 28 or section 4243 of 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 imprisoned not more than three years.

SUBCHAPTER G—FALSE PERSONATION

Sec.
1091. Citizen of the United States.
1092. Officer or employee of the United States.
1093. Impersonator making arrest or search.

§ 1091. Citizen of the United States

Whoever falsely represents oneself to be a citizen of the United States shall be imprisoned not more than three years.

§ 1092. Officer or employee of the United States

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money,

paper, document, or thing of value, shall be imprisoned not more than three years.

§ 1093. Impersonator making arrest or search

Whoever falsely represents oneself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be imprisoned not more than three years.

SUBCHAPTER H—FUGITIVES FROM JUSTICE

Sec.
1101. Concealing person from arrest.
1102. Concealing escaped prisoner.
1103. Flight to avoid prosecution or giving testimony.
1104. Flight to avoid prosecution for damaging or destroying any building or other real or personal property.

§ 1101. Concealing person from arrest

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be imprisoned not more than one year; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine under this title, or imprisonment for not more than five years, or both.

§ 1102. Concealing escaped prisoner

Whoever harbors or conceals any prisoner after that prisoner's escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years.

§ 1103. Flight to avoid prosecution or giving testimony

(a) OFFENSE.—Whoever moves or travels in interstate or foreign commerce with intent—

(1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for a crime, or an attempt to commit a crime, punish-

able by death or which is a felony under the laws of the place from which the fugitive flees;

(2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by death or which is a felony under the laws of such place, is charged, or

(3) to avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities;

shall be imprisoned not more than five years.

(b) SPECIAL VENUE AND APPROVAL REQUIRED.—Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in subsection (a)(3) is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

§ 1104. Flight to avoid prosecution for damaging or destroying any building or other real or personal property

(a) OFFENSE.—Whoever moves or travels in interstate or foreign commerce with intent—

(1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for willfully attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private; or

(2) to avoid giving testimony in any criminal proceeding relating to any such offense;

shall be imprisoned not more than five years.

(b) VENUE.—Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement: Provided, however, That this section shall not be construed as indicating an intent on the part of Congress to prevent any State, Territory, Commonwealth, or possession of the United States of any jurisdiction over any offense over which they would have jurisdiction in the absence of such section.

SUBCHAPTER I—OBSTRUCTION OF JUSTICE

Sec.
1131. Assault on process server.
1132. Influencing or injuring officer or juror generally.
1133. Obstruction of proceedings before departments, agencies, and committees.
1134. Obstruction of court orders.
1135. Obstruction of criminal investigations.
1136. Obstruction of State or local law enforcement with regard to illegal gambling business.
1137. Tampering with a witness, victim, or an informant.
1138. Retaliating against a witness, victim, or an informant.
1139. Civil action to restrain harassment of a victim or witness.
1140. Civil action to protect against retaliation in fraud cases.
1141. Definitions for certain provisions; general provision.
1142. Destruction of corporate audit records.

§ 1131. Assault on process server

Whoever—

(1) knowingly obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ or process of any court of the United States, or United States magistrate judge; or

(2) assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process;

shall, except as otherwise provided by law, be imprisoned not more than one year.

§ 1132. Influencing or injuring officer or juror generally

(a) ELEMENTS OF THE OFFENSE.—Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of duty, or injures any such grand or petit juror in his or her person or property on account of any verdict or indictment assented to by him or her, or on account of being or having been such juror, or injures any such officer, magistrate judge, or other committing magistrate in his or her person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b). If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(b) PUNISHMENT.—The punishment for an offense under this section is—

(1) in the case of a killing, the punishment provided in chapter 10;

(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and, imprisonment for not more than 20 years; and

(3) in any other case, imprisonment for not more than 10 years.

§ 1133. Obstruction of proceedings before departments, agencies, and committees

Whoever—

(1) with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, knowingly withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

(2) corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress;

shall be imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 283), imprisoned not more than 8 years.

§ 1134. Obstruction of court orders

(a) OFFENSE.—Whoever, by threats or force, knowingly prevents, obstructs, impedes, or interferes with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be imprisoned not more than one year.

(b) INJUNCTIVE AND OTHER RELIEF AVAILABLE.—No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

§ 1135. Obstruction of criminal investigations

(a) IN GENERAL.—Whoever knowingly attempts by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be imprisoned not more than five years.

(b) FINANCIAL INSTITUTIONS.—(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished to the grand jury in response to that subpoena, shall be imprisoned not more than 5 years.

(2) Whoever, being an officer of a financial institution notifies—

(A) a customer of that financial institution whose records are sought by a grand jury subpoena; or

(B) any other person named in that subpoena;

about the existence or contents of that subpoena or information that has been furnished to the grand jury in response to that subpoena, shall be imprisoned not more than one year.

(3) As used in this subsection—

(A) the term ''an officer of a financial institution'' means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

(B) the term ''subpoena for records'' means a Federal grand jury subpoena or a Department of Justice subpoena (issued under section 3486 of title 18), for customer records that has been served relating to a violation of, or a conspiracy to violate—

(i) section 1003, 644, 645, 773, 774, 775, 779, 804, 1451, 1452, or chapter 53 of title 31; or

(ii) section 801 or 803 affecting a financial institution.

(c) DEFINITION.—As used in this section, the term ''criminal investigator'' means any individual duly authorized by a department, agency, or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

(d) INSURANCE.—(1) Whoever—

(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be imprisoned not more than 5 years.

(2) As used in paragraph (1), the term ''subpoena for records'' means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 1033 of this title.

§ 1136. Obstruction of State or local law enforcement with regard to illegal gambling business

(a) ELEMENTS OF THE OFFENSE.—It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if—

(1) one or more of such persons does any act to effect the object of such a conspiracy;

(2) one or more of such persons is an official or employee, elected, appointed, or otherwise, of such State or political subdivision; and

(3) one or more of such persons conducts finances, manages, supervises, directs, or owns all or part of an illegal gambling business.

(b) DEFINITIONS.—As used in this section—

(1) the term ''illegal gambling business'' means a gambling business which—

(i) is a violation of the law of a State or political subdivision in which it is conducted;

(ii) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

(iii) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day; and

(2) the term ''gambling'' includes pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

(c) EXCLUSION.—This section does not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as reimbursement for actual expenses incurred in the conduct of such activity.

(d) PUNISHMENT.—Whoever violates this section shall be imprisoned not more than five years.

§ 1137. Tampering with a witness, victim, or an informant

(a) VIOLENT OFFENSE.—

(1) KILLING.—Whoever kills or attempts to kill another person, with intent to—

(A) prevent the attendance or testimony of any person in an official proceeding;

(B) prevent the production of a record, document, or other object, in an official proceeding; or

(C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(2) USE OR THREAT OF PHYSICAL FORCE.—Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

(A) influence, delay, or prevent the testimony of any person in an official proceeding;

(B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).

(3) PUNISHMENT.—The punishment for an offense under this subsection is—

(A) the same as provided for a like offense in chapter 10; and

(B) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.

(b) NONVIOLENT OFFENSES INVOLVING OTHER PERSONS.—Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or en-

gages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

(c) NONVIOLENT OFFENSES NOT INVOLVING OTHER PERSONS.—Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be imprisoned not more than 20 years.

(d) HARASSMENT.—Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of proba-

tion, supervised release, parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be imprisoned not more than one year.

(e) AFFIRMATIVE DEFENSE.—In a prosecution for an offense under this section, it is an affirmative defense, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(f) SPECIAL RULES.—For the purposes of this section—

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(g) STATE OF MIND.—In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(h) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(i) VENUE.—A prosecution under this section or section 1132 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

(j) INCREASED PUNISHMENT.—If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

§ 1138. Retaliating against a witness, victim, or an informant

(a) OFFENSES INVOLVING KILLING.—

(1) ELEMENTS OF THE OFFENSE.— Whoever kills another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings,

(2) PUNISHMENT.—The punishment for an offense under this subsection is the same as for a like offense under chapter 10.

(b) OFFENSES INVOLVING BODILY INJURY.—Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, docu-

ment, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

(c) INCREASED PUNISHMENT.—If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

(e) OTHER RETALIATION.— Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be imprisoned not more than 10 years.

§ 1139. Civil action to restrain harassment of a victim or witness

(a) TEMPORARY RESTRAINING ORDER.—(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1137 of this title, other than an offense consisting of misleading conduct, or under section 1138 of this title.

(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

(b) PROTECTIVE ORDER.—(1) A United States district court, upon motion of the attorney for the Government, shall

issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1137 of this title, other than an offense consisting of misleading conduct, or under section 1138 of this title.

(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section.

(c) DEFINITIONS.—As used in this section—

(1) the term ''harassment'' means a course of conduct directed at a specific person that—

(A) causes substantial emotional distress in such person; and

(B) serves no legitimate purpose; and

(2) the term ''course of conduct'' means a series of acts over a period of time, however short, indicating a continuity of purpose.

§1140. Civil action to protect against retaliation in fraud cases

(a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file

reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 801, 803, 804, or 807, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

(A) a Federal regulatory or law enforcement agency;

(B) any Member of Congress or any committee of Congress; or

(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 801, 803, 804, or 807, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

(b) ENFORCEMENT ACTION.—

(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

(A) filing a complaint with the Secretary of Labor; or

(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there

is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) PROCEDURE.—

(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

(c) REMEDIES.—

(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(B) the amount of back pay, with interest; and

(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or

remedies of any employee under any Federal or State law, or under any collective bargaining agreement.

§ 1141. Definitions for certain provisions; general provision

(a) DEFINITIONS FOR SECTIONS 1137 AND 1138.—As used in sections 1137 and 1138 and in this section—

(1) the term ''official proceeding'' means—

(A) a proceeding before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Court of Federal Claims, or a Federal grand jury;

(B) a proceeding before the Congress;

(C) a proceeding before a Federal Government agency which is authorized by law; or

(D) a proceeding involving the business of insurance whose activities affect interstate commerce before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of any person engaged in the business of insurance whose activities affect interstate commerce;

(2) the term ''physical force'' means physical action against another, and includes confinement;

(3) the term ''misleading conduct'' means—

(A) knowingly making a false statement;

(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

(E) knowingly using a trick, scheme, or device with intent to mislead;

(4) the term ''law enforcement officer'' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

(B) serving as a probation or pretrial services officer under this title;

(5) the term ''corruptly persuades'' does not include conduct which would be misleading conduct but for a lack of a state of mind.

(b) DEFINITION FOR SECTION 1133.—As used in section 1505, the term ''corruptly'' means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.

(c) EXCLUSION.—This subchapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

§ 1142. Destruction of corporate audit records

(a) REGULATORY REQUIREMENTS).—(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an oppor-

tunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

(b) OFFENSE.—Whoever knowingly violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be imprisoned not more than 10 years.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.

SUBCHAPTER J—PRISONS

Sec.
1161. Providing or possessing contraband in prison.
1162. Mutiny and riot prohibited.
1163. Trespass on Bureau of Prisons reservations and land.

§1161. Providing or possessing contraband in prison

(a) OFFENSE.—Whoever—

(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;

(2) imprisonment for not more than 10 years, or both, if the object is specified in subsection (d)(1)(A) of this section;

(3) imprisonment for not more than 5 years, or both, if the object is specified in subsection (d)(1)(B) of this section;

(4) imprisonment for not more than one year, or both, if the object is specified in subsection (d)(1)(D) or (d)(1)(E) of this section; and

(5) imprisonment for not more than 6 months, or both, if the object is specified in subsection (d)(1)(F) of this section.

(c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance. Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.

(d) DEFINITIONS.—As used in this section—

(1) the term ''prohibited object'' means—

(A) a firearm or destructive device or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection;

(B) marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection, ammunition, a weapon (other than a firearm or destructive device), or

an object that is designed or intended to be used as a weapon or to facilitate escape from a prison;

(C) a narcotic drug, methamphetamine, its salts, isomers, and salts of its isomers, lysergic acid diethylamide, or phencyclidine;

(D) a controlled substance (other than a controlled substance referred to in subparagraph (A), (B), or (C) of this subsection) or an alcoholic beverage;

(E) any United States or foreign currency; and

(F) any other object that threatens the order, discipline, or security of a prison, or the life, health, or safety of an individual;

(2) the terms ''ammunition'', ''firearm'', and ''destructive device'' have, respectively, the meanings given those terms in section 921 of this title;

(3) the terms ''controlled substance'' and ''narcotic drug'' have, respectively, the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(4) the term ''prison'' means a Federal correctional, detention, or penal facility.

§1162. Mutiny and riot prohibited

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal, detention, or correctional facility, shall be imprisoned not more than ten years.

§1163. Trespass on Bureau of Prisons reservations and land

Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be imprisoned not more than six months.

SUBCHAPTER K—PUBLIC OFFICERS AND EMPLOYEES

Sec.
1171. Disclosure of confidential information generally.
1172. Unauthorized removal and retention of classified documents or material.

§ 1171. Disclosure of confidential information generally

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Office of Federal Housing Enterprise Oversight, or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311–1314), or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be imprisoned not more than one year; and shall be removed from office or employment.

§ 1172. Unauthorized removal and retention of classified documents or material

(a) OFFENSE.—Whoever, being an officer, employee, contractor, or consultant of the United States, and, by virtue of his office, employment, position, or contract, becomes possessed of documents or materials containing classified information of the United States, knowingly removes such documents or materials without authority and with the intent to retain such documents or materials at an unauthorized location shall be imprisoned for not more than one year.

(b) EXCLUSION.—For purposes of this section, the provision of documents and materials to the Congress shall not constitute an offense under subsection (a).

(c) DEFINITION.—In this section, the term ''classified information of the United States'' means information originated, owned, or possessed by the United States Government concerning the national defense or foreign relations of the United States that has been determined pursuant to law or Executive order to require protection against unauthorized disclosure in the interests of national security.

SUBCHAPTER L—RECORDS AND REPORTS

Sec.
1181. Concealment, removal, or mutilation generally.
1182. False entries and reports of moneys or securities.

§ 1181. Concealment, removal, or mutilation generally

Whoever knowingly and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be imprisoned not more than three years.

§ 1182. False entries and reports of moneys or securities

Whoever—

(1) being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of keeping accounts or records of any kind, with intent to deceive, mislead, injure, or defraud, makes in any such account or record any false or fictitious entry or record of any matter relating to or connected with his duties; or

(2) being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of receiving, holding, or paying over moneys or securities to, for, or on behalf of the United States, or of receiving or holding in trust for any person any moneys or securities, with like intent, makes a false report of such moneys or securities;

shall be imprisoned not more than ten years.

SUBCHAPTER M—SEARCHES AND SEIZURES

Sec.
1191. Destruction or removal of property to prevent seizure.
1192. Rescue of seized property.

§ 1191. Destruction or removal of property to prevent seizure

(a) DESTRUCTION OR REMOVAL OF PROPERTY TO PREVENT SEIZURE.—Whoever, before, during, or after any search for or seizure of property by any person authorized to make such search or seizure, knowingly destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of preventing or impairing the Government's lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, shall be imprisoned not more than 5 years.

(b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever, knowing that property is subject to the in rem jurisdiction of a United States court for purposes of civil forfeiture under Federal law, knowingly and without authority from that court, destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing or defeating the court's continuing in rem jurisdiction over the property, shall be imprisoned not more than 5 years.

(c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE WARRANT OR WARRANT OF ARREST IN REM.—Whoever, having knowledge that any person authorized to make searches and seizures, or to execute a seizure warrant or warrant of arrest in rem, in order to prevent the authorized seizing or securing of any person or property, gives notice or attempts to give notice in advance of the search, seizure, or execution of a seizure warrant or warrant of arrest in rem, to any person shall be imprisoned not more than 5 years.

(d) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under subchapter C of chapter 37 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be imprisoned not more than five years.

(e) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be imprisoned not more than five years.

§ 1192. Rescue of seized property

Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be imprisoned not more than two years.

SUBCHAPTER N—MALICIOUS MISCHIEF

Sec.
1201. Government property or contracts.
1202. Communication lines, stations or systems.
1203. Buildings or property within special maritime and territorial jurisdiction.
1204. Tampering with consumer products.
1205. Destruction of an energy facility.
1206. Harming animals used in law enforcement.
1207. Destruction of veterans' memorials.

§ 1201. Government property or contracts

Whoever knowingly and without authority injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or at-

tempts to commit any of the foregoing offenses, shall be punished as follows:

(1) If the damage or attempted damage to such property exceeds the sum of $1,000, by imprisonment for not more than ten years.

(2) If the damage or attempted damage to such property does not exceed the sum of $1,000, by imprisonment for not more than one year.

§ 1202. Communication lines, stations or systems

(a) OFFENSE.—Whoever knowingly and without authority injures or destroys any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, or attempts or conspires to do such an act, shall be imprisoned not more than ten years.

(b) EXCLUSION.—In the case of any works, property, or material, not operated or controlled by the United States, this section shall not apply to any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for the military or civil defense functions of the United States.

§ 1203. Buildings or property within special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, knowingly and without authority destroys or injures any structure, conveyance, or other real or personal property, or attempts or conspires to do such an act, shall be imprisoned not more than five years and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be imprisoned not more than twenty years.

