

Ronald Reagan Presidential Library
Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Bledsoe, Ralph C.: Files
Folder Title: [Drug Abuse Policy - January 1986] (2)
Box: 20

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

Ninety-ninth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday, the twenty-first day of January,
one thousand nine hundred and eighty-six*

An Act

To strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes.

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

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Anti-Drug Abuse Act of
3 1986".

4 SEC. 2. ORGANIZATION OF ACT.

5 This Act is organized as follows:

TITLE I--ANTI-DRUG ENFORCEMENT

Subtitle A--Narcotics Penalties and Enforcement Act of 1986
 Subtitle B--Drug Possession Penalty Act of 1986
 Subtitle C--Juvenile Drug Trafficking Act of 1986
 Subtitle D--Assets Forfeiture Amendments Act of 1986
 Subtitle E--Controlled Substance Analogue Enforcement Act of 1986
 Subtitle F--Continuing Drug Enterprise Act of 1986
 Subtitle G--Controlled Substances Import and Export Act Penalties
 Enhancement Act of 1986
 Subtitle H--Money Laundering Control Act of 1986
 Subtitle I--Armed Career Criminals
 Subtitle J--Authorization of Appropriations for Drug Law
 Enforcement
 Subtitle K--State and Local Narcotics Control Assistance
 Subtitle L--Study on the Use of Existing Federal Buildings as
 Prisons
 Subtitle M--Narcotics Traffickers Deportation Act
 Subtitle N--Freedom of Information Act
 Subtitle O--Prohibition on the Interstate Sale and Transportation
 of Drug Paraphernalia
 Subtitle P--Manufacturing Operations
 Subtitle Q--Controlled Substances Technical Amendments
 Subtitle R--Precursor and essential chemical review
 Subtitle S--White House Conference for A Drug Free America
 Subtitle T--Common carrier operation under the influence of

alcohol or drugs
Subtitle U--Federal Drug Law Enforcement Agent Protection Act of 1986

TITLE II--INTERNATIONAL NARCOTICS CONTROL
TITLE III--INTERDICTION

Subtitle A--Department of Defense Drug Interdiction Assistance
Subtitle B--Customs Enforcement
Subtitle C--Maritime Drug Law Enforcement Prosecution Improvements Act of 1986
Subtitle D--Coast Guard
Subtitle E-- United States Bahamas Drug Interdiction Task Force
Subtitle F--Command, Control, Communications, and Intelligence Centers
Subtitle G--Transportation Safety
Subtitle H--Department of Justice funds for drug interdiction operation in Hawaii
Subtitle I--Federal Communications Commission

TITLE IV--DEMAND REDUCTION

Subtitle A--Treatment and rehabilitation
Subtitle B--Drug-Free Schools and Communities Act of 1986
Subtitle C--Indians and Alaska Natives
Subtitle D--Miscellaneous Provisions

TITLE V--UNITED STATES INSULAR AREAS AND NATIONAL PARKS

Subtitle A--Programs in United States Insular Areas.
Subtitle B--National Park Service Program.

TITLE VI--FEDERAL EMPLOYEE SUBSTANCE ABUSE EDUCATION AND TREATMENT

TITLE VII--NATIONAL ANTIDRUG REORGANIZATION AND COORDINATION
TITLE VIII--PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

TITLE IX--DENIAL OF TRADE BENEFITS TO UNCOOPERATIVE MAJOR DRUG PRODUCING OR DRUG-TRANSIT COUNTRIES

TITLE X--BALLISTIC KNIFE PROHIBITION

TITLE XI--HOMELESS ELIGIBILITY CLARIFICATION ACT

Subtitle A--Emergency Food for the Homeless
Subtitle B--Job Training for the Homeless
Subtitle C--Entitlements Eligibility

TITLE XII--COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

TITLE XIII--CYANIDE WRONGFUL USE

subsection, such person shall be sentenced to a term of imprisonment of not more than 20 years and shall be fined not more than \$20,000.

(3) For the purposes of 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.

SEC. 15006. AUTHORIZATION OF APPROPRIATIONS

There is authorized to be appropriated \$10,000,000 for each fiscal year to carry out this title.

SEC. 15007. APPROVAL OF SECRETARY OF AGRICULTURE AND ATTORNEY GENERAL

The authorities conferred herein shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

Thomas P. O'Neill
Speaker of the House of Representatives

Lyndon B. Johnson
Vice President of the United States and
President of the Senate.



TITLE XIV--SENATE POLICY CONCERNING FUNDING
TITLE XV--NATIONAL FOREST SYSTEM DRUG CONTROL

1 SEC. 3. COMPLIANCE WITH BUDGET ACT.

2 Notwithstanding any other provision of this Act, any
3 spending authority and any credit authority provided under
4 this Act shall be effective for any fiscal year only to such
5 extent or in such amounts as are provided in appropriation
6 Acts. For purposes of this Act, the term "spending
7 authority" has the meaning provided in section 401(c)(2) of
8 the Congressional Budget Act of 1974 and the term "credit
9 authority" has the meaning provided in section 3(10) of the
10 Congresssional Budget Act of 1974.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

TITLE I--ANTI-DRUG ENFORCEMENT

Subtitle A--Narcotics Penalties and Enforcement Act of 1986

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Narcotics Penalties and Enforcement Act of 1986".

SEC. 1002. CONTROLLED SUBSTANCES ACT PENALTIES.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended--

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by striking out subparagraphs (A) and (B) and inserting the following in lieu thereof:

"(1)(A) In the case of a violation of subsection (a) of this section involving--

(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(ii) 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

4

ITALIC

1 isomers, and salts of isomers;
2 (III) ecgonine, its derivatives, their salts,
3 isomers, and salts of isomers; or
4 (IV) any compound, mixture, or preparation
5 which contains any quantity of any of the substance
6 referred to in subclauses (I) through (III);"
7 (iii) 50 grams or more of a mixture or substance
8 described in clause (ii) which contains cocaine base;
9 (iv) 100 grams or more of phencyclidine (PCP) or 1
10 kilogram or more of a mixture or substance containing a
11 detectable amount of phencyclidine (PCP);
12 (v) 10 grams or more of a mixture or substance
13 containing a detectable amount of lysergic acid
14 diethylamide (LSD);
15 (vi) 400 grams or more of a mixture or substance
16 containing a detectable amount of N-phenyl-N-[1-(2-
17 phenylethyl)-4-piperidinyl] propanamide or 100 grams or
18 more of a mixture or substance containing a detectable
19 amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-
20 piperidinyl] propanamide; or
21 (vii) 1000 kilograms or more of a mixture or
22 substance containing a detectable amount of marijuana;
23 such person shall be sentenced to a term of imprisonment
24 which may not be less than 10 years or more than life and if
25 death or serious bodily injury results from the use of such

16

1

1 substance shall be not less than 20 years or more than life,
 2 a fine not to exceed the greater of that authorized in
 3 accordance with the provisions of title 18, United States
 4 Code, or \$4,000,000 if the defendant is an individual or
 5 \$10,000,000 if the defendant is other than an individual, or
 6 both. If any person commits such a violation after one or
 7 more prior convictions for an offense punishable under this
 8 paragraph, or for a felony under any other provision of this
 9 title or title III or other law of a State, the United
 10 States, or a foreign country relating to narcotic drugs,
 11 marihuana, or depressant or stimulant substances, have become
 12 final, such person shall be sentenced to a term of
 13 imprisonment which may not be less than 20 years and not more
 14 than life imprisonment and if death or serious bodily injury
 15 results from the use of such substance shall be sentenced to
 16 life imprisonment, a fine not to exceed the greater of twice
 17 that authorized in accordance with the provisions of title
 18 18, United States Code, or \$8,000,000 if the defendant is an
 19 individual or \$20,000,000 if the defendant is other than an
 20 individual, or both. Any sentence under this subparagraph
 21 shall, in the absence of such a prior conviction, impose a
 22 ~~special parole~~ term of at least 5 years in addition to such
 23 term of imprisonment and shall, if there was such a prior
 24 conviction, impose a ~~special parole~~ term of at least 10 years
 25 in addition to such term of imprisonment. Notwithstanding any

of sentenced re la

J ~~special parole~~ term of at least 5 years in addition to such
 term of imprisonment and shall, if there was such a prior

conviction, impose a ~~special parole~~ term of at least 10 years
 in addition to such term of imprisonment. Notwithstanding any

~~4-18~~

1 other provision of law, the court shall not place on
2 probation or suspend the sentence of any person sentenced
3 under this subparagraph. No person sentenced under this
4 subparagraph shall be eligible for parole during ^{the} ~~their~~ term
5 of imprisonment imposed therein.