§ 1204. Tampering with consumer products

(a) TAMPERING IN GENERAL.—Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

(1) in the case of an attempt, be imprisoned not more than ten years;

(2) if death of an individual results, be imprisoned for any term of years or for life;

(3) if serious bodily injury to any individual results, be imprisoned not more than twenty years; and

(4) in any other case, be imprisoned not more than ten years.

(b) TAINTING WITH INTENT TO CAUSE SERIOUS INJURY THROUGH BUSINESS.—Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be imprisoned not more than three years.

(c) FALSE INFORMATION.—(1) Whoever knowingly communicates false information that a consumer product has been tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to another person, shall be imprisoned not more than five years.

(2) As used in paragraph (1) of this subsection, the term ''communicates false information'' means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.

(d) THREATS.—Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate sub-

section (a) of this section will occur, shall be imprisoned not more than five years.

(e) CONSPIRACY.—Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be imprisoned not more than ten years.

(f) TAMPERING WITH WRITING.—(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be imprisoned not more than 1 year.

(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be imprisoned for not more than 3 years.

(3) In this subsection, the term ''writing'' means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.

(g) AUTHORITY OF FOOD AND DRUG ADMINISTRATION AND DEPARTMENT OF AGRICULTURE.—In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

(h) DEFINITIONS.—As used in this section—

(1) the term ''consumer product'' means—

(A) any ''food'', ''drug'', ''device'', or ''cosmetic'', as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); or

(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use;

(2) the term ''labeling'' has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(m));

§ 1205. Destruction of an energy facility

(a) DAMAGE EXCEEDING $100,000.—Whoever knowingly and without authority—

(1) damages the property of an energy facility in an amount that exceeds $100,000, or

(2) damages the property of an energy facility in any amount and thereby causes a significant interruption or impairment of a function of an energy facility;

shall be imprisoned for not more than 20 years.

(b) DAMAGE EXCEEDING $5,000.—Whoever knowingly and without authority damages the property of an energy facility in an amount that exceeds $5,000 shall be imprisoned for not more than five years.

(c) DEFINITION.—As used in this section, the term ''energy facility'' means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

(d) INCREASED PUNISHMENT WHERE DEATH RESULTS.—Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

§ 1206. Harming animals used in law enforcement

(a) OFFENSE.—Whoever maliciously harms any police animal, or attempts or conspires to do so, shall be imprisoned not more than 1 year. If the offense permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal, the maximum term of imprisonment shall be 10 years.

(b) DEFINITION.—In this section, the term ''police animal'' means a dog or horse employed by a Federal agency (whether in the executive, legislative, or judicial branch) for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of criminal offenders.

§ 1207. Destruction of veterans' memorials

(a) OFFENSE.—Whoever, as made applicable by subsection (b), knowingly and without authority injures or destroys any structure, plaque, statue, or other monument on public property commemorating the service of any person or persons in the armed forces of the United States shall be imprisoned not more than 10 years.

(b) FEDERAL NEXUS.—Subsection (a) applies if—

(1) in committing the offense, the defendant travels or causes another to travel in interstate or foreign commerce, or uses the mail or an instrumentality of interstate or foreign commerce; or

(2) the structure, plaque, statue, or other monument is located on property owned by, or under the jurisdiction of, the Federal Government.

SUBCHAPTER O—PUBLIC LANDS

Sec.
1211. Timber removed or transported.
1212. Trees cut or injured.
1213. Timber set afire.
1214. Fires left unattended and unextinguished.
1215. Trespass on national forest lands.
1216. Hazardous or injurious devices on Federal lands.

§ 1211. Timber removed or transported

(a) OFFENSE.—Whoever knowingly and without authority—

(1) cuts or destroys any timber growing on the public lands of the United States;

(2) removes any timber from those public lands, with intent to export or to dispose of that timber; or

(3) being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber so cut or removed, or lumber manufactured from that timber;

shall be imprisoned not more than one year.

(b) EXCLUSION.—This section does not prevent any miner or agriculturist from clearing land in the ordinary working of the miner's mining claim, or in the preparation of the agriculturalist's farm for tillage, or from taking the timber necessary to support improvements, or the taking of timber for the use of the United States; nor shall it interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands.

§ 1212. Trees cut or injured

Whoever knowingly and without authority cuts, injures, or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be imprisoned not more than one year.

§ 1213. Timber set afire

(a) OFFENSE.—Whoever, knowingly and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation

or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be imprisoned not more than five years.

(b) EXCLUSION.—This section does not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment.

§ 1214. Fires left unattended and unextinguished

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers the fire to burn or spread beyond his control, or leaves or suffers the fire to burn unattended, shall be imprisoned not more than six months.

§ 1215. Trespass on national forest lands

Whoever, without authority goes upon any national-forest land while it is closed to the public pursuant to lawful regulation of the Secretary of Agriculture, shall be imprisoned not more than six months.

§ 1216. Hazardous or injurious devices on Federal lands

(a) ELEMENTS OF THE OFFENSE.—Whoever—

(1) with the intent to violate the Controlled Substances Act,

(2) with the intent to obstruct or harass the harvesting of timber, or

(3) with reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk,

uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the consent of the United States shall be punished under subsection (b).

(b) PUNISHMENT.—An individual who violates subsection (a) shall—

(1) if death of an individual results, be imprisoned for any term of years or for life;

(2) if serious bodily injury to any individual results, be imprisoned for not more than 40 years;

(3) if bodily injury to any individual results, be imprisoned for not more than 20 years;

(4) if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate, be imprisoned for not more than 20 years; and

(5) in any other case, be imprisoned for not more than one year.

(c) INCREASED PUNISHMENT.—Any individual who is punished under subsection (b)(5) after one or more prior convictions under any such subsection shall be imprisoned for not more than 20 years.

(d) DEFINITIONS.—As used in this section—

(1) the term ''hazardous or injurious device'' means a device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other

triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump; and

(2) the term ''avoidance costs'' means costs incurred by any individual for the purpose of—

(A) detecting a hazardous or injurious device; or

(B) preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of subsection (a).

(e) CIVIL ACTION.— Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

CHAPTER 31—INTERNATIONAL LAW CRIMES

Subchapter	Sec.
A. Piracy and Privateering	**1251**
B. Peonage, Slavery, and Trafficking in Persons Assault	**1261**
C. Genocide	**1281**
D. Torture	**1291**
E. War Crimes	**1296**

SUBCHAPTER A—PIRACY AND PRIVATEERING

Sec.
1251. Piracy under law of nations.

§ 1251. Piracy under law of nations

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

SUBCHAPTER B—PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS

Sec.
1261. Peonage.
1262. Sale into involuntary servitude.
1263. Forced labor.
1264. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.
1265. Sex trafficking of children or by force, fraud, or coercion.
1266. Unlawful conduct with respect to documents in furtherance. of trafficking, peonage, slavery, involuntary servitude, or forced labor.
1267. Civil remedy.

§ 1261. Peonage

Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1262. Sale into involuntary servitude

Whoever knowingly holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1263. Forced labor

Whoever knowingly provides or obtains the labor or services of a person—

(1) by threats of serious harm to, or physical restraint against, that person or another person;

(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not

perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) by means of the abuse or threatened abuse of law or the legal process,

shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1264. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1265. Sex trafficking of children or by force, fraud, or coercion

(a) ELEMENTS OF THE OFFENSE.—Whoever knowingly—

(1) in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

(b) PUNISHMENT.—The punishment for an offense under subsection (a) is—

(1) if the offense was effected by force, fraud, or coercion or if the person recruited, enticed, harbored, transported, provided, or obtained had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

(2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, or obtained had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 40 years, or both.

(c) DEFINITIONS.—As used in this section—

(1) the term ''commercial sex act'' means any sex act, on account of which anything of value is given to or received by any person;

(2) the term ''coercion'' means—

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of law or the legal process; and

(3) the term ''venture'' means any group of two or more individuals associated in fact, whether or not a legal entity.

§1266. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

(a) OFFENSE.—Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—

(1) in the course of a violation of section 1261, 1262, 1263, 1264, or 1265;

(2) with intent to violate section 1261, 1262, 1263, 1264, or 1265; or

(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be imprisoned for not more than 5 years.

(b) EXCLUSION.—Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

§ 1267. Civil remedy

(a) CIVIL ACTION.—An individual who is a victim of a violation of section 1263, 1264, or 1265 may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b) STAY.—(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a ''criminal action'' includes investigation and prosecution and is pending until final adjudication in the trial court.

SUBCHAPTER C—GENOCIDE

Sec.
1281. Genocide.
1282. Definitions.

§ 1281. Genocide

(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d)

and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

(1) kills members of that group;

(2) causes serious bodily injury to members of that group;

(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

(5) imposes measures intended to prevent births within the group; or

(6) transfers by force children of the group to another group;

or attempts to do so, shall be punished as provided in subsection (b).

(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) is—

(1) in the case of an offense under subsection (a)(1), where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both; and

(2) a fine of not more than $1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

(c) INCITEMENT OFFENSE.—Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be imprisoned not more than five years.

(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The circumstance referred to in subsections (a) and (c) is that—

(1) the offense is committed within the United States; or

(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

(e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or information instituted, at any time without limitation.

§ 1282. Definitions

As used in this subchapter—

(1) the term ''children'' means the plural and means individuals who have not attained the age of eighteen years;

(2) the term ''ethnic group'' means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;

(3) the term ''incites'' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

(4) the term ''members'' means the plural;

(5) the term ''national group'' means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

(6) the term ''racial group'' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

(7) the term ''religious group'' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

(8) the term ''substantial part'' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.

SUBCHAPTER D—TORTURE

Sec.
1291. Torture.
1292. Definitions.

§ 1291. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be imprisoned not more than 20 years and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

§ 1292. Definitions

As used in this subchapter—

(1) the term ''torture'' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control; and

(2) the term ''severe mental pain or suffering'' means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering

substances or other procedures calculated to disrupt profoundly the senses or personality.

SUBCHAPTER E—WAR CRIMES

Sec.
1296. War crimes.

§ 1296. War crimes

(a) OFFENSE.—Whoever, whether inside or outside the United States, commits a war crime, in any of the circumstances described in subsection (b), shall be imprisoned for life or any term of years and if death results to the victim, shall also be subject to the penalty of death.

(b) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are that the person committing such war crime or the victim of such war crime is a member of the Armed Forces of the United States or a national of the United States (as defined in section 101 of the Immigration and Nationality Act).

(c) DEFINITION.—As used in this section the term ''war crime'' means any conduct—

(1) defined as a grave breach in any of the international conventions signed at Geneva 12 August 1949, or any protocol to such convention to which the United States is a party;

(2) prohibited by Article 23, 25, 27, or 28 of the Annex to the Hague Convention IV, Respecting the Laws and Customs of War on Land, signed 18 October 1907;

(3) which constitutes a violation of common Article 3 of the international conventions signed at Geneva, 12 August 1949, or any protocol to such convention to which the United States is a party and which deals with non-international armed conflict; or

(4) of a person who, in relation to an armed conflict and contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United

States is a party to such Protocol, willfully kills or causes serious injury to civilians.

CHAPTER 33—TRANSPORTATION RELATED CRIMES

Subchapter	Sec.
A. Aircraft and motor vehicles	**1301**
B. Roalroads	**1331**
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SUBCHAPTER A—AIRCRAFT AND MOTOR VEHICLES

Sec.
1301. Destruction of aircraft or aircraft facilities.
1302. Destruction of motor vehicles or motor vehicle facilities.
1303. Penalty when death results.
1304. Imparting or conveying false information.
1305. Violence at international airports.
1306. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.
1307. Aircraft piracy.
1308. Interference with flight crew members and attendants.
1309. Carrying a weapon or explosive on an aircraft.
1310. Application of certain criminal laws to acts on aircraft.
1311. Definitions.

§ 1301. Destruction of aircraft or aircraft facilities

(a) IN GENERAL.—Whoever knowingly without authority—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, de-

stroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft; or

(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight,

shall be imprisoned not more than 20 years.

(b) OTHER CIVIL AIRCRAFT.—Whoever knowingly—

(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight.

shall be imprisoned not more than 20 years. There is also extraterritorial jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States.

(c) THREATS.—Whoever knowingly imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be imprisoned not more than five years.

§ 1302. Destruction of motor vehicles or motor vehicle facilities

(a) OFFENSE.—Whoever—

(1) knowingly, with intent to endanger the safety of any person on board or anyone who he believes will board the same, or with a reckless disregard for the safety of human life, damages, disables, destroys, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to, any motor vehicle which is used, operated, or employed in interstate or foreign commerce, or its cargo or material used or intended to be used in connection with its operation;

(2) knowingly, with like intent, damages, disables, destroys;

(3) sets fire to, tampers with, or places or causes to be placed any explosive or other destructive substance in, upon, or in proximity to any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, motor vehicles engaged in interstate or foreign commerce or otherwise makes or causes such property to be made unworkable, unusable, or hazardous to work or use; or

(4) with like intent, knowingly disables or incapacitates any driver or person employed in connection with the operation or maintenance of the motor vehicle, or in any

way lessens the ability of such person to perform his duties as such.

shall be imprisoned not more than 20 years.

(b) INCREASED PENALTY.—Whoever is convicted of a violation of subsection (a) involving a motor vehicle that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be imprisoned for any term of years not less than 30, or for life.

§ 1303. Penalty when death results

Whoever is convicted of any crime prohibited by this subchapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

§ 1304. Imparting or conveying false information

(a) CIVIL PENALTY.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subchapter or subchapter B or D of this chapter shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

(b) CRIMINAL OFFENSE.—Whoever knowingly, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subchapter or subchapter B or D of this chapter shall be imprisoned not more than five years.

§ 1305. Violence at international airports

(a) OFFENSE.—Whoever unlawfully and knowingly, using any device, substance, or weapon—

(1) performs an act of violence against a person at an airport serving international civil aviation that causes or is likely to cause serious bodily injury or death; or

(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

shall be imprisoned not more than 20 years.

(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

(1) the prohibited activity takes place in the United States; or

(2) the prohibited activity takes place outside the United States and (A)the offender is later found in the United States; or (B) an offender or a victim is a national of the United States.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed.

(d) DEFINITION.—As used in this section, the term ''labor dispute'' has the meaning set forth in section 13(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

§1306. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

(a) OFFENSES.—Whoever, in or affecting interstate or foreign commerce, knowingly and with the intent to defraud—

(1)(A) falsifies or conceals a material fact concerning any aircraft or space vehicle part;

(B) makes any materially fraudulent representation concerning any aircraft or space vehicle part; or

(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication concerning any aircraft or space vehicle part; or

(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication;

shall be punished as provided in subsection (b).

(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 15 years, or both.

(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunction or failure that results in serious bodily injury, a fine of not more than $1,000,000, imprisonment for not more than 20 years, or both.

(3) FAILURE RESULTING IN DEATH.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunction or failure that results in the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

(4) OTHER CIRCUMSTANCES.—In the case of an offense under subsection (a) not described in paragraph (1), (2), or (3) of this subsection, a fine under this title, imprisonment for not more than 10 years, or both.

(5) ORGANIZATIONS.—If the offense is committed by an organization, a fine of not more than—

(A) $10,000,000 in the case of an offense described in paragraph (1) or (4); and

(B) $20,000,000 in the case of an offense described in paragraph (2) or (3).

(c) CIVIL REMEDIES.—

(1) IN GENERAL.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—

(A) ordering a person (convicted of an offense under this section) to divest any interest, direct or indirect, in any enterprise used to commit or facilitate the commission of the offense, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

(B) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

(C) ordering the dissolution or reorganization of any enterprise knowingly used to commit or facilitate the commission of an offense under this section making due provisions for the rights and interests of innocent persons.

(2) RESTRAINING ORDERS AND PROHIBITION.—Pending final determination of a proceeding brought under this section, the court may enter such restraining orders or prohibitions, or take such other actions (including the acceptance of satisfactory performance bonds) as the court deems proper.

(3) ESTOPPEL.—A final judgment rendered in favor of the United States in any criminal proceeding brought under this section shall stop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

(e) TERRITORIAL SCOPE.—This section also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or political subdivision thereof;

(2) the aircraft or spacecraft part as to which the violation relates was installed in an aircraft or space vehicle owned or operated at the time of the offense by a citizen or permanent resident alien of the United States, or by an organization thereof; or

(3) an act in furtherance of the offense was committed in the United States.

§ 1307. Aircraft piracy

(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) For the purposes of this subsection—

(A) the term ''aircraft piracy'' means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent; and

(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

(2) Whoever commits aircraft piracy shall be imprisoned for not less than 20 years.

(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1) Whoever commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States shall be imprisoned for at least 20 years.

(2) There is extrateritorial jurisdiction over the offense in paragraph (1) if—

(A) a national of the United States was aboard the aircraft;

(B) an offender is a national of the United States; or

(C) an offender is afterwards found in the United States.

§ 1308. Interference with flight crew members and attendants

An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be imprisoned for not more than 20 years. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

§ 1309. Carrying a weapon or explosive on an aircraft

(a) DEFINITION.—In this section, ''loaded firearm'' means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

(b) GENERAL CRIMINAL PENALTY.—An individual shall be imprisoned for not more than 10 years if the individual—

(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual a concealed dangerous weapon that is or would be accessible to the individual in flight;

(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

(c) CRIMINAL PENALTY INVOLVING DISREGARD FOR HUMAN LIFE.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be imprisoned for not more than 20 years, and, if death results to any person, shall be imprisoned for any term of years or for life.

(d) NONAPPLICATION.—Subsection (b)(1) of this section does not apply to—

(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

(2) another individual the Administrator of the Federal Aviation Administration or the Under Secretary of Transportation for Security by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

§ 1310. Application of certain criminal laws to acts on aircraft

An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

(1) if committed in the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18) would violate section 102, 111, 141, 650, 651, or subchapter A of chapter 13, shall be imprisoned under that section or chapter; or

(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code Sec. 22–1112), shall be imprisoned under section 9 of the Act.

§ 1311. Definitions

(a) DEFINITIONS.—As used in sections 1301 through 1307, the following definitions apply:

(1) AIRCRAFT.—The term ''aircraft'' means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

(2) AVIATION QUALITY.—The term ''aviation quality'', with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, maintained, repaired, overhauled, rebuilt, recondi-

tioned, or restored in conformity with applicable standards specified by law (including applicable regulations).

(3) DESTRUCTIVE SUBSTANCE.—The term ''destructive substance'' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or matter of a combustible, contaminative, corrosive, or explosive nature.

(4) IN FLIGHT.—The term ''in flight'' means—

(A) any time from the moment at which all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation; and

(B) in the case of a forced landing, until competent authorities take over the responsibility for the aircraft and the persons and property on board.

(5) IN SERVICE.—The term ''in service'' means—

(A) any time from the beginning of preflight preparation of an aircraft by ground personnel or by the crew for a specific flight until 24 hours after any landing; and

(B) in any event includes the entire period during which the aircraft is in flight.

(6) MOTOR VEHICLE.—The term ''motor vehicle'' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

(7) PART.—The term ''part'' means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

(8) SPACE VEHICLE.—The term ''space vehicle'' means a man-made device, either manned or unmanned, designed for operation beyond the Earth's atmosphere.

(9) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(10) USED FOR COMMERCIAL PURPOSES.—The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

(b) TERMS DEFINED IN OTHER LAW.—In this subchapter, the terms "aircraft engine", "air navigation facility", "appliance", "civil aircraft", "foreign air commerce", "interstate air commerce", "landing area", "overseas air commerce", "propeller", "spare part", and "special aircraft jurisdiction of the United States" have the meanings given those terms in sections 40102(a) and 46501 of title 49.

SUBCHAPTER B—RAILROADS

Sec.
1331. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.

§1331. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

(a) GENERAL PROHIBITIONS.—Whoever, as made applicable by subsection (c), knowingly and without lawful authority—

(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

(2) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

(3) places or releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (4), with intent to endanger the safety of any person, or with reckless disregard for the safety of human life;

(4) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biologi-

cal agent or toxin, destructive substance, or destructive device in, upon, or near any—

(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck railroad on-track equipment; or

(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

(5) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal;

(6) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, controlling, or maintaining railroad on-track equipment or a mass transportation vehicle;

(7) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (4);

(8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or as-

sist in planning any of the acts described in paragraphs (1) through (6);

(9) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt to engage in a violation of this subsection; or

(10) threatens to engage in any violation of any of paragraphs (1) through (9);

shall be imprisoned not more than 20 years, and if the offense results in the death of any person, shall be imprisoned for any term of years or for life, or be subject to the penalty of death, except in the case of a violation of paragraph (8), (9), or (10).

(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense; or

(3) the offense was committed with the intent to endanger the safety of any person, or with a reckless disregard for the safety of any person, and the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations,

shall be imprisoned for any term of years or life, and if the offense resulted in the death of any person, the person may be sentenced to death.

(c) APPLICABILITY.—Subsection (a) applies if any of the following are true:

(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, or a railroad carrier engaged in interstate or foreign commerce.

(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

(d) DEFINITIONS.—As used in this section—

(1) the term ''biological agent'' has the meaning given to that term in section 178(1);

(2) the term ''dangerous weapon'' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

(3) the term ''destructive device'' has the meaning given to that term in section 921(a)(4);

(4) the term ''destructive substance'' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term ''radioactive device'' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

(5) the term ''hazardous material'' has the meaning given to that term in chapter 51 of title 49;

(6) the term ''high-level radioactive waste'' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

(7) the term ''mass transportation'' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing

transportation and passenger vessel as that term is defined in section 2101(22) of title 46, United States Code;

(8) the term ''on-track equipment'' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

(9) the term ''railroad on-track equipment'' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

(10) the term ''railroad'' has the meaning given to that term in chapter 201 of title 49;

(11) the term ''railroad carrier'' has the meaning given to that term in chapter 201 of title 49;

(12) the term ''serious bodily injury'' has the meaning given to that term in section 1365;

(13) the term ''spent nuclear fuel'' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

(14) the term ''toxin'' has the meaning given to that term in section 178(2); and

(15) the term ''vehicle'' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.

SUBCHAPTER C—SEAMEN AND STOWAWAYS

Sec.
1341. Drunkenness or neglect of duty by seamen.
1342. Misuse of Federal certificate, license or document.
1343. Stowaways on vessels or aircraft.

§ 1341. Drunkenness or neglect of duty by seamen

Whoever, being a master, officer, radio operator, seaman, apprentice or other person employed on any merchant vessel, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel; or, by knowing breach of duty or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ves-

sel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall be imprisoned not more than one year.

§ 1342. Misuse of Federal certificate, license or document

Whoever—

(1) not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same;

(2) without authority, alters or attempts to alter any such certificate, license, or document by addition, interpolation, deletion, or erasure;

(3) forges, counterfeits, or steals, or attempts to forge, counterfeit, or steal, any such certificate, license, or document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document;

(4) without authority, prints or manufactures any blank form of such certificate, license, or document, or Whoever possesses without lawful excuse, and with intent unlawfully to use the same, any blank form of such certificate, license, or document; or

(5) in any manner, transfers or negotiates such transfer of, any blank form of such certificate, license, or document, or any such altered, forged, counterfeit, or stolen certificate, license, or document, or any such certificate, license, or document to which the party transferring or receiving the same is not lawfully entitled;

shall be imprisoned not more than five years.

§ 1343. Stowaways on vessels or aircraft

(a) OFFENSE.—Whoever—

(1) without the consent of the owner, charterer, master, or person in command of any vessel, or aircraft, with

intent to obtain transportation, boards, enters or secretes himself aboard such vessel or aircraft and is thereon at the time of departure of said vessel or aircraft from a port, harbor, wharf, airport or other place within the jurisdiction of the United States;

(2) with like intent, having boarded, entered or secreted himself aboard a vessel or aircraft at any place within or without the jurisdiction of the United States, remains aboard after the vessel or aircraft has left such place and is thereon at any place within the jurisdiction of the United States; or

(3) with intent to obtain a ride or transportation, boards or enters any aircraft owned or operated by the United States without the consent of the person in command or other duly authorized officer or agent;

shall be imprisoned not more than one year.

(b) DEFINITION.—As used in this section the term ''aircraft'' includes any contrivance for navigation or flight in the air.

SUBCHAPTER D—SHIPPING

Sec.
1351. Violence against maritime navigation.

§ 1351. Violence against maritime navigation

(a) OFFENSES.—

(1) IN GENERAL.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or

its cargo which endangers or is likely to endanger the safe navigation of that ship;

(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

(F) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

(G) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in subparagraphs (A) through (F); or

(H) attempts or conspires to do any act prohibited under subparagraphs (A) through (G),

shall be imprisoned not more than 20 years; and if the death of any person results from conduct prohibited by this paragraph, shall be punished by death or imprisoned for any term of years or for life.

(2) THREAT TO NAVIGATION.—A person who threatens to do any act prohibited under paragraph (1)(B), (C) or (E), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be imprisoned not more than 5 years.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a)—

(1) in the case of a covered ship, if—

(A) such activity is committed—

(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

(ii) in the United States; or

(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

(C) the offender is later found in the United States after such activity is committed;

(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed. For purposes of this section, the term ''labor dispute'' has the meaning set forth in section 13(c) of the Norris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

(d) DELIVERY OF SUSPECTED OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master's intention to deliver such person and the reasons therefor.

If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master's possession that pertains to the alleged offense.

(e) DEFINITIONS.—As used in this section—

(1) the term ''covered ship'' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

(2) the term ''territorial sea of the United States'' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(3) the term ''ship'' means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.

CHAPTER 35—REGULATORY CRIMES

Subchapter	Sec.
A. Animals, birds, fish, and plants	**1371**
B. Gambling	**1381**
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SUBCHAPTER A—ANIMALS, BIRDS, FISH, AND PLANTS

Sec.

1371. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

1372. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

1373. Animal enterprise terrorism

1374. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

1375. Depiction of animal cruelty

§ 1371. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be imprisoned not more than six months.

§ 1372. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

(a) PROHIBITION.—(1) The importation into the United States, any territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, of the mongoose of the species Herpestes auropunctatus; of the species of so-called ''flying foxes'' or fruit bats of the genus Pteropus; of the zebra mussel of the species Dreissena polymorpha; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Pub-

lic Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section shall not authorize any action with respect to the importation of any plant pest as defined in the Federal Plant Pest Act, insofar as such importation is subject to regulation under that Act.

(b) DEFINITION.—As used in subsection (a), the term ''wild'' relates to any creatures that, whether or not raised in captivity, normally are found in a wild state; and the terms ''wildlife'' and ''wildlife resources'' include those resources that comprise wild mammals, wild birds, fish (including mollusks and crustacea), and all other classes of wild creatures whatsoever, and all types of aquatic and land vegetation upon which such wildlife resources are dependent.

(c) PERMISSION FOR IMPORTATION.—Notwithstanding the foregoing, the Secretary of the Interior, when he finds that there has been a proper showing of responsibility and continued protection of the public interest and health, shall permit the importation for zoological, educational, medical, and scientific purposes of any mammals, birds, fish, (including mollusks and crustacea), amphibia, and reptiles, or the offspring or eggs thereof, where such importation would be prohibited otherwise by or pursuant to this Act, and this Act shall not restrict importations by Federal agencies for their own use.

(d) EXCLUSION.—Nothing in this section restricts the importation of dead natural-history specimens for museums or for scientific collections, or the importation of domesticated canaries, parrots (including all other species of psittacine birds), or such other cage birds as the Secretary of the Interior may designate.

(e) ENFORCEMENT.—The Secretary of the Treasury and the Secretary of the Interior shall enforce the provisions of this subsection, including any regulations issued hereunder, and, if requested by the Secretary of the Interior, the Secretary of the Treasury may require the furnishing of an appropriate bond when desirable to insure compliance with such provisions.

(f) OFFENSE.—Whoever violates this section, or any regulation issued pursuant thereto, shall be imprisoned not more than six months.

§ 1373. Animal enterprise terrorism

(a) OFFENSE.—Whoever—

(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

(2) knowingly damages or causes the loss of any property (including animals or records) used by the animal enterprise,

shall be punished as provided for in subsection (b).

(b) PENALTIES.—

(1) ECONOMIC DAMAGE.—Whoever, in the course of a violation of subsection (a), causes economic damage not exceeding $10,000 to an animal enterprise shall be imprisoned not more than 6 months.

(2) MAJOR ECONOMIC DAMAGE.—Whoever, in the course of a violation of subsection (a), causes economic damage exceeding $10,000 to an animal enterprise shall be imprisoned not more than 3 years.

(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be imprisoned not more than 20 years.

(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be imprisoned for life or for any term of years.

(c) RESTITUTION.—An order of restitution under section 3663 or 3663A of this title with respect to a violation of this section may also include restitution—

(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;

(2) the loss of food production or farm income reasonably attributable to the offense; and

(3) for any other economic damage resulting from the offense.

(d) DEFINITIONS.—As used in this section—

(1) the term ''animal enterprise'' means—

(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

(C) any fair or similar event intended to advance agricultural arts and sciences;

(2) the term ''physical disruption'' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

(3) the term ''economic damage'' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

(e) NON-PREEMPTION.—Nothing in this section preempts any State law.

§1374. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

(a) AIRCRAFT FOR HUNTING.—Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be imprisoned not more than six months.

(b) POLLUTION OF WATERING HOLES.—Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section shall be imprisoned not more than six months.

(c) DEFINITIONS.—As used in subsection (a) of this section—

(1) the term ''aircraft'' means any contrivance used for flight in the air; and

(2) the term ''motor vehicle'' includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

§ 1375. Depiction of animal cruelty

(a) CREATION, SALE, OR POSSESSION.—Whoever knowingly creates, sells, or possesses a depiction of animal cruelty with the intention of placing that depiction in interstate or foreign commerce for commercial gain, shall be imprisoned not more than 5 years.

(b) EXCEPTION.—Subsection (a) does not apply to any depiction that has serious religious, political, scientific, educational, journalistic, historical, or artistic value.

(c) DEFINITIONS.—In this section, the term ''depiction of animal cruelty'' means any visual or auditory depiction, including any photograph, motion-picture film, video recording, electronic image, or sound recording of conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed, if such conduct is illegal under Federal law or the law of the State in which the creation, sale, or possession takes place, regardless of whether the maiming, mutilation, torture, wounding, or killing took place in the State.

SUBCHAPTER B—GAMBLING

Sec.
1381. Transmission of wagering information; penalties
1382. Definitions

§ 1381. Transmission of wagering information; penalties

(a) OFFENSE.—Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for

information assisting in the placing of bets or wagers, shall be imprisoned not more than two years.

(b) EXCLUSION.—Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

(c) NONPREEMPTION.—Nothing contained in this section shall create immunity from criminal prosecution under any laws of any State.

(d) NOTIFICATION TO COMMON CARRIER.—When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of Federal, State or local law, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber, but no damages, penalty or forfeiture, civil or criminal, shall be found against any common carrier for any act done in compliance with any notice received from a law enforcement agency. Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate determination, as otherwise provided by law, in a Federal court or in a State or local tribunal or agency, that such facility should not be discontinued or removed, or should be restored.

§ 1382. Definitions

As used in this subchapter—

(1) the term ''gambling ship'' means a vessel used principally for the operation of one or more gambling establishments. Such term does not include a vessel with respect to gambling aboard such vessel beyond the territorial wa-

ters of the United States during a covered voyage (as defined in section 4472 of the Internal Revenue Code of 1986 as in effect on January 1, 1994);

(2) the term ''gambling establishment'' means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value;

(3) the term ''American vessel'' means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by, chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State; and

(4) the term ''wire communication facility'' means any and all instrumentalities, personnel, and services (among other things, the receipt, forwarding, or delivery of communications) used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission.

SUBCHAPTER C—PROTECTION OF TRADE SECRETS

Sec.
1391. Economic espionage
1392. Theft of trade secrets
1393. Exceptions to prohibitions
1395. Orders to preserve confidentiality
1396. Civil proceedings to enjoin violations
1397. Applicability to conduct outside the United States
1398. Construction with other laws
1399. Definitions

§ 1391. Economic espionage

(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be imprisoned not more than 15 years.

(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

§ 1392. Theft of trade secrets

(a) OFFENSE.—Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

(4) attempts to commit any offense described in paragraphs (1) through (3); or

(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be imprisoned not more than 10 years.

(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $5,000,000.

§ 1393. Exceptions to prohibitions

This subchapter does not prohibit—

(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

§ 1395. Orders to preserve confidentiality

In any prosecution or other proceeding under this subchapter and any forfeiture relating to a violation of this subchapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

§ 1396. Civil proceedings to enjoin violations

(a) CIVIL ACTION.—The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this subchapter.

(b) EXCLUSIVE JURISDICTION.—The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section.

§ 1397. Applicability to conduct outside the United States

This subchapter also applies to conduct occurring outside the United States if—

(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

(2) an act in furtherance of the offense was committed in the United States.

§ 1398. Construction with other laws

This subchapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

§ 1399. Definitions

As used in this subchapter—

(1) the term ''foreign instrumentality;'' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

(2) the term ''foreign agent'' means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

(3) the term ''trade secret'' means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

(A) the owner thereof has taken reasonable measures to keep such information secret; and

(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

(4) the term ''owner'', with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

SUBCHAPTER D—TRAFFICKING IN CONTRABAND CIGARETTES

Sec.
1411. Definitions
1412. Unlawful acts
1413. Recordkeeping, reporting, and inspection
1414. Penalties
1415. Effect on State and local law
1416. Enforcement and regulations

§1411. Definitions

As used in this chapter—

(1) the term ''cigarette'' means—

(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

(2) the term ''contraband cigarettes'' means a quantity in excess of 10,000 cigarettes, which bear no evidence of the payment of applicable State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government requires a stamp, impression, or other indication to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or an agent of such person;

(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

(C) a person—

(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or

(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

(3) the term ''common or contract carrier'' means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid

operating authority under subtitle IV of title 49, or under equivalent operating authority from a regulatory agency of the United States or of any State;

(4) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands;

(5) the term ''Attorney General'' means the Attorney General of the United States;

(6) the term ''smokeless tobacco'' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

(7) the term ''contraband smokeless tobacco'' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

(C) a person who—

(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State), having possession of such smokeless tobacco in connection with the performance of official duties;

§ 1412. Unlawful acts

It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes or contraband smokeless tobacco.