6 (B) In the case of a violation of subsection (a) of
7 this section involving--

8 (i) 100 grams or more of a mixture or substance
9 containing a detectable amount of heroin;

10 (ii) 500 grams or more of a mixture or substance
11 containing a detectable amount of--

12 (I) coca leaves, except coca leaves and
13 extracts of coca leaves from which cocaine, ecgonine,
14 and derivatives of ecgonine or their salts have been
15 removed;

16 (II) cocaine, its salts, optical and geometric
17 isomers, and salts of isomers;

18 (III) ecgonine, its derivatives, their salts,
19 isomers, and salts of isomers; or

20 (IV) any compound, mixture, or preparation
21 which contains any quantity of any of the substance
22 referred to in subclauses (I) through (III);

23 (iii) 5 grams or more of a mixture or substance
24 described in clause (ii) which contains cocaine base;

25 (iv) 10 grams or more of phencyclidine (PCP) or 100

~~119~~ 72

1 grams or more of a mixture or substance containing a
2 detectable amount of phencyclidine (PCP);

3 (v) 1 gram or more of a mixture or substance
4 containing a detectable amount of lysergic acid
5 diethylamide (LSD);

6 (vi) 40 grams or more of a mixture or substance
7 containing a detectable amount of N-phenyl-N-(1-(2-
8 phenylethyl)-4-piperidinyl) propanamide or 10 grams or
9 more of a mixture or substance containing a detectable
10 amount of any analogue of N-phenyl-N-(1-(2-phenylethyl)-4-
11 piperidinyl) propanamide; or

12 (vii) 100 kilograms or more of a mixture or
13 substance containing a detectable amount of marihuana;
14 such person shall be sentenced to a term of imprisonment
15 which may not be less than 5 years and not more than 40 years
16 and if death or serious bodily injury results from the use of.
17 such substance shall be not less than 20 years or more than
18 life, a fine not to exceed the greater of that authorized in
19 accordance with the provisions of title 18, United States
20 Code, or \$2,000,000 if the defendant is an individual or
21 \$5,000,000 if the defendant is other than an individual, or
22 both. If any person commits such a violation after one or
23 more prior convictions for an offense punishable under this
24 paragraph, or for a felony under any other provision of this
25 title or title III or other law of a State, the United

-19-

1 States, or a foreign country relating to narcotic drugs,
 2 marihuana, or depressant or stimulant substances, have become
 3 final, such person shall be sentenced to a term of
 4 imprisonment which may not be less than 10 years and not more
 5 than life imprisonment and if death or serious bodily injury
 6 results from the use of such substance shall be sentenced to
 7 life imprisonment, a fine not to exceed the greater of twice
 8 that authorized in accordance with the provisions of title
 9 18, United States Code, or \$4,000,000 if the defendant is an
 10 individual or \$10,000,000 if the defendant is other than an
 11 individual, or both. Any sentence imposed under this
 12 subparagraph shall, in the absence of such a prior
 13 conviction, include a ~~special parole~~ term of at least 4 years
 14 in addition to such term of imprisonment and shall, if there
 15 was such a prior conviction, include a ~~special parole~~ term of
 16 at least 8 years in addition to such term of imprisonment.
 17 Notwithstanding any other provision of law, the court shall
 18 not place on probation or suspend the sentence of any person
 19 sentenced under this subparagraph. No person sentenced under
 20 this subparagraph shall be eligible for parole during ~~the~~
 21 term of imprisonment ^{imposed therein}

of supervised release

22 (C) In the case of a controlled substance in schedule I
 23 or II except as provided in subparagraphs (A), (B), and (D),
 24 such person shall be sentenced to a term of imprisonment of
 25 not more than 20 years and if death or serious bodily injury

~~SECRET~~

1 results from the use of such substance shall be sentenced to
2 a term of imprisonment of not less than twenty years or more
3 than life, a fine not to exceed the greater of that
4 authorized in accordance with the provisions of title 18,
5 United States Code, or \$1,000,000 if the defendant is an
6 individual or \$5,000,000 if the defendant is other than an
7 individual, or both. If any person commits such a violation
8 after one or more prior convictions for an offense punishable
9 under this paragraph, or for a felony under any other
10 provision of this title or title III or other law of a State,
11 the United States or a foreign country relating to narcotic
12 drugs, marihuana, or depressant or stimulant substances, have
13 become final, such person shall be sentenced to a term of
14 imprisonment of not more than 30 years and if death or
15 serious bodily injury results from the use of such substance
16 shall be sentenced to life imprisonment, a fine not to exceed
17 the greater of twice that authorized in accordance with the
18 provisions of title 18, United States Code, or \$2,000,000 if
19 the defendant is an individual or \$10,000,000 if the
20 defendant is other than an individual, or both. Any sentence
21 imposing a term of imprisonment under this paragraph shall,
22 in the absence of such a prior conviction, impose a ~~special~~
23 parole term of at least 3 years in addition to such term of
24 imprisonment and shall, if there was such a prior conviction,
25 impose a ~~special parole~~ term of at least 6 years in addition

of supervised release

1 to such term of imprisonment. Notwithstanding any other
 2 provision of law, the court shall not place on probation or
 3 suspend the sentence of any person sentenced under the
 4 provisions of this subparagraph which provide for a mandatory
 5 term of imprisonment if death or serious bodily injury
 6 results, nor shall a person so sentenced be eligible for
 7 parole during the term of such a sentence."

8 SEC. 1003. OTHER AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

9 (a) Section 401 of the Controlled Substances Act (21
 10 U.S.C. 841) is further amended as follows:

11 (1) In subsection (b), paragraph (1)(D), as
 12 redesignated, is amended by--

13 (A) striking out "a fine of not more than
 14 \$50,000" and inserting in lieu thereof "a fine not
 15 to exceed the greater of that authorized in
 16 accordance with the provisions of title 18, United
 17 States Code, or \$250,000 if the defendant is an
 18 individual or \$1,000,000 if the defendant is other
 19 than an individual";

20 (B) striking out "a fine of not more than
 21 \$100,000" and inserting in lieu thereof "a fine not
 22 to exceed the greater of twice that authorized in
 23 accordance with the provisions of title 18, United
 24 States Code, or \$500,000 if the defendant is an
 25 individual or \$2,000,000 if the defendant is other

ITALIC

1 than an individual"; and

2 (C) inserting "except in the case of 100 or more
3 marihuana plants regardless of weight," after
4 "marihuana," the first place it appears.

5 (2) In subsection (b), paragraph (2) is amended by
6 striking out "a fine of not more than \$25,000" and
7 inserting in lieu thereof "a fine not to exceed the
8 greater of that authorized in accordance with the
9 provisions of title 18, United States Code, or \$250,000
10 if the defendant is an individual or \$1,000,000 if the
11 defendant is other than an individual", and by striking
12 out "a fine of not more than \$50,000" and inserting in
13 lieu thereof "a fine not to exceed the greater of twice
14 that authorized in accordance with the provisions of
15 title 18, United States Code, or \$500,000 if the
16 defendant is an individual or \$2,000,000 if the defendant
17 is other than an individual".

18 (3) In subsection (b), paragraph (3) is amended by
19 striking out "a fine of not more than \$10,000" and
20 inserting in lieu thereof "a fine not to exceed the
21 greater of that authorized in accordance with the
22 provisions of title 18, United States Code, or \$100,000
23 if the defendant is an individual or \$250,000 if the
24 defendant is other than an individual", and by striking
25 out "a fine of not more than \$20,000" and inserting in

23

~~10-24~~

1 lieu thereof "a fine not to exceed the greater of twice
2 that authorized in accordance with the provisions of
3 title 18, United States Code, or \$200,000 if the
4 defendant is an individual or \$500,000 if the defendant
5 is other than an individual".

6 (4) In subsection (b), paragraph (4) is amended by
7 striking out "1(C)" and inserting "1(D)" in lieu
8 thereof.