§ 1413. Recordkeeping, reporting, and inspection

(a) RECORDKEEPING.—Whoever ships, sells, or distributes any quantity of cigarettes in excess of 10,000, or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages, in a single transaction shall maintain such information about the shipment, receipt, sale, and distribution of cigarettes as the Attorney General may prescribe by rule or regulation. The Attorney General may require such person to keep such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—

(1) the name, address, destination (including street address), vehicle license number, driver's license number, signature of the person receiving such cigarettes, and the name of the purchaser;

(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

(3) a declaration of the name and address of the recipient's principal in all cases when the recipient is acting as an agent.

Such information shall be contained on business records kept in the normal course of business.

(b) REPORTING.—Whoever, except for a tribal government, engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a sin-

gle month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.

(c) INSPECTION.—Upon the consent of any person who ships, sells, or distributes any quantity of cigarettes in excess of 10,000 in a single transaction, or pursuant to a duly issued search warrant, the Attorney General may enter the premises (including places of storage) of such person for the purpose of inspecting any records or information required to be maintained by such person under this chapter, and any cigarettes kept or stored by such person at such premises.

(d) OTHERS TO RECEIVE REPORTS.—Any report required to be submitted under this subchapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

(e) DELIVERY SALE DEFINED.—As used in this section, the term ''delivery sale'' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

(2) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

§ 1414. Penalties

(a) 1412(A) VIOLATIONS.—Whoever knowingly violates section 1412(a) shall be imprisoned not more than five years.

(b) 1413(A) AND 1416 VIOLATIONS.—Whoever knowingly violates any rule or regulation promulgated under section 1413(a) or 1416 or violates section 1412(b) shall be imprisoned not more than three years.

(c) Any contraband cigarettes or contraband smokeless tobacco involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture. The provisions of chapter 50 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. Any cigarettes or smokeless tobacco so seized and forfeited shall be either—

(1) destroyed and not resold; or

(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.

§ 1415. Effect on State and local law

(a) Nothing in this chapter shall be construed to affect the concurrent jurisdiction of a State or local government to enact and enforce its own cigarette tax laws, to provide for the confiscation of cigarettes or smokeless tobacco and other property seized for violation of such laws, and to provide for penalties for the violation of such laws.

(b) Nothing in this chapter shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by a number of State or local governments, through interstate compact or otherwise, to provide for the administration of State or local cigarette tax laws, to provide for the confiscation of cigarettes or smokeless tobacco and other property seized in

violation of such laws, and to establish cooperative programs for the administration of such laws.

§ 1416. Enforcement and regulations

(a) GENERALLY.—The Attorney General, subject to the provisions of section 1413(a), shall enforce this subchapter and may prescribe rules and regulations to carry out this subchapter.

(b) STATE ENFORCEMENT THROUGH CIVIL ACTIONS.—

(1) A State, through its attorney general, a local government, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person), except that any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986 may not bring such an action against a State or local government. No civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian country (as defined in section 1151).

(2) A State, through its attorney general, or a local government, through its chief law enforcement officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government, or an Indian tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government, or an Indian tribe.

(3) The remedies under paragraphs (1) and (2) are in addition to any other remedies under Federal, State, local, or other law.

(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

SUBCHAPTER E—CHILD SUPPORT

Sec.
1431. Failure to pay legal child support obligations.

§ 1431. Failure to pay legal child support obligations

(a) OFFENSE.—Whoever—

(1) knowingly fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;

(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000; or

(3) knowingly fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than $10,000;

shall be punished as provided in subsection (c).

(b) PRESUMPTION.—The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(c) PUNISHMENT.—The punishment for an offense under this section is—

(1) in the case of a first offense under subsection (a)(1), imprisonment for not more than 6 months; and

(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), imprisonment for not more than 2 years.

(d) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an ''obliger'') failed to meet that support obligation;

(2) the district in which the obliger resided during a period described in paragraph (1); or

(3) any other district with jurisdiction otherwise provided for by law.

(e) DEFINITIONS.—As used in this section—

(1) the term ''Indian tribe'' has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a); and

(2) the term ''support obligation'' means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

SUBCHAPTER F—OBSCENITY

Sec.
1441. Mailing obscene or crime-inciting matter
1442. Importation or transportation of obscene matters
1443. Transportation of obscene matters for sale or distribution
1444. Engaging in the business of selling or transferring obscene matter
1445. Obscene visual representations of the sexual abuse of children
1447. Presumptions
1448. Transfer of obscene material to minors

§ 1441. Mailing obscene or crime-inciting matter

(a) NONMAILABILITY.—The following are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier:

(1) Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance.

(2) Every article or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use.

(3) Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion, or for any indecent or immoral purpose.

(4) Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means abortion may be produced, whether sealed or unsealed.

(5) Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for producing abortion, or for any indecent or immoral purpose.

(6) Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing.

(b) OFFENSE.—Whoever knowingly uses the mails for the mailing, carriage in the mails, or delivery of anything declared by this section or section 3001(e) of title 39 to be nonmailable, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, or knowingly takes any such thing from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be imprisoned not more than five years, for the first such offense, and shall be imprisoned not more than ten years for each such offense thereafter.

§ 1442. Importation or transportation of obscene matters

Whoever—

(1) brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934), for carriage in interstate or foreign commerce—

(A) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character; or

(B) any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound; or

(C) any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

(2) knowingly takes or receives, from such express company or other common carrier or interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) any matter or thing the carriage or importation of which is herein made unlawful;

shall be imprisoned not more than five years for the first such offense and shall be imprisoned not more than ten years for each such offense thereafter.

§ 1443. Transportation of obscene matters for sale or distribution

(a) OFFENSE.—Whoever knowingly transports or travels in, or uses a facility or means of, interstate or foreign commerce or an interactive computer service (as defined in section 230(e)(2) of the Communications Act of 1934) in or affecting

such commerce for the purpose of sale or distribution, of any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be imprisoned not more than five years.

(b) PRESUMPTION.—The transportation as aforesaid of two or more copies of any publication or two or more of any article of the character described above, or a combined total of five such publications and articles, shall create a presumption that such publications or articles are intended for sale or distribution, but such presumption shall be rebuttable.

§1444. Engaging in the business of selling or transferring obscene matter

(a) OFFENSE.—Whoever is engaged in the business of selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

(b) DEFINITION.—As used in this section, the term ''engaged in the business'' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is ''engaged in the business'' as defined in this subsection.

§ 1445. Obscene visual representations of the sexual abuse of children

(a) IN GENERAL.—Whoever, as made applicable by subsection (d), knowingly produces, distributes, receives, or possesses with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

(1)(A) depicts a minor engaging in sexually explicit conduct; and (B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 223(b)(1), including the penalties provided for cases involving a prior conviction.

(b) ADDITIONAL OFFENSES.—Whoever, as made applicable by subsection (d), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

(1)(A) depicts a minor engaging in sexually explicit conduct; and (B) is obscene; or

(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

(B) lacks serious literary, artistic, political, or scientific value;

or attempts or conspires to do so, shall be subject to the penalties provided in section 223(b)(2), including the penalties provided for cases involving a prior conviction.

(c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a required element of any offense under this section that the minor depicted actually exist.

(d) APPLICABILITY.—Subsections (a) and (b) apply if—

(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using materials that have been mailed, or that have been shipped or transported in interstate or foreign commerce by any means, including by computer; or

(5) the offense is committed in the special maritime and territorial jurisdiction of the United States or in any territory or possession of the United States.

(e) AFFIRMATIVE DEFENSE.—It shall be an affirmative defense to a charge of violating subsection (b) that the defendant—

(1) possessed less than 3 such visual depictions; and

(2) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any such visual depiction—

(A) took reasonable steps to destroy each such visual depiction; or

(B) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

(f) DEFINITIONS.—As used in this section—

(1) the term ''visual depiction'' includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

(2) the term ''sexually explicit conduct'' has the meaning given the term in section 229(2)(A) or 229(2)(B); and

(3) the term ''graphic'', when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

§ 1447. Presumptions

(a) INTERSTATE COMMERCE.—In any prosecution under this subchapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

(b) FOREIGN COMMERCE.—In any prosecution under this subchapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.

§ 1448. Transfer of obscene material to minors

Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of

16 years, or attempts to do so, shall be imprisoned not more than 10 years.

SUBCHAPTER G—MONEY LAUNDERING

Sec.
1451. Laundering of monetary instruments
1452. Engaging in monetary transactions in property derived from specified unlawful activity
1453. Structuring transactions to evade reporting requirement prohibited
1454. Bulk cash smuggling into or out of the United States

§ 1451. Laundering of monetary instruments

(a) OFFENSES.—(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—

(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or

(B) knowing that the transaction is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever is greater, or imprisonment for not more than twenty years, or both.

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

(A) with the intent to promote the carrying on of specified unlawful activity; or

(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part—

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true.

(3) Whoever, with the intent—

(A) to promote the carrying on of specified unlawful activity;

(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or

(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be imprisoned for not more than 20 years. For purposes of this paragraph and paragraph (2), the term ''represented'' means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

(b) PENALTIES.—

(1) IN GENERAL.—Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1452, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

(A) the value of the property, funds, or monetary instruments involved in the transaction; or

(B) $10,000.

(2) JURISDICTION OVER FOREIGN PERSONS.—For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of the entry of an order of forfeiture by a court of the United States; or

(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

(3) COURT AUTHORITY OVER ASSETS.—A court described in paragraph (2) may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

(4) FEDERAL RECEIVER.—

(A) IN GENERAL.—A court described in paragraph (2) may appoint a Federal Receiver, in accordance with subparagraph (B) of this paragraph, to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection, a forfeiture judgment under section 981 or 982, or a criminal sentence under section 1957 or subsection (a) of this section, including an order of restitution to any victim of a specified unlawful activity.

(B) APPOINTMENT AND AUTHORITY.—A Federal Receiver described in subparagraph (A)—

(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28, United States Code; and

(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—

(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.

(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for inter-

national law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.

(c) DEFINITIONS.—As used in this section—

(1) the term ''knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity'' means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law, regardless of whether or not such activity is specified in paragraph (7);

(2) the term ''conducts'' includes initiating, concluding, or participating in initiating, or concluding a transaction;

(3) the term ''transaction'' includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

(4) the term ''financial transaction'' means (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

(5) the term ''monetary instruments'' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money

orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

(6) the term ''financial institution'' means—

(A) any financial institution, as defined in section 5312(a)(2) of title 31, or regulations under such section; or

(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101);

(7) the term ''specified unlawful activity'' means—

(C) any act or activity constituting an offense listed in section 511(1) of this title except an act which is indictable under subchapter II of chapter 53 of title 31;

(D) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving—

(i) the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

(ii) murder, kidnapping, robbery, extortion, destruction of property by means of explosive or fire, or a crime of violence;

(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978));

(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

(v) smuggling or export control violations involving—

(I) an item controlled on the United States Munitions List established under section

38 of the Arms Export Control Act (22 U.S.C. 2778); or

(II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730–774); or

(II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730–774); or

(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States;

(E) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 413;

(F) an offense under section 1301 (relating to the destruction of aircraft), section 1306 (relating to violence at international airports), section 102 (relating murder), section 871 (relating to concealment of assets; false oaths and claims; bribery), section 624 (relating to the variola virus), section 1003 (relating to commissions or gifts for procuring loans), section 102(7) (relating to congressional or Cabinet officer assassination), any of sections 711 through 712 (relating to certain counterfeiting offenses), section 719 (relating to securities of States and private entities), section 861 (relating to goods falsely classified), section 862 relating to entry of goods by means of false statements), section 863 (relating to smuggling goods into the United States), section 865 (relating to removing goods from Customs custody), section 641 (relating to public money, property, or records), section 644 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 645 (relating to lending, credit, and insurance institutions), section 646 (relating to

property mortgaged or pledged to farm credit agencies), section 654 (relating to theft or bribery concerning programs receiving Federal funds), section 301, 302, or 303 (relating to espionage), section 601 (relating to prohibited transactions involving nuclear materials), section 614 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 144 (relating to interstate communications), section 582(1) (relating to the unlawful importation of firearms), section 584(n) (relating to firearms trafficking), section 955 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 773 (relating to fraudulent bank entries), section 774 (relating to fraudulent Federal credit institution entries), section 775 (relating to Federal Deposit Insurance transactions), section 779 (relating to fraudulent loan or credit applications), section 787 (relating to computer fraud and abuse), section 789 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 121 (relating to kidnaping), section 123 (relating to hostage taking), section 1201 (relating to willful injury of Government property), section 1203 (relating to destruction of property within the special maritime and territorial jurisdiction), section 847 (theft from the mail), section 143 (relating to bank robbery), section 1351 (relating to violence against maritime navigation), section 676 (relating to copyright infringement), section 680 (relating to trafficking in counterfeit goods and services), section 271 (relating to use of weapons of mass destruction), section 273 (relating to international terrorist acts transcending national boundaries), section 274 (relating to missile systems designed to destroy aircraft), section 275 (relating to radiological dispersal devices), or section 278 or 279 (relating to providing material support to terrorists) of this

title, section 46502 of title 49, United States Code, a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), any felony violation of the Foreign Agents Registration Act of 1938, any felony violation of the Foreign Corrupt Practices Act, or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)

(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.); or

(F) any act or activity constituting an offense involving a Federal health care offense;

(8) the term ''State'' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(d) NONEXCLUSIVITY.—Nothing in this section shall supersede any provision of Federal, State, or other law imposing

criminal penalties or affording civil remedies in addition to those provided for in this section.

(e) INVESTIGATED AUTHORITY.—Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

(f) EXTRATERRIOTORIAL JURISDICTION.—There is extraterritorial jurisdiction over the conduct prohibited by this section if—

(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1452 or 508, or section 5322 or 5324 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.

(i) VENUE.—(1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1452 may be brought in—

(A) any district in which the financial or monetary transaction is conducted; or

(B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

(2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.

(3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.

§ 1452. Engaging in monetary transactions in property derived from specified unlawful activity

(a) ELEMENTS OF OFFENSE.—Whoever, as made applicable by subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

(b) PUNISHMENT.—(1) Except as provided in paragraph (2), the punishment for an offense under this section is imprisonment for not more than ten years.

(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

(c) PROOF.—In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

(d) APPLICABILITY.—Subsection (a) applies if—

(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

(e) INVESTIGATIVE AUTHORITY.—Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.

(f) DEFINITIONS.—As used in this section—

(1) the term ''monetary transaction'' means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1451(c)(5) of this title) by, through, or to a financial institution (as defined in section 1451 of this title), including any transaction that would be a financial transaction under section 1451(c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution;

(2) the term ''criminally derived property'' means any property constituting, or derived from, proceeds obtained from a criminal offense; and

(3) the term ''specified unlawful activity'' has the meaning given that term in section 1451 of this title.

§ 1453. Structuring transactions to evade reporting requirement prohibited

(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS INVOLVING FINANCIAL INSTITUTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5313(a) or 5325 of title 31 or any regulation prescribed under any such section, the reporting or recordkeeping requirements imposed by any order issued under section 5326 of that title, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—

(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a) or 5325 of title 31 or any regulation prescribed under any such section, to file a report or to maintain a record required by an order issued under section 5326 of title 31, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508;

(2) cause or attempt to cause a domestic financial institution to file a report required under section 5313(a) or 5325 of title 31 or any regulation prescribed under any such section, to file a report or to maintain a record required by any order issued under section 5326 of title 31, or to maintain a record required pursuant to any regulation prescribed under section 5326 of title 31, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508, that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more domestic financial institutions.

(b) DOMESTIC COIN AND CURRENCY TRANSACTIONS INVOLVING NONFINANCIAL TRADES OR BUSINESSES.—No person shall, for the purpose of evading the report requirements of sec-

tion 5331 of title 31 or any regulation prescribed under such section—

(1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section 5331 of title 31 or any regulation prescribed under such section;

(2) cause or attempt to cause a nonfinancial trade or business to file a report required under section 5331 of title 31 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.

(c) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316 of title 31—

(1) fail to file a report required by section 5316 of title 31, or cause or attempt to cause a person to fail to file such a report;

(2) file or cause or attempt to cause a person to file a report required under section 5316 of title 31 that contains a material omission or misstatement of fact; or

(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.

(d) CRIMINAL PENALTY.—

(1) IN GENERAL.—Whoever violates this section shall be imprisoned for not more than 5 years.

(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be imprisoned for not more than 10 years.

§1454. Bulk cash smuggling into or out of the United States

(a) CRIMINAL OFFENSE.—

(1) IN GENERAL.—Whoever, with the intent to evade a currency reporting requirement under section 5316 of title 31, knowingly conceals more than $10,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary instruments from a place within the United States to a place outside of the United States, or from a place outside the United States to a place within the United States, shall be guilty of a currency smuggling offense and subject to punishment pursuant to subsection (b).

(2) CONCEALMENT ON PERSON.—For purposes of this section, the concealment of currency on the person of any individual includes concealment in any article of clothing worn by the individual or in any luggage, backpack, or other container worn or carried by such individual.

(b) PENALTY.—

(1) TERM OF IMPRISONMENT.—A person convicted of a currency smuggling offense under subsection (a), or a conspiracy to commit such offense, shall be imprisoned for not more than 5 years.