9 (5) In subsection (b), paragraph (5) is amended to
10 read as follows:

11 "(5) Any person who violates subsection (a) of this
12 section by cultivating a controlled substance on Federal
13 property shall be imprisoned as provided in this subsection
14 and shall be fined any amount not to exceed--

15 "(A) the amount authorized in accordance with this
16 section;

17 "(B) the amount authorized in accordance with the
18 provisions of title 18, United States Code;

19 "(C) \$500,000 if the defendant is an individual; or

20 "(D) \$1,000,000 if the defendant is other than an
21 individual;

22 or both."

23 (6) Subsection (d) is amended by striking out "a
24 fine of not more than \$15,000" and inserting in lieu
25 thereof "a fine not to exceed the greater of that

1 authorized in accordance with the provisions of title 18,
2 United States Code, or \$250,000 if the defendant is an
3 individual or \$1,000,000 if the defendant is other than
4 an individual''.

5 (b) Section 102 of the Controlled Substances Act (21
6 U.S.C. 802) is amended--

7 (1) by inserting the following new paragraph after
8 paragraph (24):

9 `` (25) The term `serious bodily injury' means bodily
10 injury which involves--

11 (A) a substantial risk of death;

12 (B) protracted and obvious disfigurement; or

13 (C) protracted loss or impairment of the function
14 of a bodily member, organ, or mental faculty.''; and

15 (2) by renumbering the following paragraphs
16 accordingly.

17 SEC. 1004. ELIMINATION OF SPECIAL PAROLE TERMS.

18 (a) The Controlled Substances Act and the Controlled
19 Substances Import and Export Act are amended by striking out
20 ``special parole term'' ~~wherever~~ it appears and inserting
21 ``term^{of} supervised release'' in lieu thereof.

22 (b) The amendments made by this section shall take effect
23 on the date of the taking effect of section 3583 of title 18,
24 United States Code.

25 SEC. 1005. AMENDMENT TO THE COMPREHENSIVE CRIME CONTROL ACT

OF 1984.

(a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended--

(1) by inserting "and" after the semicolon in paragraph (4); and

(2) by striking out paragraphs (1), (2), (3), and (5) and redesignating the other paragraphs accordingly.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended--

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection

(b).

(c) Section 225 of the Comprehensive Crime Control Act of 1984 is amended to read as follows:

"Sec. 225. Section 1515 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by repealing subsection (c)."

SEC. 1006. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a)(1) Subsection (a) of section 3583 of title 18, United States Code, is amended by inserting "", except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute" after "imprisonment" the second place it appears.

(2) Subsection (b) of section 3583 of title 18, United

1 States Code, is amended by striking out "The" and inserting
2 in lieu thereof "Except as otherwise provided, the".

e) 3 (3) Subsection (f) of section 3583 of title 18, United
4 States Code, is amended--

5 (A) so that the catchline reads as follows:

6 "Modification of conditions or revocation.";

7 (B) in paragraph (2) by striking out "or" after the
8 semicolon;

9 (C) in paragraph (3) by striking out "title" and
10 inserting "title; or" in lieu thereof; and

11 (D) by inserting the following new paragraph after
12 paragraph (3):

e4) 13 P (4) revoke a term of supervised release, and require
14 the person to serve in prison all or part of the term of
15 supervised release without credit for time previously served
16 on postrelease supervision, if it finds by a preponderance of
17 the evidence that the person violated a condition of
18 supervised release, pursuant to the provisions of rule 32.1
19 of the Federal Rules of Criminal Procedure that are
20 applicable to probation revocation and to the provisions of
21 applicable policy statements issued by the Sentencing
22 Commission."

23 (4) The amendments made by this subsection shall take
24 effect on the date of the taking effect of section 3583 of
25 title 18, United States Code.

~~24-8~~

1 (b) Paragraph (3) of section 994(a) of title 28, United
2 States Code, is amended by inserting "and revocation of
3 supervised release" after "supervised release".

4 (c) Section 511 of title II of the Comprehensive Drug
5 Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended--

6 (1) in subsection (f) by inserting "or II" after
7 "I" each place it appears;

8 (2) by redesignating subsection (f) as subsection
9 (f)(1); and

10 (3) by inserting the following new paragraph after
11 subsection (f)(1) as so redesignated:

12 "(2) The Attorney General may direct the destruction of
13 all controlled substances in schedule I or II seized for
14 violation of this title under such circumstances as the
15 Attorney General may deem necessary."

16 ~~Subtitle B--Drug Possession Penalty Act of 1986~~

17 SEC. 1051. SHORT TITLE.

18 This subtitle may be cited as the "Drug Possession
19 Penalty Act of 1986".

20 SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

21 Section 404 of the Controlled Substances Act (21 U.S.C.
22 844) is amended to read as follows:

23 PENALTY FOR SIMPLE POSSESSION

24 SEC. 404. (a) It shall be unlawful for any person
25 knowingly or intentionally to possess a controlled substance

P17A-17D follow

(A)

8 ~~On page 28, insert the following after line 15:~~

9 SEC. 1007. AMENDMENT TO TITLE 18 OF THE UNITED STATES CCDE.

10 (a) Section 3553 of title 18, United States Ccde, is
11 amended by adding the following at the end thereof:

12 "(e) Limited Authority To Impose a Sentence Below a
13 Statutory Minimum.--Upon motion of the Government, the court
14 shall have the authority to impose a sentence belcw a level
15 established by statute as minimum sentence so as to reflect a
16 defendant's substantial assistance in the investigation or
17 prosecution of another person who has committed an offense.

1850

Such sentence shall be imposed in accordance with the
2 guidelines and policy statements issued by the Sentencing
3 Commission pursuant to section 994 of title 28, United States
4 Code.".

5 (b) The amendment made by this section shall take effect
6 on the date of the taking effect of section 3553 of title 18,
7 United States Code.

8 SEC. 1008. AMENDMENT TO TITLE 28 OF THE UNITED STATES CODE.

9 Section 994 of title 28 of the United States Code is
10 amended by--

11 (1) inserting the following after subsection (m):

12 "(n) The Commission shall assure that the guidelines
13 reflect the general appropriateness of imposing a lower
14 sentence than would otherwise be imposed, including a
15 sentence that is lower than that established by statute as
16 minimum sentence, to take into account a defendant's
17 substantial assistance in the investigation or prosecution of
18 another person who has committed an offense."; and

19 (2) redesignating subsections (n), (o), (p), (q),
20 (r), (s), (t), (u), (v), and (w) as subsections (o), (p),
21 (q), (r), (s), (t), (u), (v), (w), and (x), respectively.

22 SEC. 1009. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL
23 PROCEDURE.

24 (a) Rule 35(b) of the Federal Rules of Criminal Procedure
25 is amended by striking out "to the extent" and all that

17C



3

829928.716

3

S.L.C.

1 follows through the end and inserting in lieu thereof the
 2 following: "in accordance with the guidelines and policy
 3 statements issued by the Sentencing Commission pursuant to
 4 section 994 of title 28, United States Code. The court's
 5 authority to lower a sentence under this subdivision includes
 6 the authority to lower such sentence to a level below that
 7 established by statute as a minimum sentence.

8 (b) The amendment made by this section shall take
 9 effect on the date of the taking effect of rule 35(b) of the
 10 Federal Rules of Criminal Procedure, as amended by section
 11 215(b) of the Comprehensive Crime Control Act of 1984.

end of (A)

~~(b) Paragraph (3) of section 994(a) of title 28, United States Code, is amended by inserting "and revocation of supervised release" after "supervised release".~~

~~(c) Section 511 of title II of the Comprehensive Drug Abuse Prevention Act of 1978 (21 U.S.C. 881) is amended--~~

~~(1) in subsection (f) by inserting "or II" after "I" each place it appears;~~

~~(2) by redesignating subsection (f) as subsection (f)(1); and~~

~~(3) by inserting the following new paragraph after subsection (f)(1) as so redesignated:~~

~~"(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this title under such circumstances as the Attorney General may deem necessary."~~

16 Subtitle B--Drug Possession Penalty Act of 1986

17 SEC. 1051. SHORT TITLE.

18 This subtitle may be cited as the "Drug Possession
19 Penalty Act of 1986".

20 SEC. 1052. PENALTY FOR SIMPLE POSSESSION.

21 Section 404 of the Controlled Substances Act (21 U.S.C.
22 844) is amended to read as follows:

23 PENALTY FOR SIMPLE POSSESSION

24 "SEC. 404. (a) It shall be unlawful for any person
25 knowingly or intentionally to possess a controlled substance

unless such substance was obtained directly, or pursuant to a
2 valid prescription or order, from a practitioner, while
3 acting in the course of his professional practice, or except
4 as otherwise authorized by this title or title III. Any
5 person who violates this subsection may be sentenced to a
6 term of imprisonment of not more than 1 year, and shall be
7 fined a minimum of \$1,000 but not more than \$5,000, or both,
8 except that if he commits such offense after a prior
9 conviction under this title or title III, or a prior
10 conviction for any drug or narcotic offense chargeable under
11 the law of any State, has become final, he shall be sentenced
12 to a term of imprisonment for not less than 15 days but not
13 more than 2 years, and shall be fined a minimum of \$2,500 but
14 not more than \$10,000, except, further, that if he commits
15 such offense after two or more prior convictions under this
16 title or title III, or two or more prior convictions for any
17 drug or narcotic offense chargeable under the law of any
18 State, or a combination of two or more such offenses have
19 become final, he shall be sentenced to a term of imprisonment
20 for not less than 90 days but not more than 3 years, and
21 shall be fined a minimum of \$5,000 but not more than \$25,000.
22 The imposition or execution of a minimum sentence required to
23 be imposed under this subsection shall not be suspended or
24 deferred. Further, upon conviction, a person who violates
25 this subsection shall be fined the reasonable costs of the

1 investigation and prosecution of the offense, including the
2 costs of prosecution of an offense as defined in sections
3 1918 and 1920 of title 28, United States Code, except that
4 this sentence shall not apply and a fine under this section
5 need not be imposed if the court determines under the
6 provision of title 18 that the defendant lacks the ability to
7 pay.

8 (b)(1) If any person who has not previously been
9 convicted of violating subsection (a) of this section, any
10 other provision of this subchapter or subchapter II of this
11 chapter, or any other law of the United States relating to
12 narcotic drugs, marihuana, or depressant or stimulant
13 substances, is found guilty of a violation of subsection (a)
14 of this section after trial or upon a plea of guilty, the
15 court may, without entering a judgment of guilty and with the
16 consent of such person, defer further proceedings and place
17 him on probation upon such reasonable conditions as it may
18 require and for such period, not to exceed one year, as the
19 court may prescribe. Upon violation of a condition of the
20 probation, the court may enter an adjudication of guilt and
21 proceed as otherwise provided. The court may, in its
22 discretion, dismiss the proceedings against such person and
23 discharge him from probation before the expiration of the
24 maximum period prescribed for such person's probation. If
25 during the period of his probation such person does not

~~1-3~~

1 violate any of the conditions of the probation, then upon
2 expiration of such period the court shall discharge such
3 person and dismiss the proceedings against him. Discharge and
4 dismissal under this subsection shall be without court
5 adjudication of guilt, but a nonpublic record thereof shall
6 be retained by the Department of Justice solely for the
7 purpose of use by the courts in determining whether or not,
8 in subsequent proceedings, such person qualifies under this
9 subsection. Such discharge or dismissal shall not be deemed a
10 conviction for purposes of disqualifications or disabilities
11 imposed by law upon conviction of a crime (including the
12 penalties prescribed under this part for second or subsequent
13 convictions) or for any other purpose. Discharge and
14 dismissal under this section may occur only once with respect
15 to any person.

tu

16 (2) Upon the dismissal of such person and discharge of
17 the proceedings against him under paragraph (1) of this
18 subsection, such person, if he was not over twenty-one years
19 of age at the time of the offense, may apply to the court for
20 an order to expunge from all official records (other than the
21 nonpublic records to be retained by the Department of Justice
22 under paragraph (1)) all recordation relating to his arrest,
23 indictment or information, trial, finding of guilty, and
24 dismissal and discharge pursuant to this section. If the
25 court determines, after hearing, that such person was

tu

1 dismissed and the proceedings against him discharged and that
2 he was not over twenty-one years of age at the time of the
3 offense, it shall enter such order. The effect of such order
4 shall be to restore such person, in the contemplation of the
5 law, to the status he occupied before such arrest or
6 indictment or information. No person as to whom such order
7 has been entered shall be held thereafter under any provision
8 of any law to be guilty of perjury or otherwise giving a
9 false statement by reason of his failures to recite or
10 acknowledge such arrest, or indictment or information, or
11 trial in response to any inquiry made of him for any purpose.

12 . . . (c) As used in this section, the term 'drug or narcotic
13 offense' means any offense which proscribes the possession,
14 distribution, manufacture, cultivation, sale, transfer, or
15 the attempt or conspiracy to possess, distribute,
16 manufacture, cultivate, sell or transfer any substance the
17 possession of which is prohibited under this title.' .

18 Subtitle C—Juvenile Drug Trafficking Act of 1986

19 SEC. 1101. SHORT TITLE.

20 This subtitle may be cited as the 'Juvenile Drug
21 Trafficking Act of 1986' .

22 SEC. 1102. OFFENSE.

23 Part D of the Controlled Substances Act is amended by
24 adding after section 405A a new section as follows:

25 EMPLOYMENT OR USE OF PERSONS UNDER 18 YEARS OF AGE IN DRUG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

OPERATIONS

SEC. 405B. (a) It shall be unlawful for any person at least eighteen years of age to knowingly and intentionally--

(1) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to violate any provision of this title or title III; or

(2) employ, hire, use, persuade, induce, entice, or coerce, a person under eighteen years of age to assist in avoiding detection or apprehension for any offense of this title or title III by any Federal, State, or local law enforcement official.

of supervised release

(b) Any person who violates subsection (a) is punishable by a term of imprisonment up to twice that otherwise authorized, or up to twice the fine otherwise authorized, or both, and at least twice any special parole term 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.

(c) Any person who violates subsection (a) after a prior conviction or convictions under subsection (a) of this section have become final, is punishable by a term of imprisonment up to three times that otherwise authorized, or up to three times the fine otherwise authorized, or both, and at least three times any special parole term otherwise

1 authorized for a first offense. Except to the extent a
2 greater minimum sentence is otherwise provided, a term of
3 imprisonment under this subsection shall not be less than one
4 year.

5 (d) Any person who violates section 405B(a) (1) or (2)
6 (1) by knowingly providing or distributing a
7 controlled substance or a controlled substance analogue
8 to any person under eighteen years of age; or
9 (2) if the person employed, hired, or used is
10 fourteen years of age or younger,

11 shall be subject to a term of imprisonment for not more than
12 five years or a fine of not more than \$50,000, or both, in
13 addition to any other punishment authorized by this section.

14 (e) In any case of any sentence imposed under this
15 section, imposition or execution of such sentence shall not
16 be suspended and probation shall not be granted. An
17 individual convicted under this section of an offense for
18 which a mandatory minimum term of imprisonment is applicable
19 shall not be eligible for parole under section 4202 of title
20 18, United States Code, until the individual has served the
21 mandatory term of imprisonment required by section 401(b) as
22 enhanced by this section.

23 (f) Except as authorized by this title, it shall be
24 unlawful for any person to knowingly or intentionally provide
25 or distribute any controlled substance to a pregnant

1 individual in violation of any provision of this title. Any
2 person who violates this subsection shall be subject to the
3 provisions of subsections (b), (c), and (e)."

4 SEC. 1103. TECHNICAL AMENDMENTS.

5 (a) Section 401(b) of the Controlled Substances Act (21
6 U.S.C. 841(b)) is amended by striking out "or 405A" and
7 inserting in lieu thereof "", 405A, or 405B".

8 (b) Section 401(c) of the Controlled Substances Act (21
9 U.S.C. 841(c)) is amended by striking out "405A" each place
10 it appears and inserting in lieu thereof "", 405A, or 405B".

~~405B. Employment of minors in controlled substance
trafficking.~~

11 SEC. 1104. MANUFACTURING A CONTROLLED SUBSTANCE WITHIN 1000
12 FEET OF A COLLEGE.

13 (a) Section 405A of the Controlled Substances Act (21
14 U.S.C. 845a) is amended by inserting "or manufacturing"
15 after "distributing" wherever it appears and by striking
16 out "a public or private elementary or secondary school"
17 wherever it appears and inserting in lieu thereof "a public
18 or private elementary, vocational, or secondary school or a
19 public or private college, junior college, or university".

20 (b) Section 405A(a) of the Controlled Substances Act (21
21 U.S.C. 845a(a)) is amended by striking out "involving the
22 same controlled substance and schedule".