(2) FORFEITURE.—In addition, the court, in imposing sentence under paragraph (1), shall order that the defendant forfeit to the United States, any property, real or personal, involved in the offense, and any property traceable to such property, subject to subsection (c) of this section.

(3) PROCEDURE.—The seizure, restraint, and forfeiture of property under this section shall be governed by section 413 of the Controlled Substances Act.

(4) PERSONAL MONEY JUDGMENT.—If the property subject to forfeiture under paragraph (2) is unavailable, and the defendant has insufficient substitute property that may be forfeited under section 2561, the court shall enter a personal money judgment against the defendant for the amount that would be subject to forfeiture.

(c) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable to such violation or conspiracy, may be seized and forfeited to the United States.

(2) TREATMENT OF CERTAIN PROPERTY AS INVOLVED IN THE OFFENSE.—For purposes of this subsection and subsection (b), any currency or other monetary instrument that is concealed or intended to be concealed in violation of subsection (a), any article, container, or conveyance used, or intended to be used, to conceal or transport the currency or other monetary instrument, and any other property used, or intended to be used, to facilitate the offense, shall be considered property involved in the offense.

CHAPTER 37—PRIVACY

Subchapter	Sec.
A. Privacy	**1481**
B. Wire and electronic communications interception and interception of oral communications	**1491**
C. Stored wire and electronic communications and transactional records access	**1521**
D. Prohibition on release and use of certain personal information from state motor vehicle records	**1541**
E. Identity theft	**1551**

SUBCHAPTER A—PRIVACY

Sec.
1481. Video voyeurism.

§ 1481. Video voyeurism

(a) OFFENSE.—Whoever, in the special maritime and territorial jurisdiction of the United States, has the intent to capture an image of a private area of an individual without their consent, and knowingly does so under circumstances in which the individual has a reasonable expectation of privacy, shall be imprisoned not more than one year.

(b) DEFINITIONS FOR SECTION.—As used in this section—

(1) the term ''capture'', with respect to an image, means to videotape, photograph, film, record by any means, or broadcast;

(2) the term ''broadcast'' means to electronically transmit a visual image with the intent that it be viewed by a person or persons;

(3) the term ''a private area of the individual'' means the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual;

(4) the term ''female breast'' means any portion of the female breast below the top of the areola; and

(5) the term ''under circumstances in which that individual has a reasonable expectation of privacy'' means—

(A) circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of the individual was being captured; or

(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

(c) EXCLUSION.—This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.

SUBCHAPTER B—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec.
1491. Definitions.
1492. Interception and disclosure of wire, oral, or electronic communications prohibited.
1493. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited.
1494. Confiscation of wire, oral, or electronic communication intercepting devices.
1495. Prohibition of use as evidence of intercepted wire or oral communications.
1496. Authorization for interception of wire, oral, or electronic communications.
1497. Authorization for disclosure and use of intercepted wire, oral, or electronic communications.
1498. Procedure for interception of wire, oral, or electronic communications.
1499. Reports concerning intercepted wire, oral, or electronic communications.
1500. Recovery of civil damages authorized.
1501. Injunction against illegal interception.

1502. Enforcement of the Communications Assistance for Law Enforcement Act.

§ 1491. Definitions

As used in this subchapter—

(1) the term ''wire communication'' means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce;

(2) the term ''oral communication'' means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

(3) the term ''intercept'' means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device.

(4) the term ''electronic, mechanical, or other device'' means any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than—

(A) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the ordinary course of its business; or (ii) being used by a provider of wire or electronic communication service in the ordinary course of its business, or by an investigative or

law enforcement officer in the ordinary course of his duties;

(B) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

(7) the term ''Investigative or law enforcement officer'' means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

(8) the term ''contents'', when used with respect to any wire, oral, or electronic communication, includes any information concerning the substance, purport, or meaning of that communication;

(9) the term ''Judge of competent jurisdiction'' means—

(A) a judge of a United States district court or a United States court of appeals; and

(B) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire, oral, or electronic communications;

(10) the term ''communication common carrier'' has the meaning given that term in section 3 of the Communications Act of 1934;

(11) the term ''aggrieved person'' means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed;

(12) the term ''electronic communication'' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

(A) any wire or oral communication;

(B) any communication made through a tone-only paging device;

(C) any communication from a tracking device (as defined in section 3117 of this title); or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

(13) the term ''user'' means any person or entity who—

(A) uses an electronic communication service; and

(B) is duly authorized by the provider of such service to engage in such use;

(14) the term ''electronic communications system'' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

(15) the term ''electronic communication service'' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

(16) the term ''readily accessible to the general public'' means, with respect to a radio communication, that such communication is not—

(A) scrambled or encrypted;

(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission,

unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

(17) the term ''electronic storage'' means—

(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication;

(18) the term ''aural transfer'' means a transfer containing the human voice at any point between and including the point of origin and the point of reception;

(19) the term ''foreign intelligence information'', for purposes of section 1497(6), means—

(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(B) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

(i) the national defense or the security of the United States; or

(ii) the conduct of the foreign affairs of the United States;

(20) the term ''protected computer'' has the meaning set forth in section 1030; and

(21) the term ''computer trespasser''—

(A) means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer; and

(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.

§ 1492. Interception and disclosure of wire, oral, or electronic communications prohibited

(a) OFFENSE.—Except as otherwise specifically provided in this subchapter any person who—

(1) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

(2) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

(A) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

(B) such device transmits communications by radio, or interferes with the transmission of such communication; or

(C) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

(D) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the

operations of which affect interstate or foreign commerce; or

(E) such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(3) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

(4) intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection; or

(5)(A) intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 1497(2)(A)(ii), 1497(2)(b)–(c), 1492(2)(e), 1496, and 1498 of this subchapter;

(B) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation;

(C) having obtained or received the information in connection with a criminal investigation; and

(D) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,

shall be punished as provided in subsection (d) or shall be subject to suit as provided in subsection (5).

(b) EXCLUSIONS.—(1)(A) It shall not be unlawful under this subchapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary inci-

dent to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

(B) Notwithstanding any other law, providers of wire or electronic communication service, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if such provider, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

(i) a court order directing such assistance signed by the authorizing judge, or

(ii) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished a court order or certification under this subchapter, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. Any such disclosure, shall render such person liable for the civil damages provided for in section 2520. No cause of action shall

lie in any court against any provider of wire or electronic communication service, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of a court order, statutory authorization, or certification under this subchapter.

(2) It shall not be unlawful under this subchapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

(3) It shall not be unlawful under this subchapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(4) It shall not be unlawful under this subchapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

(5) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

(6) Nothing contained in this subchapter or subchapter C if chapter 37, or section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from

international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this subchapter or subchapter C if chapter 37 and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted.

(7) It shall not be unlawful under this subchapter or subchapter C if chapter 37 for any person—

(A) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

(B) to intercept any radio communication which is transmitted—

(i) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

(ii) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(iii) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(iv) by any marine or aeronautical communications system;

(C) to engage in any conduct which—

(i) is prohibited by section 633 of the Communications Act of 1934; or

(ii) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

(iii) of the Communications Act of 1934 by section 705(b) of that Act;

(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

(v) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

(8) It shall not be unlawful under this subchapter—

(A) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices) of this title); or

(B) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

(9) It shall not be unlawful under this subchapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser transmitted to, through, or from the protected computer, if—

(A) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

(B) the person acting under color of law is lawfully engaged in an investigation;

(C) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

(D) such interception does not acquire communications other than those transmitted to or from the computer trespasser.

(c) CONTENTS IN TRANSMISSION.—(1) Except as provided in paragraph (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(2) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

(A) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

(B) with the lawful consent of the originator or any addressee or intended recipient of such communication;

(C) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(D) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

(d) PUNISHMENT.—(1) Except as provided in paragraph (b) of this subsection or in subsection (5), whoever violates subsection (1) of this section shall be imprisoned not more than five years.

(2) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

(A) to a broadcasting station for purposes of retransmission to the general public; or

(B) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls,

is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

(e) CERTAIN COMMUNICATIONS.—(1)(A) If the communication is—

(i) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this subchapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

(ii) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this subchapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.

(B) In an action under this subsection—

(i) if the violation of this subchapter is a first offense for the person under paragraph (a) of subsection (4) and such person has not been found liable in a civil action under section 2520 of this title, the Federal Government shall be entitled to appropriate injunctive relief; and

(ii) if the violation of this subchapter is a second or subsequent offense under paragraph (a) of subsection (4) or such person has been found liable in any prior civil action under section 2520, the person shall be subject to a mandatory $500 civil fine.

(2) The court may use any means within its authority to enforce an injunction issued under paragraph (ii)(A), and shall

impose a civil fine of not less than $500 for each violation of such an injunction.

§ 1493. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited

(a) OFFENSE.—Except as otherwise specifically provided in this subchapter, any person who intentionally—

(1) sends through the mail, or sends or carries in interstate or foreign commerce, any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications;

(2) manufactures, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, and that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

(3) places in any newspaper, magazine, handbill, or other publication or disseminates by electronic means any advertisement of—

(A) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications; or

(B) any other electronic, mechanical, or other device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of wire, oral, or electronic communications,

knowing the content of the advertisement and knowing or having reason to know that such advertisement will be sent

through the mail or transported in interstate or foreign commerce,

shall be imprisoned not more than five years.

(b) EXCLUSION.—It shall not be unlawful under this section for—

(1) a provider of wire or electronic communication service or an officer, agent, or employee of, or a person under contract with, such a provider, in the normal course of the business of providing that wire or electronic communication service, or

(2) an officer, agent, or employee of, or a person under contract with, the United States, a State, or a political subdivision thereof, in the normal course of the activities of the United States, a State, or a political subdivision thereof,

to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications.

(c) ADDITIONAL EXCLUSION.—It shall not be unlawful under this section to advertise for sale a device described in subsection (a) of this section if the advertisement is mailed, sent, or carried in interstate or foreign commerce solely to a domestic provider of wire or electronic communication service or to an agency of the United States, a State, or a political subdivision thereof which is duly authorized to use such device.

§1494. Confiscation of wire, oral, or electronic communication intercepting devices

Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 1492 or section 1493 may be seized and forfeited to the United States. All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the

United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) 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 section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

§ 1495. Prohibition of use as evidence of intercepted wire or oral communications

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this subchapter.

§ 1496. Authorization for interception of wire, oral, or electronic communications

(a) FEDERAL PROSECUTORS.—The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of

this subchapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

(1) any offense punishable by death or by imprisonment for more than one year under sections 2122 and 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), section 2284 of title 42 of the United States Code (relating to sabotage of nuclear facilities or fuel), or under the following chapters of this title: subchapter E of chapter 15 (relating to espionage), subchapter C of chapter 10 (relating to kidnapping), subchapter C of chapter 35 (relating to protection of trade secrets), subchapter A of chapter 15 (relating to treason), subchapter N of chapter 29 (relating to malicious mischief), or subchapter A of chapter 31 (relating to piracy);

(2) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;

(3) any offense which is punishable under the following sections of this title: section 991 (bribery of public officials and witnesses), section 1003 (relating to bribery of bank officials), section 1005 (bribery in sporting contests), subsection (d), (e), (f), (g), (h), or (i) of section 614 (unlawful use of explosives), section 1071 (relating to escape), section 779 (relating to loans and credit applications generally; renewals and discounts), sections 1132, 1137, and 1138 (influencing or injuring an officer, juror, or witness generally), section 1135 (obstruction of criminal investigations), section 1136 (obstruction of State or local law enforcement), section 1265 (sex trafficking of children by force, fraud, or coercion), section 102, 201, 203 (Presi-

dential and Presidential staff assassination, kidnapping, and assault), section 501 (interference with commerce by threats or violence), section 502 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 506 (relating to use of interstate commerce facilities in the commission of murder for hire), section 507 (relating to violent crimes in aid of racketeering activity), section 504 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 505 (prohibition of business enterprises of gambling), section 1451 (laundering of monetary instruments), section 1452 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 547 (theft from interstate shipment), section 652 (embezzlement from pension and welfare funds), section 803 (fraud by wire, radio, or television), section 804 (relating to bank fraud), sections 221 and 223 (sexual exploitation of children), section 222 (selling or buying of children), section 223 (relating to material constituting or containing child pornography), section 1445 (relating to child obscenity), section 161 (production of sexually explicit depictions of a minor for importation into the United States), sections 211, 212, 213, and 215 (relating to transportation for illegal sexual activity and related crimes),sections 671, 672, 673, and 674 (interstate transportation of stolen property), section 682 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 203 (relating to hostage taking), section 786 (relating to fraud and related activity in connection with access devices), section 1301 (relating to destruction of aircraft or aircraft facilities), section 1307 (relating to aircraft parts fraud), section 513 (violations with respect to racketeer influenced and corrupt organizations), section 102, 111, 201, and 203 (relating to threatening or retaliating against a Federal official), section 801 (relating to mail fraud), a felony violation of section 787 (relating to computer fraud and abuse), section 601 (relating to prohibited transactions involving nuclear materials), section 1302 (relating to de-

struction of motor vehicles or motor vehicle facilities), section 621 (relating to biological weapons), section 624 (relating to variola virus),section 1331 (relating to wrecking trains), a felony violation of section 783 (relating to production of false identification documentation), section 315 (relating to the procurement of citizenship or nationalization unlawfully), section 316 (relating to the sale of naturalization or citizenship papers), section 311 (relating to false statements in passport applications), section 312 (relating to forgery or false use of passports), section 313 (relating to misuse of passports), or section 314 (relating to fraud and misuse of visas, permits, and other documents) ;

(4) any offense involving counterfeiting punishable under section 692, 693, or 694 of this title;

(5) any offense involving fraud connected with a case under title 11 or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States;

(6) any offense including extortionate credit transactions under sections 155, 156, or 157 of this title;

(7) a violation of section 5322 of title 31, United States Code (dealing with the reporting of currency transactions);

(8) any felony violation of sections 1492 and 1493 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

(9) any felony violation of subchapter F of chapter 35 (relating to obscenity) of this title;

(10) any violation of section 60123(b) (relating to destruction of a natural gas pipeline) or section 46502 (relating to aircraft piracy) of title 49;

(11) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act);

(12) the location of any fugitive from justice from an offense described in this section;

(13) the location of any fugitive from justice from an offense described in this section;

(14) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324, 1327, or 1328) (relating to the smuggling of aliens);

(15) any felony violation of sections 582 and 584 of title 18, United States Code (relating to firearms);

(16) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms);

(17) a felony violation of section 783 (relating to production of false identification documents), section 311 (relating to false statements in passport applications), section 314 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens);

(18) any criminal violation of section 631 (relating to chemical weapons); or sections 271, 273, 274, 275, 278, 279, or 208 of this title (relating to terrorism); or

(19) any conspiracy to commit any offense described in any subparagraph of this paragraph.

(b) STATE PROSECUTORS.—The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire, oral, or electronic communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime

dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

(c) INTERCEPTION FOR EVIDENCE OF FEDERAL FELONIES.—Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 1498 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.

§ 1497. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

(a) DISCLOSURE TO INVESTIGATIVE OR LAW ENFORCEMENT OFFICERS.— Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) USE OF CONTENTS IN PERFORMANCE OF DUTIES.—Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

(c) USE OF CONTENTS IN TESTIMONY.—Any person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with

the provisions of this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any State or political subdivision thereof.

(d) PRIVELAGED CHARACTER.—No otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, this subchapter shall lose its privileged character.

(e) OFFENSES OTHER THAN THOSE SPECIFIED IN THE ORDER.—When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or electronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b). Such contents and any evidence derived therefrom may be used under subsection (c) when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with this subchapter. Such application shall be made as soon as practicable.

(f) DOMESTIC USE OF INTELLIGENCE AND COUNTERINTELLIGENCE INFORMATION.—Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), or foreign intelligence information (as defined in subsection (19) of section 2510 of this title), to assist the official who is to receive that information in the performance of his official duties. Any Federal official who re-

ceives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information.

(g) FORIEGN USE OF INTELLIGENCE AND COUNTER-INTELLIGENCE INFORMATION.— Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

(h) DISCLOSURE FOR PUBLIC SAFETY PURPOSES.—Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such infor-

mation, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.

§ 1498. Procedure for interception of wire, oral, or electronic communications

(a) APPLICATION.—Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

(1) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

(2) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) except as provided in subsection (11), a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

(3) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(4) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe

that additional communications of the same type will occur thereafter;

(5) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application; and

(6) where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

(b) ADDITIONAL TESTIMONY OR DOCUMENTRAY EVIDENCE.—The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

(c) EX PARTE ORDER.—Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting (and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction), if the judge determines on the basis of the facts submitted by the applicant that—

(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 1496 of this chapter;

(2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

(4) except as provided in subsection (11), there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

(d) CONTENTS OF ORDER.—Each order authorizing or approving the interception of any wire, oral, or electronic communication under this chapter shall specify—

(1) the identity of the person, if known, whose communications are to be intercepted;

(2) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

(3) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(4) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

(5) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire, oral, or electronic communication under this chapter shall, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by

the applicant for reasonable expenses incurred in providing such facilities or assistance. Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.