23 (c) Section 405A(b) of the Controlled Substance Act (21

27-36

1 U.S.C. 845a(b) is amended by striking out "(1) by" and all
2 that follows through the end and inserting the following in
3 lieu thereof:

4 "(1) by the greater of (A) a term of imprisonment of
5 not less than three years and not more than life
6 imprisonment or (B) a term of imprisonment of up to three
7 times that authorized by section 401(b) of this title for
8 a first offense, or a fine up to three times that
9 authorized by section 401(b) of this title for a first
10 offense, or both, and (2) at least three times any
11 ~~special parole~~ term authorized by section 401(b) of this
12 title for a first offense."

13 SEC. 1105. IMPRISONMENTS.

14 (a) Section 405(a) of the Controlled Substances Act (21
15 U.S.C. 845(a)) is amended by adding the following at the end
16 thereof: "Except to the extent a greater minimum sentence is
17 otherwise provided by section 401(b), a term of imprisonment
18 under this subsection shall be not less than one year."

19 (b) Section 405(b) of the Controlled Substances Act (21
20 U.S.C. 845(b)) is amended by adding the following at the end
21 thereof: "Except to the extent a greater minimum sentence is
22 otherwise provided by section 401(b), a term of imprisonment
23 under this subsection shall be not less than one year. The
24 mandatory minimum sentencing provisions of this paragraph
25 shall not apply to offenses involving 5 grams or less of

25 37 ← 6

ITAL

rihua . . .

(c) Section 405A(a) of the Controlled Substances Act (21 S.C. 845a(a)) is amended by adding the following at the end thereof: "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marijuana."

Subtitle D--Assets Forfeiture Amendments Act of 1986
SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Department of Justice Assets Forfeiture Fund Amendments Act of 1986".

Insert B

~~SEC. 1152. DEPARTMENT OF JUSTICE ASSET FORFEITURE FUND.~~

(a) Subsection (c)(1) of section 524 of title 28, United States Code, is amended--

(1) by inserting at the end of subparagraph (A) the following:

"such payments may also include those, made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than ninety percent of which use will be program-related), training, printing, contracting for services directly related

TR

12 On page 37, strike out all beginning with line 14 through
13 line 2 on page 39 and insert in lieu thereof the following:

14 SEC. 1152. ASSET FORFEITURE FUNDS.

15 (a) Department of Justice Assets Forfeiture Fund.--
16 Subsection (c) of section 524 of title 28, United States
17 Code, is amended--

18 (1) in paragraph (1) before subparagraph (A) by
19 striking out "in such amounts as may be specified in
20 appropriations Acts";

21 (2) by inserting at the end of subparagraph (A) of
22 paragraph (1) the following: "such payments may also
23 include those, made pursuant to regulations promulgated
24 by the Attorney General, that are necessary and direct -

← insert
follow
4/1
to
9/12

John V. Domenici

AMENDMENT NO. _____

Calendar No. _____

Purpose: To conform certain provisions of the amendment to the requirements of the Congressional Budget Act of 1974.

IN THE SENATE OF THE UNITED STATES--99th Cong., 2d Sess.

Amendment accompanying the motion of the House of Representatives to the bill (H.R. 15484), "An Act to encourage foreign cooperation in and in halting international drug traffic of Federal drug laws and enhance shipments, to provide strong Federal effective drug abuse prevention and Federal support for drug abuse efforts, and for other

AMENDMENT NO. 3423

Domenici

By

Bill/Res. No.

amdt to amdt 8275

5 pages

GPO : 1984 - 39-921

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

Amendment intended to be proposed by Mr. *Domenici*

Viz:

1 On page 41, beginning with line 14, strike all through
2 line 13 on page 45 and insert in lieu thereof the following:

3 SEC. 1152. ASSET FORFEITURE FUNDS.

4 (1) Department of Justice Assets Forfeiture Fund.--

5 Subsection (c) of section 524 of title 28, United States
6 Code, is amended--

7 (2) by inserting at the end of subparagraph (A) of
8 paragraph (1) the following: "such payments may also
9 include those, made pursuant to regulations promulgated
10 by the Attorney General, that are necessary and direct
11 program-related expenses for the purchase or lease of

J

1 automatic data processing equipment (not less than 90
2 percent of which use will be program related), training,
3 printing, contracting for services directly related to
4 the processing of and accounting for forfeitures, and the
5 storage, protection, and destruction of controlled
6 substances;";

7 (3) by inserting after subparagraph (A) of paragraph
8 (1) the following new subparagraph and renumbering the
9 subsequent subparagraphs appropriately;

10 "(B) the payment of awards for information or
11 assistance directly relating to violations of the
12 criminal drug laws of the United States;";

13 (4) by amending newly designated subparagraph (F) of
14 paragraph (1) to read as follows:

15 "(F) for equipping for drug law enforcement
16 functions any government-owned or leased vessels,
17 vehicles, and aircraft available for official use by
18 the Drug Enforcement Administration, the Federal
19 Bureau of Investigation, the Immigration and
20 Naturalization Service, or the United States Marshals
21 Service; and";

22 (5) by striking out in paragraph (4) "remaining
23 after payment of expenses for forfeiture and sale
24 authorized by law" and inserting in lieu thereof "",
25 except all proceeds of forfeitures available for use by

1 the Secretary of the Treasury or the Secretary of the
2 Interior pursuant to section 11(d) of the Endangered
3 Species Act (16 U.S.C. 1540(d)) or section 6(d) of the
4 Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

5 (6) by striking out paragraph (8) and renumbering
6 paragraph (9) as paragraph (8);

7 (7) by adding at the end of the subsection the
8 following new paragraph:

9 "(9)(A) If any funds deposited in the Department of
10 Justice Assets Forfeiture Fund or the Customs Forfeiture
11 Fund (19 U.S.C. 1613a, 1613b) are not expended or
12 obligated prior to thirty days after the end of the
13 fiscal year, 90 percent of such funds (not to exceed
14 amounts specified in appropriation Acts) shall be
15 transferred into a Special Forfeiture Fund.

16 "(B) The funds in the Special Forfeiture Fund shall
17 be disbursed (in amounts not to exceed amounts specified
18 in appropriation Acts) ~~during the fiscal year in which~~
19 ~~they are transferred into the Special Fund,~~ by the
20 Attorney General, after consultation with the Secretary
21 of the Treasury, the Secretary of Health and Human
22 Services, and the Secretary of Education, to enhance the
23 following efforts:

24 "(1) Federal drug law enforcement agencies and
25 programs;

7

47D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

“(11) Federal drug abuse agencies and programs relating to drug abuse education, prevention, treatment, rehabilitation, and research;

“(111) State, local, and nonprofit agencies with drug abuse responsibilities; and

“(iv) State and local law enforcement agencies for drug law enforcement efforts, under subtitle M of title I of the Omnibus Crime Control and Safe Streets Act of 1986 (42 U.S.C. 3721 et. seq.).

“(C) Funds disbursed from the Special Forfeiture Fund shall not be used to supplant existing funds, but shall be used to supplement funds that are otherwise available.

“(D) The Attorney General shall report annually to the Congress on all disbursements made under the authority of subparagraph (B).”.

(b) Customs Forfeiture Fund.--

(1) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a) as added by Public Law 98-473, is amended--

(B) by amending paragraph (3) of subsection (a) to read as follows:

“(3) for equipping for law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the United States Customs Service; and”;

[Handwritten mark]

- 1 (C) by striking out subsection (h).
- 2 (2) Section 613a of the Tariff Act of 1930 (19 U.S.C.
- 3 1613b) as added by Public Law 98-573, is repealed.