(e) LIMITATIONS ON ORDERS.—No order entered under this section may authorize or approve the interception of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

(f) REPORTS TO ISSUING JUDGE.—Whenever an order authorizing interception is entered pursuant to this chapter, the

order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

(g) EMERGENCY SITUATIONS.—Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

(1) an emergency situation exists that involves—

(A) immediate danger of death or serious physical injury to any person,

(B) conspiratorial activities threatening the national security interest, or

(C) conspiratorial activities characteristic of organized crime,

that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and

(2) there are grounds upon which an order could be entered under this chapter to authorize such interception,

may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as pro-

vided for in subsection (d) of this section on the person named in the application.

(h) RECORDING OF INTERCEPTION.—(1) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 1497 of this chapter for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under subsection (3) of section 1497.

(2) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

(3) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

(4) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 1498(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in

the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of—

(A) the fact of the entry of the order or the application;

(B) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(C) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

(i) EXCLUSION AS EVIDENCE.—The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

(j) MOVE TO SUPPRESS.—(1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any wire or oral communica-

tion intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that—

(A) the communication was unlawfully intercepted;

(B) the order of authorization or approval under which it was intercepted is insufficient on its face; or

(C) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

(2) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (1), or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

(3) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.

(k) EXCEPTION TO SPECIFICATION OF FACILITY REQUIREMENTS.—The requirements of subsections (a)(2)(B) and (c)(4) relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

(1) in the case of an application with respect to the interception of an oral communication—

(A) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(B) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(C) the judge finds that such specification is not practical; and

(2) in the case of an application with respect to a wire or electronic communication—

(A) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

(B) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;

(C) the judge finds that such showing has been adequately made; and

(D) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.

(l) BEGINNING OF CERTAIN INTERCEPTIONS.—An interception of a communication under an order with respect to which the requirements of subsections (a)(2)(B) and (c)(4) of

this section do not apply by reason of subsection (k)(1) shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (k)(2) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously.

§ 1499. Reports concerning intercepted wire, oral, or electronic communications

(a) 30 DAYS AFTER EXPIRATION OF ORDER.—Within 30 days after the expiration of an order (or each extension thereof) entered under section 1498, or the denial of an order approving an interception, the issuing or denying judge shall report to the Administrative Office of the United States Courts—

(1) the fact that an order or extension was applied for;

(2) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 1498(1)(b)(ii) and 1498(3)(d) of this title did not apply by reason of section 1498(3)(d) of this title);

(3) the fact that the order or extension was granted as applied for, was modified, or was denied;

(4) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

(5) the offense specified in the order or application, or extension of an order;

(6) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application; and

(7) the nature of the facilities from which or the place where communications were to be intercepted.

(b) ANNUAL JUSTICE DEPARTMENT REPORT.—In January of each year the Attorney General, an Assistant Attorney

General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Office of the United States Courts—

(1) the information required by paragraphs (a) through (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

(2) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, (iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(3) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(4) the number of trials resulting from such interceptions;

(5) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(6) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(7) the information required by paragraphs (b) through (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

(c) REPORT TO CONGRESS.—In April of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications pursuant to this subchapter and the number of orders and extensions granted or denied pursuant to this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (a) and (b) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (a) and (b).

§1500. Recovery of civil damages authorized

(a) IN GENERAL.—Except as provided in section 1492(2)(a)(ii), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of this chapter may in a civil action recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

(b) RELIEF.—In an action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c) and punitive damages in appropriate cases; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal pur-

pose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

(A) If the person who engaged in that conduct has not previously been enjoined under section 1492, and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under section 2511(5) or has been found liable in a civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $100 and not more than $1000.

(2) In any other action under this section, the court may assess as damages whichever is the greater of—

(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

(d) DEFENSE.—A good faith reliance on—

(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

(2) a request of an investigative or law enforcement officer under section 1498(7) of this title; or

(3) a good faith determination that section 1492(3) or 2511(2)(i) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other law.

(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(f) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful disclosure or use by an investigative or law enforcement officer or governmental entity of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

§ 1501. Injunction against illegal interception

Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respond-

ent, discovery is governed by the Federal Rules of Criminal Procedure.

§ 1502. Enforcement of the Communications Assistance for Law Enforcement Act

(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under this chapter, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

(c) CIVIL PENALTY.—

(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

(2) CONSIDERATIONS.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

(A) the nature, circumstances, and extent of the violation;

(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

(C) such other matters as justice may require.

(d) DEFINITIONS.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.

SUBCHAPTER C—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

Sec.
1521. Unlawful access to stored communications.
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§1521. Unlawful access to stored communications

(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State—

(A) a fine under this title or imprisonment for not more than 5 years, or both, in the case of a first offense under this subparagraph; and

(B) a fine under this title or imprisonment for not more than 10 years, or both, for any subsequent offense under this subparagraph; and

(2) in any other case—

(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.

(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

(1) by the person or entity providing a wire or electronic communications service;

(2) by a user of that service with respect to a communication of or intended for that user; or

(3) in section 1523, 1524, or 1498 of this title.

§ 1522. Voluntary disclosure of customer communications or records

(a) PROHIBITIONS.—Except as provided in subsection (b)—

(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service;

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing; and

(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a) may divulge the contents of a communication—

(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

(2) as otherwise authorized in section 1497, 1492, or 1523 of this title;

(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032);

(7) to a law enforcement agency if the contents—

(A) were inadvertently obtained by the service provider; and

(B) appear to pertain to the commission of a crime;

(8) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

(1) as otherwise authorized in section 1523;

(2) with the lawful consent of the customer or subscriber;

(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information;

(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032); or

(6) to any person other than a governmental entity.

§ 1523. Required disclosure of customer communications or records

(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

(b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant; or

(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena; or

(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 1525 of this title.

(2) Paragraph (1) is applicable with respect to any wire or electronic communication that is held or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—(1) governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications) only when the governmental entity—

(A) obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant;

(B) obtains a court order for such disclosure under subsection (d) of this section;

(C) has the consent of the subscriber or customer to such disclosure;

(D) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is defined in section 2325 of this title); or

(E) seeks information under paragraph (2).

(2) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the—

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;

(D) length of service (including start date) and types of service utilized;

(E) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(F) means and source of payment for such service (including any credit card or bank account number),

of a subscriber to or customer of such service when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under paragraph (1).

(3) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

(e) NO CAUSE OF ACTION AGAINST A PROVIDER DISCLOSING INFORMATION UNDER THIS CHAPTER.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, statutory authorization, or certification under this chapter.

(f) REQUIREMENT TO PRESERVE EVIDENCE.—

(1) IN GENERAL.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process.

(2) PERIOD OF RETENTION.—Records referred to in paragraph (1) shall be retained for a period of 90 days, which shall be extended for an additional 90-day period upon a renewed request by the governmental entity.

(g) PRESENCE OF OFFICER NOT REQUIRED.—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.

§ 1524. Backup preservation

(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 1523(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the govern-

mental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 1525(a).

(3) The service provider shall not destroy such backup copy until the later of—

(A) the delivery of the information; or

(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than fourteen days after the governmental entity's notice to the subscriber or customer if such service provider—

(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

(B) has not initiated proceedings to challenge the request of the governmental entity.

(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 1524 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

(b) CUSTOMER CHALLENGES.—(1) Within 14 days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the

court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term ''delivery'' has the meaning given that term in the Federal Rules of Civil Procedure.

(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the

subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

§ 1525. Delayed notice

(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 1523(b) of this title may—

(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 1523(b) of this title for a period not to exceed ninety days, if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 1523(b) of this title for a period not to exceed ninety days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

(2) An adverse result for the purposes of paragraph (1) of this subsection is—

(A) endangering the life or physical safety of an individual;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

(4) Extensions of the delay of notification provided in section 1523 of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

(A) states with reasonable specificity the nature of the law enforcement inquiry; and

(B) informs such customer or subscriber—

(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

(ii) that notification of such customer or subscriber was delayed;

(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

(iv) which provision of this chapter allowed such delay.

(6) As used in this subsection, the term ''supervisory official'' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 1523, when it is not required to notify the subscriber or cus-

tomer under section 1523(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

(1) endangering the life or physical safety of an individual;

(2) flight from prosecution;

(3) destruction of or tampering with evidence;

(4) intimidation of potential witnesses; or

(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

§ 1526. Cost reimbursement

(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 1522, 1553, or 1524 shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

(c) EXCEPTION.—The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

§ 1527. Civil action

(a) CAUSE OF ACTION.—Except as provided in section 1523(e), any provider of electronic communication service, subscriber, or other person aggrieved by any violation of this subchapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

(b) RELIEF.—In a civil action under this section, appropriate relief includes—

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c); and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000. If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.

(d) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision

of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(e) DEFENSE.—A good faith reliance on—

(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization (including a request of a governmental entity under section 1523(f) of this title);

(2) a request of an investigative or law enforcement officer under section 1498(7) of this title; or

(3) a good faith determination that section 1492(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

(f) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

(g) IMPROPER DISCLOSURE.—Any willful disclosure of a ''record'', as that term is defined in section 552a(a) of title 5, United States Code, obtained by an investigative or law enforcement officer, or a governmental entity, pursuant to section 1523 of this title, or from a device installed pursuant to section 3123 or 3125 of this title, that is not a disclosure made in the proper performance of the official functions of the officer or governmental entity making the disclosure, is a violation of this

chapter. This provision shall not apply to information previously lawfully disclosed (prior to the commencement of any civil or administrative proceeding under this chapter) to the public by a Federal, State, or local governmental entity or by the plaintiff in a civil action under this chapter.

§ 1528. Exclusivity of remedies

The remedies and sanctions described in this subchapter are the only judicial remedies and sanctions for nonconstitutional violations of this subchapter.

§ 1529. Counterintelligence access to telephone toll and transactional records

(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may—

(1) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States; and

(2) request the name, address, and length of service of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the in-

formation sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, concerning all requests made under subsection (b) of this section.

§ 1530. Wrongful disclosure of video tape rental or sale records

(a) DEFINITIONS.—For purposes of this section—

(1) the term ''consumer'' means any renter, purchaser, or subscriber of goods or services from a video tape service provider;

(2) the term ''ordinary course of business'' means only debt collection activities, order fulfillment, request processing, and the transfer of ownership;

(3) the term ''personally identifiable information'' includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider; and

(4) the term ''video tape service provider'' means any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider shall be liable to the aggrieved person for the relief provided in subsection (d).

(2) A video tape service provider may disclose personally identifiable information concerning any consumer—

(A) to the consumer;

(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order;

(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

(i) the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

(ii) the disclosure does not identify the title, description, or subject matter of any video tapes or other audio visual material; however, the subject matter of

such materials may be disclosed if the disclosure is for the exclusive use of marketing goods and services directly to the consumer;

(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or

(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

(3) Court orders authorizing disclosure under subparagraph (C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on such provider.

(c) CIVIL ACTION.—(1) Any person aggrieved by any act of a person in violation of this section may bring a civil action in a United States district court.

(2) The court may award—

(A) actual damages but not less than liquidated damages in an amount of $2,500;

(B) punitive damages;

(C) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(D) such other preliminary and equitable relief as the court determines to be appropriate.

(3) No action may be brought under this subsection unless such action is begun within 2 years from the date of the act complained of or the date of discovery.

(4) No liability shall result from lawful disclosure permitted by this section.

(d) PERSONALLY IDENTIFIABLE INFORMATION.—Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision of a State.

(e) DESTRUCTION OF OLD RECORDS.—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (b)(2) or (c)(2) or pursuant to a court order.

(f) PREEMPTION.—The provisions of this section preempt only the provisions of State or local law that require disclosure prohibited by this section.

§ 1531. Definitions for subchapter

As used in this subchapter—

(1) the terms defined in section 1491 have, respectively, the definitions given such terms in that section;

(2) the term ''remote computing service'' means the provision to the public of computer storage or processing services by means of an electronic communications system; and

(3) the term ''court of competent jurisdiction'' has the meaning assigned by section 3127, and includes any Fed-

eral court within that definition, without geographic limitation.

§ 1532. Civil actions against the United States

(a) IN GENERAL.—Any person who is aggrieved by any willful violation of this chapter or subchapter B of chapter 37 of this title or of sections 106(a), 305(a), or 405(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) may commence an action in United States District Court against the United States to recover money damages. In any such action, if a person who is aggrieved successfully establishes such a violation of this subchapter or subchapter B or of the above specified provisions of title 50, the Court may assess as damages—

(1) actual damages, but not less than $10,000, whichever amount is greater; and

(2) litigation costs, reasonably incurred.

(b) PROCEDURES.—(1) Any action against the United States under this section may be commenced only after a claim is presented to the appropriate department or agency under the procedures of the Federal Tort Claims Act, as set forth in title 28, United States Code.

(2) Any action against the United States under this section shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. The claim shall accrue on the date upon which the claimant first has a reasonable opportunity to discover the violation.

(3) Any action under this section shall be tried to the court without a jury.

(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall be the exclusive means by which materials governed by those sections may be reviewed.

(5) An amount equal to any award against the United States under this section shall be reimbursed by the department or agency concerned to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, fund, or account that is available for the enforcement of any Federal law) that is available for the operating expenses of the department or agency concerned.

(c) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

(d) EXCLUSIVE REMEDY.—Any action against the United States under this subsection shall be the exclusive remedy against the United States for any claims within the purview of this section.

(e) STAY OF PROCEEDINGS.—(1) Upon the motion of the United States, the court shall stay any action commenced under this section if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or the prosecution of a related criminal case. Such a stay shall toll the limitations periods of paragraph (2) of subsection (b).

(2) In this subsection, the terms ''related criminal case'' and ''related investigation'' mean an actual prosecution or investigation in progress at the time at which the request for the stay or any subsequent motion to lift the stay is made. In determining whether an investigation or a criminal case is related to an action commenced under this section, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the 2 proceedings, without requiring that any one or more factors be identical.

(3) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect a related investigation or a related criminal case. If the Government makes such an ex parte submission, the plaintiff shall be given an opportunity to make a submission to the court, not ex parte, and the court may, in its discretion, request further information from either party.

SUBCHAPTER D—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

Sec.
1541. Prohibition on release and use of certain personal information from State motor vehicle records.
1542. Additional unlawful acts.
1543. Penalties.
1544. Civil action.
1545. Definitions.

§1541. Prohibition on release and use of certain personal information from State motor vehicle records

(a) IN GENERAL.—A State department of motor vehicles, and any officer, employee, or contractor thereof, shall not knowingly disclose or otherwise make available to any person or entity:

(1) personal information about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

(2) highly restricted personal information about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9), but this paragraph does not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of title 49, and, subject to subsection (a)(2), may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only—

(A) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

(c) RESALE OR REDISCLOSURE.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or redisclosES personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

(d) WAIVER PROCEDURES.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

(e) PROHIBITION ON CONDITIONS.—No State may condition or burden in any way the issuance of an individual's motor vehicle record to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

§ 1542. Additional unlawful acts

(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 1541(b) of this title.

(b) FALSE REPRESENTATION.—It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

§ 1543. Penalties

(a) CRIMINAL FINE.—A person who knowingly violates this chapter shall be fined under this title.

(b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VEHICLES.—Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

§ 1544. Civil action

(a) CAUSE OF ACTION.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) REMEDIES.—The court may award—

(1) actual damages, but not less than liquidated damages in the amount of $2,500;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

§ 1545. Definitions

As used in this subchapter—

(1) the term ''motor vehicle record'' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

(2) the term ''personal information'' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

(3) the term ''highly restricted personal information'' means an individual's photograph or image, social security number, medical or disability information; and

(4) the term ''express consent'' means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106–229.

SUBCHAPTER E—IDENTITY THEFT

Sec.
1551. Obtaining information under false pretenses.
1552. Unauthorized disclosures by officers or employees.
1553. Definitions for subchapter.

§ 1551. Obtaining information under false pretenses

Whoever knowingly obtains information on a consumer from a consumer reporting agency under false pretenses shall be imprisoned for not more than 2 years.

§ 1552. Unauthorized disclosures by officers or employees

Any officer or employee of a consumer reporting agency who knowingly provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be imprisoned for not more than 2 years.

§ 1553. Definitions for subchapter

A term defined in the Fair Credit Reporting Act shall have the same meaning when used in the subchapter.

CHAPTER 50—FORFEITURE

Subchapter	Sec.
A. Property subject to forfeiture	**2501**
B. Civil forfeiture	**2551**
C. Criminal forfeiture	**2561**

SUBCHAPTER A—PROPERTY SUBJECT TO FORFEITURE

Sec.
2501. Forfeitable property.

§ 2501. Forfeitable property

(a) DEFINITIONS.—As used in this chapter—

(1) the term ''forfeitable property'' means any property, real or personal, tangible or intangible, that is—

(A) used or intended to be used to commit or facilitate the offense;

(B) constituting, derived from, or traceable to proceeds of the offense; or

(C) substitute assets for property described in subparagraph (1) or (B); and

(2) the term ''proceeds'' means all property obtained directly or indirectly from the offense. .

(b) SPECIAL RULE FOR TERRORIST OFFENSES.—In the case of an act of domestic or international terrorism, as defined in section 283, there shall be deemed to be involved in the offense all assets, foreign and domestic—

(A) of any individual, entity, or organization engaged in planning or perpetrating the act, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

(B) acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing the act; or

(C) derived from, involved in, or used or intended to be used to commit the act of domestic or international terrorism.