~~In Section 1132(a)(7) of the amendment, in the newly created section 524(a)(9)(B) of the United States Code, strike out "during the fiscal year in which the tax are transferred into the Special Fund."~~

9

11

1 program-related expenses for the purchase or lease of
2 automatic data processing equipment (not less than 90
3 percent of which use will be program related), training,
4 printing, contracting for services directly related to
5 the processing of and accounting for forfeitures, and the
6 storage, protection, and destruction of controlled
7 substances;";

8 (3) by inserting after subparagraph (A) of paragraph
9 (1) the following new subparagraph and renumbering the
10 subsequent subparagraphs appropriately;

11 "(E) the payment of awards for information or
12 assistance directly relating to violations of the
13 criminal drug laws of the United States;";

14 (4) by amending newly designated subparagraph (F) of
15 paragraph (1) to read as follows:

16 "(F) for equipping for drug law enforcement
17 functions any government-owned or leased vessels,
18 vehicles, and aircraft available for official use by
19 the Drug Enforcement Administration, the Federal
20 Bureau of Investigation, the Immigration and
21 Naturalization Service, or the United States Marshals
22 Service; and";

23 (5) by striking out in paragraph (4) "remaining
24 after payment of expenses for forfeiture and sale
25 authorized by law" and inserting in lieu thereof "

42

1 ~~except all proceeds of forfeitures available for use by~~
2 the Secretary of the Treasury or the Secretary of the
3 Interior pursuant to section 11(d) of the Endangered
4 Species Act (16 U.S.C. 1540(d)) or section 6(d) of the
5 Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))";

6 (6) by striking out paragraph (8) and renumbering
7 paragraph (9) as paragraph (8); and

8 (7) by adding at the end of the subsection the
9 following new paragraph:

10 "(9)(A) If any funds deposited in the Department of
11 Justice Assets Forfeiture Fund or the Customs Forfeiture
12 Fund (19 U.S.C. 1613a, 1613b) are not expended or
13 obligated prior to thirty days after the end of the
14 fiscal year, 90 percent of such funds shall be
15 transferred into a Special Forfeiture Fund.

16 "(B) The funds in the Special Forfeiture Fund shall
17 be disbursed, during the fiscal year in which they are
18 transferred into the Special Fund, by the Attorney
19 General, after consultation with the Secretary of the
20 Treasury, the Secretary of Health and Human Services, and
21 the Secretary of Education, to enhance the following
22 efforts:

23 "(1) Federal drug law enforcement agencies and
24 programs;

25 "(11) Federal drug abuse agencies and programs

1 ~~relating to drug abuse education, prevention,~~
2 ~~treatment, rehabilitation, and research;~~
3 ~~“(iii) State, local, and nonprofit agencies with~~
4 ~~drug abuse responsibilities; and~~
5 ~~“(iv) State and local law enforcement agencies~~
6 ~~for drug law enforcement efforts, under subtitle F of~~
7 ~~title I of the Omnibus Crime Control and Safe Streets~~
8 ~~Act of 1986 (42 U.S.C. 3721 et seq.).~~
9 ~~“(C) Funds disbursed from the Special Forfeiture~~
10 ~~Fund shall not be used to supplant existing funds, but~~
11 ~~shall be used to supplement funds that are otherwise~~
12 ~~available.~~
13 ~~“(D) The Attorney General shall report annually to~~
14 ~~the Congress on all disbursements made under the~~
15 ~~authority of subparagraph (B).”.~~
16 (b) Customs Forfeiture Fund.--
17 (1) Section 613a of the Tariff Act of 1930 (19 U.S.C.
18 1613a) as added by Public Law 98-473, is amended--
19 (A) in subsection (a) before paragraph (1) by
20 striking out “in such amounts as may be specified in
21 appropriations Acts”;
22 (B) by amending paragraph (3) of subsection (a)
23 to read as follows:
24 “(3) for equipping for law enforcement functions any
25 government-owned or leased vessels, vehicles, and

7

829928.716

S.L.C.

7

1 aircraft available for official use by the United States
 2 Customs Service; and"; and
 3 (C) by striking out subsection (h).
 4 (2) Section 613a of the Tariff Act of 1930 (19 U.S.C.
 5 1613b) as added by Public Law 98-573, is repealed.
 6 (c) Funds Not Counted for Purposes of Allocation Limits
 7 in Section 302 of the Congressional Budget Act of 1974.--
 8 Notwithstanding any other provision of law or any rule of the
 9 House of Representatives or the Senate, amounts available in
 10 the Customs Forfeiture Fund or the Department of Justice
 11 Assets Forfeiture Fund shall not be counted in determining
 12 the allocation of totals under subsections (a) and (b) of
 13 section 302 of the Budget Act of 1974.

End of (B)

21 56

ITAL

1 to the processing of and accounting for forfeitures,
2 and the storage, protection, and destruction of
3 controlled substances;";

4 (2) by inserting after subparagraph (A) the following
5 new subparagraph and redesignating the subsequent
6 subparagraphs accordingly:

7 "(B) the payment of awards for information or
8 assistance directly relating to violations of the
9 criminal drug laws of the United States."; and

10 (3) by amending newly designated subparagraph (F) of
11 paragraph (1) to read as follows:

12 "(F) for equipping for drug law enforcement
13 functions any Government owned or leased vessels,
14 vehicles, and aircraft available for official use by
15 the Drug Enforcement Administration, the Federal
16 Bureau of Investigation, the Immigration and
17 Naturalization Service, or the United States Marshals
18 Service; and".

19 (b) Section 524(c)(4) of title 28, United States Code, is
20 amended by striking out "remaining after the payment of
21 expenses for forfeiture and sale authorized by law" and
22 inserting in lieu thereof "", except all proceeds of
23 forfeitures available for use by the Secretary of the
24 Treasury or the Secretary of the Interior pursuant to section
25 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or

1

1 section 6(d) of the ~~Asset~~ Act Amendments of ~~1975~~ U.S.C.
2 ~~1975(d)~~''.

3 SEC. 1153. SUBSTITUTE ASSETS.

4 (a) Section 1963 of title 18 is amended by adding at the
5 end thereof a new subsection, as follows:

6 ''(n) If any of the property described in subsection (a),
7 as a result of any act of omission of the defendant--

8 (1) cannot be located upon the exercise of due
9 diligence;

10 (2) has been transferred or sold to, or deposited
11 with, a third party;

12 (3) has been placed beyond the jurisdiction of the
13 court;

14 (4) has been substantially diminished in value; or

15 (5) has been commingled with other property which
16 cannot be divided without difficulty;

17 the court shall order the forfeiture of any other property of
18 the defendant up to the value of any property described in
19 paragraphs (1) through (5).''.

20 (b) Section 413 of title II of the Comprehensive Drug
21 Abuse Prevention and Control Act of 1975 is amended--

22 (1) by redesignating subsection ''(p)'' as subsection
23 ''(q)''; and

24 (2) by adding a new subsection (p) as follows:

25 ''(p) If any of the property described in subsection (a),

~~28-19~~

- 1 as a result of any act or omission of the defendant--
- 2 “(1) cannot be located upon the exercise of due
- 3 diligence;
- 4 “(2) has been transferred or sold to, or deposited
- 5 with, a third party;
- 6 “(3) has been placed beyond the jurisdiction of the
- 7 court;
- 8 “(4) has been substantially diminished in value; or
- 9 “(5) has been commingled with other property which
- 10 cannot be divided without difficulty;
- 11 the court shall order the forfeiture of any other property of
- 12 the defendant up to the value of any property described in
- 13 paragraphs (1) through (5).”

14 Subtitle E--Controlled Substance Analogue Enforcement Act of
 15 1986

16 SEC. 1201. SHORT TITLE.

17 This subtitle may be cited as the “Controlled Substance
 18 Analogue Enforcement Act of 1986”.

19 SEC. 1202. TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES.

20 Part B of the Controlled Substances Act is amended by
 21 adding at the end the following new section:

22 TREATMENT OF CONTROLLED SUBSTANCE ANALOGUES
 23 “SEC. 203. A controlled substance analogue shall, to the
 24 extent intended for human consumption, be treated, for the
 25 purposes of this title and title III as a controlled

8

~~41~~

1 substance in schedule I."

2 SEC. 1203. DEFINITION.

3 Section 102 of the Controlled Substances Act (21 U.S.C.
4 802) is amended by adding at the end thereof the following:

5 (31) (A) Except as provided in subparagraph (B), the
6 term 'controlled substance analogue' means a substance--

7 "(i) the chemical structure of which is
8 substantially similar to the chemical structure of a
9 controlled substance in schedule I or II; and

10 "(ii) (b) which has a stimulant, depressant, or
11 hallucinogenic effect on the central nervous system;

12 or

13 (c) "(iii) with respect to a particular person, which
14 such person represents or intends to have a
15 stimulant, depressant, or hallucinogenic effect on
16 the central nervous system, substantially similar to
17 or greater than the stimulant, depressant, or
18 hallucinogenic effect on the central nervous system
19 of a controlled substance.

20 (B) Such term does not include--

21 (i) a controlled substance;

22 (ii) any substance for which there is an
23 approved new drug application;

24 (iii) with respect to a particular person any
25 substance, if an exemption is in effect for

that
is
substantive
similar
to or
greater
than
stimulant
depressant
or
hallucinogenic
effect on
central
nervous
system
of a
controlled
substance
in schedule
I or II

that
is

III
101

40

1

28 40
investigational use, for that person, under section
505 of the Federal Food, Drug, and Cosmetic Act (21
U.S.C. 355) to the extent conduct with respect to
such substance is pursuant to such exemption;

(iv) any substance to the extent not intended
for human consumption before such an exemption takes
effect with respect to that substance; or

(v) with respect to a particular practitioner:
registered with the Drug Enforcement Administration
as a physician or to conduct research using a
controlled substance in schedule II, and to the
extent not prohibited by the Federal Food, Drug and
Cosmetic Act (21 U.S.C. 355), only amounts of
analogues used in that practitioner's research if
such research has been approved by an institutional
review board in compliance with and established by an
entity under section 491 (42 U.S.C. 289) of the
Public Health Service Act.

SEC. 1204. CLERICAL AMENDMENT.

The table of contents of the Comprehensive Drug Abuse
Prevention and Control Act of 1970 is amended by inserting
after the item relating to section 202 the following new
item:

Sec. 203. Treatment of controlled substance analogues.

Subtitle F—Continuing Drug Enterprise Act of 1986

1 SEC. 1251. SHORT TITLE.

2 This subtitle may be cited as the [✓]Continuing Drug
3 Enterprises Act of 1986''.

4 SEC. 1252. INCREASED PENALTIES.

5 Section 408(a) of the Controlled Substances Act (21
6 U.S.C. 848(a)) is amended--

7 (1) by striking out ``to a fine of not more than
8 \$100,000,`` and inserting in lieu thereof ``to a fine not
9 to exceed the greater of that authorized in accordance
10 with the provisions of title 18, United States Code, or
11 \$2,000,000 if the defendant is an individual or
12 \$5,000,000 if the defendant is other than an
13 individual,``; and

14 (2) by striking out ``to a fine of not more than
15 \$200,000,`` and inserting in lieu thereof ``to a fine not
16 to exceed the greater of twice the amount authorized in
17 accordance with the provisions of title 18, United States
18 Code, or \$4,000,000 if the defendant is an individual or
19 \$10,000,000 if the defendant is other than an
20 individual,``.

21 SEC. 1253. CONTINUING CRIMINAL ENTERPRISE ENHANCED PENALTIES.

22 Section 408 of the Controlled Substances Act (21 U.S.C.
23 848) is further amended--

24 (1) by redesignating subsections (b) and (c) as
25 subsections (d) and (e), respectively; and

1 (2) by inserting the following new subsections after
2 subsection (a);

3 "(b) Any person who engages in a continuing criminal
4 enterprise shall be imprisoned for life and fined in
5 accordance with subsection (a), if--

6 "(1) such person is the principal administrator,
7 organizer, or leader of the enterprise or is one of
8 several such principal administrators, organizers, or
9 leaders; and

10 "(2)(A) the violation referred to in subsection
11 (d)(1) involved at least 300 times the quantity of a
12 substance described in subsection 401(b)(1)(B) of this
13 Act, or

14 "(B) the enterprise, or any other enterprise in
15 which the defendant was the principal or one of several
16 principal administrators, organizers, or leaders,
17 received \$10 million dollars in gross receipts during any
18 twelve-month period of its existence for the manufacture,
19 importation, or distribution of a substance described in
20 section 401(b)(1)(B) of this Act."

21 Subtitle G--Controlled Substances Import and Export Act

22 Penalties Enhancement Act of 1986

23 SEC. 1301. SHORT TITLE.

24 This subtitle may be cited as the "Controlled Substances
25 Import and Export Penalties Enhancement Act of 1986."

1 SEC. 1302. ENHANCED PENALTIES.

2 (a) Section 1010(b) of the Controlled Substances Import
3 and Export Act (21 U.S.C. 960(b)) is amended--

4 (1) by redesignating paragraph (3) as paragraph (4);
5 and

6 (2) by striking out paragraphs (1) and (2) and
7 inserting the following in lieu thereof:

8 "(1) In the case of a violation of subsection (a) of
9 this section involving--

10 "(A) 1 kilogram or more of a mixture or substance
11 containing a detectable amount of heroin;

12 "(B) 5 kilograms or more of a mixture or substance
13 containing a detectable amount of--

14 "(i) coca leaves, except coca leaves and
15 extracts of coca leaves from which cocaine, ecgonine,
16 and derivatives of ecgonine or their salts have been
17 removed;

18 "(ii) cocaine, its salts, optical and geometric
19 isomers, and salts or isomers;

20 "(iii) ecgonine, its derivatives, their salts,
21 isomers, and salts of isomers; or

22 "(iv) any compound, mixture, or preparation
23 which contains any quantity of any of the substances
24 referred to in clauses (i) through (iii);

25 "(C) 50 grams or more of a mixture or substance

1 described in subparagraph (B) which contains cocaine
2 base;

3 (D) 100 grams or more of phencyclidine (PCP) or 1
4 kilogram or more of a mixture or substance containing a
5 detectable amount of phencyclidine (PCP);

6 (E) 10 grams or more of a mixture or substance
7 containing a detectable amount of lysergic acid
8 diethylamide (LSD);

9 (F) 400 grams or more of a mixture or substance
10 containing a detectable amount of N-phenyl-N-[1-(2-
11 phenylethyl)-4-piperidinyl] propanamide or 100 grams or
12 more of a mixture or substance containing a detectable
13 amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-
14 piperidinyl] propanamide; or

15 (G) 1000 kilograms or more of a mixture or
16 substance containing a detectable amount of marihuana;
17 the person committing such violation shall be sentenced to a
18 term of imprisonment of not less than 10 years and not more
19 than life and if death or serious bodily injury results from
20 the use of such substance shall be sentenced to a term of
21 imprisonment of not less than 20 years and not more than
22 life, a fine not to exceed the greater of that authorized in
23 accordance with the provisions of title 18, United States
24 Code, or \$4,000,000 if the defendant is an individual or
25 \$10,000,000 if the defendant is other than an individual, or

1 both. If any person commits such a violation after one or
 2 more prior convictions for an offense punishable under this
 3 subsection, or for a felony under any other provision of this
 4 title or title II or other law of a State, the United States,
 5 or a foreign country relating to narcotic drugs, marihuana,
 6 or depressant or stimulant substances, have become final,
 7 such person shall be sentenced to a term of imprisonment of
 8 not less than 20 years and not more than life imprisonment
 9 and if death or serious bodily injury results from the use of
 10 such substance shall be sentenced to life imprisonment, a
 11 fine not to exceed the greater of twice that authorized in
 12 accordance with the provisions of title 18, United States
 13 Code, or \$8,000,000 if the defendant is an individual or
 14 \$20,000,000 if the defendant is other than an individual, or
 15 both. Any sentence under this paragraph shall, in the absence
 16 of such a prior conviction, imposed a special parole term of
 17 at least 5 years in addition to such term of imprisonment and
 18 shall, if there was such a prior conviction, impose a special
 19 parole term of at least 10 years in addition to such term of
 20 imprisonment. Notwithstanding any other provision of law, the
 21 court shall not place on probation or suspend the sentence of
 22 any person sentenced under this paragraph. No person
 23 sentenced under this paragraph shall be eligible for parole
 24 during ^{the} ~~their~~ term of imprisonment ^{imposed therein}

of supervised release

of supervised release

25 (2) In the case of a violation of subsection (a) of

~~24 48~~

1 this section involving--

2 `` (A) 100 grams or more of a mixture or substance
3 containing a detectable amount of heroin;

4 `` (B) 500 grams or more of a mixture or substance
5 containing a detectable amount of--

6 `` (i) coca leaves, except coca leaves and
7 extracts of coca leaves from which cocaine, ecgonine,
8 and derivatives of ecgonine or their salts have been
9 removed;

10 `` (ii) cocaine, its salts, optical and geometric
11 isomers, and salts or isomers;

12 `` (iii) ecgonine, its derivatives, their salts,
13 isomers, and salts of isomers; or

14 `` (iv) any compound, mixture, or preparation
15 which contains any quantity of any of the substances
16 referred to in clauses (i) through (iii);

17 `` (C) 5 grams or more of a mixture or substance
18 described in subparagraph (B) which contains cocaine
19 base;