SUBCHAPTER B—CIVIL FORFEITURE

Sec.
2551. Offenses giving rise to civil forfeiture.
2552. Procedure generally.
2553. General rules for civil forfeiture proceedings.
2554. Civil forfeiture of fungible property.
2555. Civil forfeiture of real property.
2556. Subpoenas for bank records.

§ 2551. Offenses giving rise to civil forfeiture

(a) CRIMINALLY RELATED PROPERTY SUBJECT TO FORFEITURE.—All right, title, and interest in forfeitable property relating to an offense described in subsection (b) shall vest in the United States upon commission of that offense.

(b) OFFENSES GIVING RISE TO CIVIL FORFEITURE.—The following offenses give rise to civil forfeiture under this section:

(1) A violation of section 612, 614, 692-695, 697-702, 712, 773-775, 779, 783, 786, 787, 789, 804, 862-865, or 1003 or any offense constituting ''specified unlawful activity'' (as defined in section 1451).

(2) An offense against a foreign nation, or any property used to facilitate such an offense, if the offense—

(A) involves the manufacture, importation, sale, or distribution of a controlled substance (as that term is defined for purposes of the controlled substances act), or any other conduct described in section 1451;

(B) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding one year; and

(C) would be punishable under the laws of the United States by imprisonment for a term exceeding one year, if the conduct constituting the offense had occurred within the jurisdiction of the United States.

(3) A violation of—

(A) section 654 (relating to Federal program fraud);

(B) section 772 (relating to fraud and false statements);

(C) section 788 (relating to major fraud against the United States);

(D) section 789 (relating to concealment of assets from conservator or receiver of insured financial institution);

(E) section 801 (relating to mail fraud); or

(F) section 803 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

(4) A violation of—

(A) section 718 (altering or removing motor vehicle identification numbers);

(B) section 866 (importing or exporting stolen motor vehicles);

(C) section 671 (transporting stolen motor vehicles in interstate commerce); or

(D) section 672 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).

(5) Any act of domestic or international terrorism (as defined in section 283) against the United States, citizens or residents of the United States, or their property.

(6) A violation, of section 280.

(c) APPLICATION TO OTHER CIVIL FORFEITURES.—Unless otherwise specified, whenever a law of the United States provides for civil forfeiture, this subchapter shall apply to that forfeiture.

§ 2552. Procedure generally

(a) SEIZURE AND PRELIMINARY MATTERS.—

(1) Except as provided in section 2555, any property subject to forfeiture to the United States under section 2551 may be seized by the Attorney General and, in the

case of property involved in a violation investigated by the Secretary of the Treasury or the United States Postal Service, the property may also be seized by the Secretary of the Treasury or the Postal Service, respectively.

(2) Seizures under this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure, except that a seizure may be made without a warrant if—

(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims;

(B) there is probable cause to believe that the property is subject to forfeiture and—

(i) the seizure is made pursuant to a lawful arrest or search; or

(ii) another exception to the Fourth Amendment warrant requirement would apply; or

(C) the property was lawfully seized by a State or local law enforcement agency and transferred to a Federal agency.

(3) Notwithstanding rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of any foreign state for service in accordance with any treaty or other international agreement. Any motion for the return of property seized under this section shall be filed in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

(4)(A) If any person is arrested or charged in a foreign country in connection with an offense that would give rise to the forfeiture of property in the United States under

this section or under the Controlled Substances Act, the Attorney General may apply to any Federal judge or magistrate judge in the district in which the property is located for an ex parte order restraining the property subject to forfeiture for not more than 30 days, except that the time may be extended for good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal Rules of Civil Procedure.

(B) The application for the restraining order shall set forth the nature and circumstances of the foreign charges and the basis for belief that the person arrested or charged has property in the United States that would be subject to forfeiture, and shall contain a statement that the restraining order is needed to preserve the availability of property for such time as is necessary to receive evidence from the foreign country or elsewhere in support of probable cause for the seizure of the property under this subsection.

(b) SECURING OF PROPERTY.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under this subsection, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, 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, if practicable, to an appropriate location for disposition in accordance with law.

(c) APPLICATION OF CUSTOMS LAWS.—For purposes of this section, the provisions of the customs laws relating to the seizure, summary and judicial forfeiture, condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale of such property under

this section, the remission or mitigation of such forfeitures, and the compromise of claims (19 U.S.C. 1602 et seq.), insofar as they are applicable and not inconsistent with the provisions of this section, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, 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 section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be. The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding.

(d) RETENTION OR TRANSFER OF FORFEITED PROPERTY.—Notwithstanding any other provision of the law, except section 3 of the Anti Drug Abuse Act of 1986, the Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, is authorized to retain property forfeited pursuant to this section, or to transfer such property on such terms and conditions as the Attorney General may determine—

(1) to any other Federal agency;

(2) to any State or local law enforcement agency which participated directly in any of the acts which led to the seizure or forfeiture of the property;

(3) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency—

(A) to reimburse the agency for payments to claimants or creditors of the institution; and

(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

(4) in the case of property referred to in subsection (a)(1)(C), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institu-

tion as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding;

(5) in the case of property referred to in subsection (a)(1)(C), to any Federal financial institution regulatory agency, to the extent of the agency's contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property;

(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of a money laundering offense, any offense constituting the underlying specified unlawful activity; or

(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).

The Attorney General, the Secretary of the Treasury, or the Postal Service, as the case may be, shall ensure the equitable transfer pursuant to paragraph (2) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by the Attorney General, the Secretary of the Treasury, or the Postal Service pursuant to paragraph (2) shall not be subject to review. The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency. The Attorney General, the Secretary of the Treasury, or the Postal Service may order the discontinuance of any forfeiture proceedings under this section in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute. After the filing of a complaint for forfeiture under this section, the Attorney General may seek dismissal of the com-

plaint in favor of forfeiture proceedings under State or local law. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, the United States may transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials. Whenever forfeiture proceedings are discontinued by the United States in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of the discontinuance or dismissal. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials. The United States shall not be liable in any action arising out of a transfer under paragraph (3), (4), or (5) of this subsection.

(e) STAYS.—

(1) Upon the motion of the United States, the court shall stay the civil forfeiture proceeding if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related criminal investigation or the prosecution of a related criminal case.

(2) Upon the motion of a claimant, the court shall stay the civil forfeiture proceeding with respect to that claimant if the court determines that—

(A) the claimant is the subject of a related criminal investigation or case;

(B) the claimant has standing to assert a claim in the civil forfeiture proceeding; and

(C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related investigation or case.

(3) With respect to the impact of civil discovery described in paragraphs (1) and (2), the court may determine that a stay is unnecessary if a protective order limiting discovery would protect the interest of one party without unfairly limiting the ability of the opposing party to pursue the civil case. In no case, however, shall the court impose a protective order as an alternative to a stay if the effect

of such protective order would be to allow one party to pursue discovery while the other party is substantially unable to do so.

(4) In this subsection, the terms ''related criminal case'' and ''related criminal investigation'' mean an actual prosecution or investigation in progress at the time at which the request for the stay, or any subsequent motion to lift the stay is made. In determining whether a criminal case or investigation is ''related'' to a civil forfeiture proceeding, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the two proceedings, without requiring an identity with respect to any one or more factors.

(5) In requesting a stay under paragraph (1), the Government may, in appropriate cases, submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(6) Whenever a civil forfeiture proceeding is stayed pursuant to this subsection, the court shall enter any order necessary to preserve the value of the property or to protect the rights of lienholders or other persons with an interest in the property while the stay is in effect.

(7) A determination by the court that the claimant has standing to request a stay pursuant to paragraph (2) shall apply only to this subsection and shall not preclude the Government from objecting to the standing of the claimant by dispositive motion or at the time of trial.

(f) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(g) DISPOSITION.—

(1) Whenever property is civilly or criminally forfeited under this subchapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(A) has been agreed to by the Secretary of State;

(B) is authorized in an international agreement between the United States and the foreign country; and

(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.

A decision by the Attorney General or the Secretary of the Treasury pursuant to this paragraph shall not be subject to review. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subsection, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General or the Secretary of the Treasury may, in his discretion, set.

(2) This section does not limit or supersede any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of forfeiture under this section and was determined by such court to be the type of property described in subsection (a)(1)(B) of this section, and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning

such order or judgment of forfeiture, shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of forfeiture, when admitted into evidence, shall constitute probable cause that the property forfeited by such order or judgment of forfeiture is subject to forfeiture under this section and creates a rebuttable presumption of the forfeitability of such property under this section.

(4) A certified order or judgment of conviction by a court of competent jurisdiction of a foreign country concerning an unlawful drug activity which gives rise to forfeiture under this section and any certified recordings or transcripts of testimony taken in a foreign judicial proceeding concerning such order or judgment of conviction shall be admissible in evidence in a proceeding brought pursuant to this section. Such certified order or judgment of conviction, when admitted into evidence, creates a rebuttable presumption that the unlawful drug activity giving rise to forfeiture under this section has occurred.

(5) Paragraphs (3) and (4) do not limit the admissibility of any evidence otherwise admissible, or the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

(h) DEFINITIONS.—As used in this section—

(1) the term ''Attorney General'' means the Attorney General or his delegate; and

(2) the term ''Secretary of the Treasury'' means the Secretary of the Treasury or his delegate.

(i) INTERBANK ACCOUNTS.—

(1) IN GENERAL.—

(A) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section

5318(j)(1) of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

(B) AUTHORITY TO SUSPEND.—The Attorney General, in consultation with the Secretary of the Treasury, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign bank is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign bank, nor shall it be necessary for the Government to rely on the application of section 2554.

(3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign bank may contest the forfeiture by filing a claim under section 2553.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

(A) INTERBANK ACCOUNT.—The term ''interbank account'' has the same meaning as in section 2554(c)(2)(B).

(B) OWNER.—

(i) IN GENERAL.—Except as provided in clause (ii), the term ''owner''—

(I) means the person who was the owner, as that term is defined in section 2553(d)(6), of the funds that were deposited into the foreign bank at the time such funds were deposited; and

(II) does not include either the foreign bank or any financial institution acting as an intermediary in the transfer of the funds into the interbank account.

(ii) EXCEPTION.—The foreign bank may be considered the ''owner'' of the funds (and no other person shall qualify as the owner of such funds) only if—

(I) the basis for the forfeiture action is wrongdoing committed by the foreign bank; or

(II) the foreign bank establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign bank had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign bank shall be deemed the owner of the funds to the extent of such discharged obligation.

§ 2553. General rules for civil forfeiture proceedings

(a) NOTICE; CLAIM; COMPLAINT.—

(1)(A)(i) Except as provided in clauses (ii) through (v), in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the Government is required to send written notice to interested parties, such notice shall be sent in a manner to achieve proper notice as soon as practicable, and in no case more than 60 days after the date of the seizure.

(ii) No notice is required if, before the 60-day period expires, the Government files a civil judicial forfeiture action against the property and provides notice of that action as required by law.

(iii) If, before the 60-day period expires, the Government does not file a civil judicial forfeiture action, but does obtain a criminal indictment containing an allegation that the property is subject to forfeiture, the Government shall either—

(I) send notice within the 60 days and continue the nonjudicial civil forfeiture proceeding under this section; or

(II) terminate the nonjudicial civil forfeiture proceeding, and take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute.

(iv) In a case in which the property is seized by a State or local law enforcement agency and turned over to a Federal law enforcement agency for the purpose of forfeiture under Federal law, notice shall be sent not more than 90 days after the date of seizure by the State or local law enforcement agency.

(v) If the identity or interest of a party is not determined until after the seizure or turnover but is determined before a declaration of forfeiture is entered, notice shall be sent to such interested party not later than 60 days after the determination by the Government of the identity of the party or the party's interest.

(B) A supervisory official in the headquarters office of the seizing agency may extend the period for sending notice under subparagraph (A) for a period not to exceed 30 days (which period may not be further extended except by a court), if the official determines that the conditions in subparagraph (D) are present.

(C) Upon motion by the Government, a court may extend the period for sending notice under subparagraph (A) for a period not to exceed 60 days, which period may be

further extended by the court for 60-day periods, as necessary, if the court determines, based on a written certification of a supervisory official in the headquarters office of the seizing agency, that the conditions in subparagraph (D) are present.

(D) The period for sending notice under this paragraph may be extended only if there is reason to believe that notice may have an adverse result, including—

(i) endangering the life or physical safety of an individual;

(ii) flight from prosecution;

(iii) destruction of or tampering with evidence;

(iv) intimidation of potential witnesses; or

(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

(E) Each of the Federal seizing agencies conducting nonjudicial forfeitures under this section shall report periodically to the Committees on the Judiciary of the House of Representatives and the Senate the number of occasions when an extension of time is granted under subparagraph (B).

(F) If the Government does not send notice of a seizure of property in accordance with subparagraph (A) to the person from whom the property was seized, and no extension of time is granted, the Government shall return the property to that person without prejudice to the right of the Government to commence a forfeiture proceeding at a later time. The Government shall not be required to return contraband or other property that the person from whom the property was seized may not legally possess.

(2)(A) Any person claiming property seized in a nonjudicial civil forfeiture proceeding under a civil forfeiture statute may file a claim with the appropriate official after the seizure.

(B) A claim under subparagraph (A) may be filed not later than the deadline set forth in a personal notice letter (which deadline may be not earlier than 35 days after the

date the letter is mailed), except that if that letter is not received, then a claim may be filed not later than 30 days after the date of final publication of notice of seizure.

(C) A claim shall—

(i) identify the specific property being claimed;

(ii) state the claimant's interest in such property; and

(iii) be made under oath, subject to penalty of perjury.

(D) A claim need not be made in any particular form. Each Federal agency conducting nonjudicial forfeitures under this section shall make claim forms generally available on request, which forms shall be written in easily understandable language.

(E) Any person may make a claim under subparagraph (A) without posting bond with respect to the property which is the subject of the claim.

(3)(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

(B) If the Government does not—

(i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or

(ii) before the time for filing a complaint has expired—

(I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and

(II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute,

the Government shall promptly release the property pursuant to regulations promulgated by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.

(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government's right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.

(D) No complaint may be dismissed on the ground that the Government did not have adequate evidence at the time the complaint was filed to establish the forfeitability of the property.

(4)(A) In any case in which the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person's interest in the property in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, except that such claim may be filed not later than 30 days after the date of service of the Government's complaint or, as applicable, not later than 30 days after the date of final publication of notice of the filing of the complaint.

(B) A person asserting an interest in seized property, in accordance with subparagraph (A), shall file an answer to the Government's complaint for forfeiture not later than 20 days after the date of the filing of the claim.

(b) REPRESENTATION.—

(1)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the person is represented by counsel appointed under section 3006A of this

title in connection with a related criminal case, the court may authorize counsel to represent that person with respect to the claim.

(B) In determining whether to authorize counsel to represent a person under subparagraph (A), the court shall take into account such factors as—

(i) the person's standing to contest the forfeiture; and

(ii) whether the claim appears to be made in good faith.

(2)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the property subject to forfeiture is real property that is being used by the person as a primary residence, the court, at the request of the person, shall insure that the person is represented by an attorney for the Legal Services Corporation with respect to the claim.

(B)(i) At appropriate times during a representation under subparagraph (A), the Legal Services Corporation shall submit a statement of reasonable attorney fees and costs to the court.

(ii) The court shall enter a judgment in favor of the Legal Services Corporation for reasonable attorney fees and costs submitted pursuant to clause (i) and treat such judgment as payable under section 2465 of title 28, United States Code, regardless of the outcome of the case.

(3) The court shall set the compensation for representation under this subsection, which shall be equivalent to that provided for court-appointed representation under section 3006A of this title.

(c) BURDEN OF PROOF.—In a suit or action brought under any civil forfeiture statute for the civil forfeiture of any property—

(1) the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture;

(2) the Government may use evidence gathered after the filing of a complaint for forfeiture to establish, by a preponderance of the evidence, that property is subject to forfeiture; and

(3) if the Government's theory of forfeiture is that the property was used to commit or facilitate the commission of a criminal offense, or was involved in the commission of a criminal offense, the Government shall establish that there was a substantial connection between the property and the offense.

(d) INNOCENT OWNER DEFENSE.—

(1) An innocent owner's interest in property shall not be forfeited under any civil forfeiture statute. The claimant shall have the burden of proving that the claimant is an innocent owner by a preponderance of the evidence.

(2)(A) With respect to a property interest in existence at the time the illegal conduct giving rise to forfeiture took place, the term ''innocent owner'' means an owner who—

(i) did not know of the conduct giving rise to forfeiture; or

(ii) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate such use of the property.

(B)(i) For the purposes of this paragraph, ways in which a person may show that such person did all that reasonably could be expected may include demonstrating that such person, to the extent permitted by law—

(I) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

(II) in a timely fashion revoked or made a good faith attempt to revoke permission for those engaging

in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

(ii) A person is not required by this subparagraph to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term ''innocent owner'' means a person who, at the time that person acquired the interest in the property—

(i) was a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); and

(ii) did not know and was reasonably without cause to believe that the property was subject to forfeiture.

(B) An otherwise valid claim under subparagraph (A) shall not be denied on the ground that the claimant gave nothing of value in exchange for the property if—

(i) the property is the primary residence of the claimant;

(ii) depriving the claimant of the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant;

(iii) the property is not, and is not traceable to, the proceeds of any criminal offense; and

(iv) the claimant acquired his or her interest in the property through marriage, divorce, or legal separation, or the claimant was the spouse or legal dependent of a person whose death resulted in the transfer of the property to the claimant through inheritance or probate,

except that the court shall limit the value of any real property interest for which innocent ownership is recognized

under this subparagraph to the value necessary to maintain reasonable shelter in the community for such claimant and all dependents residing with the claimant.

(4) Notwithstanding any provision of this subsection, no person may assert an ownership interest under this subsection in contraband or other property that it is illegal to possess.

(5) If the court determines, in accordance with this section, that an innocent owner has a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in such property, the court may enter an appropriate order—

(A) severing the property;

(B) transferring the property to the Government with a provision that the Government compensate the innocent owner to the extent of his or her ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets; or

(C) permitting the innocent owner to retain the property subject to a lien in favor of the Government to the extent of the forfeitable interest in the property.

(6) In this subsection, the term ''owner''—

(A) means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security interest, or valid assignment of an ownership interest; and

(B) does not include—

(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

(iii) a nominee who exercises no dominion or control over the property.

(e) MOTION TO SET ASIDE FORFEITURE.—

(1) Any person entitled to written notice in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside a declaration of forfeiture with respect to that person's interest in the property, which motion shall be granted if—

(A) the Government knew, or reasonably should have known, of the moving party's interest and failed to take reasonable steps to provide such party with notice; and

(B) the moving party did not know or have reason to know of the seizure within sufficient time to file a timely claim.

(2)(A) Notwithstanding the expiration of any applicable statute of limitations, if the court grants a motion under paragraph (1), the court shall set aside the declaration of forfeiture as to the interest of the moving party without prejudice to the right of the Government to commence a subsequent forfeiture proceeding as to the interest of the moving party.

(B) Any proceeding described in subparagraph (A) shall be commenced—

(i) if nonjudicial, within 60 days of the entry of the order granting the motion; or

(ii) if judicial, within 6 months of the entry of the order granting the motion.

(3) A motion under paragraph (1) may be filed not later than 5 years after the date of final publication of notice of seizure of the property.

(4) If, at the time a motion made under paragraph (1) is granted, the forfeited property has been disposed of by the Government in accordance with law, the Government may institute proceedings against a substitute sum of money equal to the value of the moving party's interest in the property at the time the property was disposed of.

(5) A motion filed under this subsection shall be the exclusive remedy for seeking to set aside a declaration of forfeiture under a civil forfeiture statute.

(f) RELEASE OF SEIZED PROPERTY.—

(1) A claimant under subsection (a) is entitled to immediate release of seized property if—

(A) the claimant has a possessory interest in the property;

(B) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

(C) the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

(D) the claimant's likely hardship from the continued possession by the Government of the seized property outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if it is returned to the claimant during the pendency of the proceeding; and

(E) none of the conditions set forth in paragraph (8) applies.

(2) A claimant seeking release of property under this subsection must request possession of the property from the appropriate official, and the request must set forth the basis on which the requirements of paragraph (1) are met.

(3)(A) If not later than 15 days after the date of a request under paragraph (2) the property has not been released, the claimant may file a petition in the district court in which the complaint has been filed or, if no complaint has been filed, in the district court in which the seizure warrant was issued or in the district court for the district in which the property was seized.

(B) The petition described in subparagraph (A) shall set forth—

(i) the basis on which the requirements of paragraph (1) are met; and

(ii) the steps the claimant has taken to secure release of the property from the appropriate official.

(4) If the Government establishes that the claimant's claim is frivolous, the court shall deny the petition. In responding to a petition under this subsection on other grounds, the Government may in appropriate cases submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

(5) The court shall render a decision on a petition filed under paragraph (3) not later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.

(6) If—

(A) a petition is filed under paragraph (3); and

(B) the claimant demonstrates that the requirements of paragraph (1) have been met,

the district court shall order that the property be returned to the claimant, pending completion of proceedings by the Government to obtain forfeiture of the property.

(7) If the court grants a petition under paragraph (3)—

(A) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including—

(i) permitting the inspection, photographing, and inventory of the property;

(ii) fixing a bond in accordance with rule E(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims; and

(iii) requiring the claimant to obtain or maintain insurance on the subject property; and

(B) the Government may place a lien against the property or file a lis pendens to ensure that the property is not transferred to another person.

(8) This subsection shall not apply if the seized property—

(A) is contraband, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or electronic funds constitutes the assets of a legitimate business which has been seized;

(B) is to be used as evidence of a violation of the law;

(C) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

(D) is likely to be used to commit additional criminal acts if returned to the claimant.

(g) PROPORTIONALITY.—

(1) The claimant under subsection (a)(4) may petition the court to determine whether the forfeiture was constitutionally excessive.

(2) In making this determination, the court shall compare the forfeiture to the gravity of the offense giving rise to the forfeiture.

(3) The claimant shall have the burden of establishing that the forfeiture is grossly disproportional by a preponderance of the evidence at a hearing conducted by the court without a jury.

(4) If the court finds that the forfeiture is grossly disproportional to the offense it shall reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution.

(h) CIVIL FINE.—

(1) In any civil forfeiture proceeding under a civil forfeiture statute in which the Government prevails, if the court finds that the claimant's assertion of an interest in the property was frivolous, the court may impose a civil

fine on the claimant of an amount equal to 10 percent of the value of the forfeited property, but in no event shall the fine be less than $250 or greater than $5,000.

(2) Any civil fine imposed under this subsection shall not preclude the court from imposing sanctions under rule 11 of the Federal Rules of Civil Procedure.

(3) In addition to the limitations of section 1915 of title 28, United States Code, in no event shall a prisoner file a claim under a civil forfeiture statute or appeal a judgment in a civil action or proceeding based on a civil forfeiture statute if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous or malicious, unless the prisoner shows extraordinary and exceptional circumstances.

(i) CIVIL FORFEITURE STATUTE DEFINED.—In this section, the term ''civil forfeiture statute''—

(1) means any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense; and

(2) does not include—

(A) the Tariff Act of 1930 or any other provision of law codified in title 19;

(B) the Internal Revenue Code of 1986;

(C) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.);

(D) the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.); or

(E) section 1 of title VI of the Act of June 15, 1917 (40 Stat. 233; 22 U.S.C. 401).

(j) RESTRAINING ORDERS; PROTECTIVE ORDERS.—

(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of satisfactory performance bonds, create receiv-

erships, appoint conservators, custodians, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or preserve the availability of property subject to civil forfeiture—

(A) upon the filing of a civil forfeiture complaint alleging that the property with respect to which the order is sought is subject to civil forfeiture; or

(B) prior to the filing of such a complaint, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(2) An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days, unless extended by the court for good cause shown, or unless a complaint described in paragraph (1)(A) has been filed.

(3) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when a complaint has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to civil forfeiture and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an exten-

sion for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(4) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

§ 2554. Civil forfeiture of fungible property

(a) GENERALLY.—

(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution or precious metals—

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

(b) LIMITATION.—No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

(c) EXCEPTION.—

(1) Subsection (a) does not apply to an action against funds held by a financial institution in an interbank account unless the account holder knowingly engaged in the offense that is the basis for the forfeiture.

(2) In this subsection—

(A) the term ''financial institution'' includes a foreign bank (as defined in section 1(b)(7) of the Inter-

national Banking Act of 1978 (12 U.S.C. 3101(b)(7)); and

(B) the term ''interbank account'' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.

(d) DISCLAIMER.—Nothing in this section limits the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

§ 2555. Civil forfeiture of real property

(a) JUDICIAL FORFEITURES.—Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

(b) PRELIMINARY MATTERS.—

(1) Except as provided in this section—

(A) real property that is the subject of a civil forfeiture action shall not be seized before entry of an order of forfeiture; and

(B) the owners or occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action.

(2) The filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.

(c) INITIATION.—

(1) The Government shall initiate a civil forfeiture action against real property by—

(A) filing a complaint for forfeiture;

(B) posting a notice of the complaint on the property; and

(C) serving notice on the property owner, along with a copy of the complaint.

(2) If the property owner cannot be served with the notice under paragraph (1) because the owner—

(A) is a fugitive;

(B) resides outside the United States and efforts at service pursuant to rule 4 of the Federal Rules of Civil Procedure are unavailing; or

(C) cannot be located despite the exercise of due diligence,

constructive service may be made in accordance with the laws of the State in which the property is located.

(3) If real property has been posted in accordance with this subsection, it shall not be necessary for the court to issue an arrest warrant in rem, or to take any other action to establish in rem jurisdiction over the property.

(d) SEIZURE PRIOR TO ENTRY OF ORDER.—

(1) Real property may be seized prior to the entry of an order of forfeiture if—

(A) the Government notifies the court that it intends to seize the property before trial; and

(B) the court—

(i) issues a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing in which the property owner has a meaningful opportunity to be heard; or

(ii) makes an ex parte determination that there is probable cause for the forfeiture and that there are exigent circumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to be heard.

(2) For purposes of paragraph (1)(B)(ii), to establish exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not suffice to protect the Government's interests in preventing the sale, destruction, or continued unlawful use of the real property.

(e) POST-SEIZURE HEARING.—If the court authorizes a seizure of real property under subsection (d)(1)(B)(ii), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

(f) APPLICATION.—This section—

(1) applies only to civil forfeitures of real property and interests in real property;

(2) does not apply to forfeitures of the proceeds of the sale of such property or interests, or of money or other assets intended to be used to acquire such property or interests; and

(3) shall not affect the authority of the court to enter a restraining order relating to real property.

§ 2556. Subpoenas for bank records

(a) IN GENERAL.—At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1451, 1452, and 508 of this title, section 5322 or 5324 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 2555 of this title shall apply to subpoenas issued under this section.

(b) SERVICE.—Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

(c) DISCOVERY.—Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.

(d) ACCESS TO RECORDS IN BANK SECRECY JURISDICTIONS.—

(1) IN GENERAL.—In any civil forfeiture case, or in any ancillary proceeding in any criminal forfeiture case governed by section 413(n) of the Controlled Substances Act (21 U.S.C. 853(n)), in which—

(A) financial records located in a foreign country may be material—

(i) to any claim or to the ability of the Government to respond to such claim; or

(ii) in a civil forfeiture case, to the ability of the Government to establish the forfeitability of the property; and

(B) it is within the capacity of the claimant to waive the claimant's rights under applicable financial secrecy laws, or to obtain the records so that such records can be made available notwithstanding such secrecy laws,

the refusal of the claimant to provide the records in response to a discovery request or to take the action necessary otherwise to make the records available shall be grounds for judicial sanctions, up to and including dismissal of the claim with prejudice.

(2) PRIVILEGE.—This subsection shall not affect the right of the claimant to refuse production on the basis of any privilege guaranteed by the Constitution of the United States or any other provision of Federal law.

SUBCHAPTER C—CRIMINAL FORFEITURE

Sec.
2561. Offenses giving rise to criminal forfeiture.
2562. Procedures for criminal forfeiture.

§ 2561. Offenses giving rise to criminal forfeiture

(a) PROPERTY FORFEITED AT TIME OF SENTENCE.—The court, when imposing a sentence on a defendant convicted of

an offense described in subsection (b), shall order the defendant forfeit to the United States all forfeitable property (as defined in section 37) related to the offense.

(b) OFFENSES FOR WHICH CRIMINAL FORFEITURE IS TO BE ORDERED.—The offenses for which criminal forfeiture shall occur under this section are the following:

(1) a violation of section 508, 1451, or 1452.

(2) a violation of, or a conspiracy to violate—

(A) section 644, 645, 773-775, 779, 801, 803, 804, or 1003, affecting a financial institution, or

(B) section 614, 692-695, 697-702, 712, 717, 781, 783, 784, 861, 862, or 863;

(C) section 654(a)(1) (relating to Federal program fraud);

(D) section 772 (relating to fraud and false statements);

(E) section 788 (relating to major fraud against the United States);

(F) section 789 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

(G) section 801 (relating to mail fraud); or

(H) section 803 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

(5) a violation of—

(A) section 718 (altering or removing motor vehicle identification numbers);

(B) section 866 (importing or exporting stolen motor vehicles);

(C) section 671 (transporting stolen motor vehicles in interstate commerce); or

(D) section 672 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

(6) a violation of, or conspiracy to violate, section 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and Nationality Act or sections 311-316 of this title, or a violation of, or conspiracy to violate, section 783 of this title if committed in connection with passport or visa issuance or use

(7) a Federal health care offense.

(8) an offense under section 783, 786, 801, 802, 807, or 804.

(9) an offense under section 213, 221 or 222.

(10) a violation of section 301, 302, 303, or 320.

(11) a violation of chapter 17.

(12) a violation of section 631.

(13) a violation of section 783, 786, or 794.

(14) a violation of section 1307.

(15) a violation of subchapter C of chapter 35.

§ 2562. Procedures for criminal forfeiture

(a) APPLICATION OF PROCEDURES.—Unless otherwise provided by law, the procedures set forth in this section govern any criminal forfeiture under a law of the United States.

(b) THIRD PARTY TRANSFERS.—All right, title, and interest in forfeitable vests in the United States upon the commission of the act giving rise to forfeiture under this subchapter. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) that the transferee is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

(c) REBUTTABLE PRESUMPTION.—There is a rebuttable presumption at trial that any property of a person convicted of a felony under chapter 17 is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

(1) such property was acquired by such person during the period of the violation or within a reasonable time after such period; and

(2) there was no likely source for such property other than the violation

(d) PROTECTIVE ORDERS.—

(1) WHEN ISSUED.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property for forfeiture under this section—

(A) upon the filing of an indictment or information charging a violation for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(2) LENGTH.—An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in paragraph (1)(A) has been filed.

(3) EX PARTE.—A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

(4) EVIDENCE.—The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

(5) ORDER TO REPATRIATE AND DEPOSIT.—

(A) IN GENERAL.—Pursuant to its authority to enter a pretrial restraining order under this section, the court may order a defendant to repatriate any property that may be seized and forfeited, and to deposit that property pending trial in the registry of the court, or with the United States Marshals Service or the Secretary of the Treasury, in an interest-bearing account, if appropriate.

(B) FAILURE TO COMPLY.—Failure to comply with an order under this subsection, or an order to repatriate property under subsection (o), shall be punish-

able as a civil or criminal contempt of court, and may also result in an enhancement of the sentence of the defendant under the obstruction of justice provision of the Federal Sentencing Guidelines.

(e) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (d) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accuring to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale of any other any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on the behalf of the defendant be eligible to purchase

forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with or on the behalf of the defendant, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to the applicant.

(h) AUTHORITY OF THE ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

(2) compromise claims arising under this section;

(3) award compensation to persons providing information resulting in a forfeiture under this section;

(4) direct the disposition by the United States, in accordance with section 511(e) of the Controlled Substances Act, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with this section, section 511(d) of the Controlled Substances Act applies to a criminal forfeiture under this section.

(j) BAR ON INTERVENTION.—Except as provided in subsection (m), no party claiming an interest in property subject to forfeiture under this section may—

(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property in subject to forfeiture under this section.

(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time any place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the

property. The hearing shall be held before the court alone, without a jury.

(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, and additional facts supporting the petitioner's claim, and the relief sought.

(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of this claim to the property and cross-examine witnesses who appear at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under the section; or

(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe

that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

(n) RULE OF CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

(o) FORFEITURE OF SUBSTITUTE PROPERTY.—

(1) IN GENERAL.—Paragraph (2) of this subsection shall apply, if any property described in subsection (a), as a result of any act or omission of the defendant—

(A) cannot be located upon the exercise of due diligence;

(B) has been transferred or sold to, or deposited with, a third party;

(C) has been placed beyond the jurisdiction of the court;

(D) has been substantially diminished in value; or

(E) has been commingled with other property which cannot be divided without difficulty.

(2) SUBSTITUTE PROPERTY.—In any case described in any of subparagraphs (A) through (E) of paragraph (1), the court shall order the forfeiture of any other property of the defendant, up to the value of any property described in subparagraphs (A) through (E) of paragraph (1), as applicable.

(3) RETURN OF PROPERTY TO JURISDICTION.—In the case of property described in paragraph (1)(C), the court may, in addition to any other action authorized by this subsection, order the defendant to return the property to the

jurisdiction of the court so that the property may be seized and forfeited.

(4) LIMITATION.—This subsection shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period.

(p) SPECIAL RESTITUTION.—The court, when sentencing a defendant convicted of an offense under chapter 17 involving the manufacture, the possession, or the possession with intent to distribute, of amphetamine or methamphetamine, shall—

(1) order restitution as provided in sections 3612 and 3664;

(2) order the defendant to reimburse the United States, the State or local government concerned, or both the United States and the State or local government concerned for the costs incurred by the United States or the State or local government concerned, as the case may be, for the cleanup associated with the manufacture of amphetamine or methamphetamine by the defendant, or on premises or in property that the defendant owns, resides, or does business in; and

(3) order restitution to any person injured as a result of the offense as provided in section 3663A.

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