20 `` (D) 10 grams or more of phencyclidine (PCP) or 100
21 grams or more of a mixture or substance containing a
22 detectable amount of phencyclidine (PCP);

23 `` (E) 1 gram or more of a mixture or substance
24 containing a detectable amount of lysergic acid
25 diethylamide (LSD);

35 ~~79~~ 48

TRAIN

1 (F) 40 grams or more of a mixture or substance
 2 containing a detectable amount of N-phenyl-N-[1-(2-
 3 phenylethyl)-4-piperidinyl] propanamide or 10 grams or
 4 more of a mixture or substance containing a detectable
 5 amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-
 6 piperidinyl] propanamide; or

7 (G) 100 kilograms or more of a mixture or substance
 8 containing a detectable amount of marihuana;

9 the person committing such violation shall be sentenced to a
 10 term of imprisonment of not less than 5 years and not more
 11 than 40 years and if death or serious bodily injury results
 12 from the use of such substance shall be sentenced to a term
 13 of imprisonment of not less than twenty years and not more
 14 than life, a fine not to exceed the greater of that
 15 authorized in accordance with the provisions of title 18,
 16 United States Code, or \$2,000,000 if the defendant is an
 17 individual or \$5,000,000 if the defendant is other than an
 18 individual, or both. If any person commits such a violation
 19 after one or more prior convictions for an offense punishable
 20 under this subsection, or for a felony under any other
 21 provision of this title or title II or other law of a State,
 22 the United States, or a foreign country relating to narcotic
 23 drugs, marihuana, or depressant or stimulant substances, have
 24 become final, such person shall be sentenced to a term of
 25 imprisonment of not less than 10 years and not more than life

1 imprisonment and if death or serious bodily injury results
 2 from the use of such substance shall be sentenced to life
 3 imprisonment, a fine not to exceed the greater of twice that
 4 authorized in accordance with the provisions of title 18,
 5 United States Code, or \$4,000,000 if the defendant is an
 6 individual or \$10,000,000 if the defendant is other than an
 7 individual, or both. Any sentence imposed under this
 8 paragraph shall, in the absence of such a prior conviction,
 9 include a special parole term of at least 4 years in addition
 10 to such term of imprisonment and shall, if there was such a
 11 prior conviction, include a special parole term of at least 8
 12 years in addition to such term of imprisonment.

13 Notwithstanding any other provision of law, the court shall
 14 not place on probation or suspend the sentence of any person
 15 sentenced under this paragraph. No person sentenced under
 16 this paragraph shall be eligible for parole during the term
 17 of imprisonment ^{imposed therein}.

of
 in
 violation
 of
 this
 section

18 (3) In the case of a violation under subsection (a) of
 19 this section involving a controlled substance in schedule I
 20 or II, the person committing such violation shall, except as
 21 provided in paragraphs (1), (2), and (4), be sentenced to a
 22 term of imprisonment of not more than 20 years ^{and} if death or
 23 serious bodily injury results from the use of such substance
 24 shall be sentenced to a term of imprisonment of not less than
 25 twenty years and not more than life, a fine not to exceed the

1 greater of that authorized in accordance with the provisions
2 of title 18, United States Code, or \$1,000,000 if the
3 defendant is an individual or \$5,000,000 if the defendant is
4 other than an individual, or both. If any person commits such
5 a violation after one or more prior convictions for an
6 offense punishable under this subsection, or for a felony
7 under any other provision of this title or title II or other
8 law of a State, the United States or a foreign country
9 relating to narcotic drugs, marihuana, or depressant or
10 stimulant substances, have become final, such person shall be
11 sentenced to a term of imprisonment of not more than 30 years
12 and if death or serious bodily injury results from the use of
13 such substance shall be sentenced to life imprisonment, a
14 fine not to exceed the greater of twice that authorized in
15 accordance with the provisions of title 18, United States
16 Code, or \$2,000,000 if the defendant is an individual or
17 \$10,000,000 if the defendant is other than an individual, or
18 both. Any sentence imposing a term of imprisonment under this
19 paragraph shall, in the absence of such a prior conviction,
20 impose a ~~special parole~~ term of at least 3 years in addition
21 to such term of imprisonment and shall, if there was such a
22 prior conviction, impose a ~~special parole~~ term of at least 6
23 years in addition to such term of imprisonment.
24 Notwithstanding the prior sentence, and notwithstanding any
25 other provision of law, the court shall not place on

Handwritten notes on the right margin, including the word "release" written vertically.

ITALIC

1 probation or suspend the sentence of any person sentenced
2 under the provisions of this paragraph which provide for a
3 mandatory term of imprisonment if death or serious bodily
4 injury results, nor shall a person so sentenced be eligible
5 for parole during the term of such a sentence." .

6 (b) Section 1010(b)(4) of the Controlled Substances
7 Import and Export Act (21 U.S.C. 960(b)(4)), as redesignated,
8 is amended--

9 (1) by striking out " , except as provided in
10 paragraph (4) " ;

11 (2) by striking out " fined not more than \$50,000 "
12 and inserting in lieu thereof " fined not to exceed the
13 greater of that authorized in accordance with the
14 provisions of title 18, United States Code, or \$250,000
15 if the defendant is an individual or \$1,000,000 if the
16 defendant is other than an individual " ; and

17 (3) by inserting " except in the case of 100 or more
18 marihuana plants regardless of weight, " after
19 " marihuana, " .

20 ~~Subtitle B—Money Laundering Control Act of 1986~~

21 SEC. 1351. SHORT TITLE.

22 This subtitle may be cited as the " Money Laundering
23 Control Act of 1986 " .

24 SEC. 1352: NEW OFFENSE FOR LAUNDERING OF MONETARY
25 INSTRUMENTS.

20 Subtitle H—Money Laundering Control Act of 1986

21 SEC. 1351. SHORT TITLE.

22 This subtitle may be cited as the "Money Laundering
23 Control Act of 1986".

24 SEC. 1352. NEW OFFENSE FOR LAUNDERING OF MONETARY

25 INSTRUMENTS.

70
57

ITALIC

1 (a) Chapter 95 of title 18, United States Code, is
2 amended by adding at the end thereof the following:

3 "§1956. Laundering of monetary instruments

4 "(a)(1) Whoever, knowing that the property involved in
5 a financial transaction represents the proceeds of some form
6 of unlawful activity, conducts or attempts to conduct such a
7 financial transaction which in fact involves the proceeds of
8 specified unlawful activity—

9 "(A) with the intent to ^{promote} ~~facilitate~~ the carrying on
10 of specified unlawful activity; or

11 "(B) knowing that the transaction is designed in
12 whole or in part—

13 "(i) to conceal or disguise the nature, the lo-
14 cation, the source, the ownership, or the control
15 of the proceeds of specified unlawful activity; or

16 "(ii) to avoid a transaction reporting require-
17 ment under State or Federal law,

18 shall be sentenced to a fine of not more than ~~500,000~~ ^{500,000} or
19 twice the value of the property involved in the transaction,
20 whichever is greater, or imprisonment for not more than
21 twenty years, or both.

22
23 "(2) Whoever transports or attempts to transport a
24 monetary instrument or funds from a place in the United
25 States to or through a place outside the United States or to a

rying •

~~62~~

ITALIC

1 place in the United States from or through a place outside
2 the United States—

3 "A) with the intent to ^{promote} ~~facilitate~~ the carrying on
4 of specified unlawful activity; or

5 "B) knowing that the monetary instrument or
6 funds involved in the transportation represent the pro-
7 ceeds of some form of unlawful activity and knowing
8 that such transportation is designed in whole or in
9 part—

10 "(i) to conceal or disguise the nature, the lo-
11 cation, the source, the ownership, or the control
12 of the proceeds of specified unlawful activity; or

13 "(ii) to avoid a transaction reporting require-
14 ment under State or Federal law,

15 shall be sentenced to a fine of ~~500,000~~ ^{500,000} or twice the value of
16 the monetary instrument or funds involved in the transporta-
17 tion, whichever is greater, or imprisonment for not more than
18 twenty years, or both.

~~19 "(3) Whoever conducts or attempts to conduct a finan-
20 cial transaction that in whole or in part involves the proceeds
21 of specified unlawful activity with intent to violate or facili-
22 tate a violation of section 7201 or 7206 of the Internal Reve-
23 nue Code of 1954 shall be sentenced to a fine of not more
24 than \$250,000 or twice the value of the monetary instrument
or funds involved in the transaction, which-
ever is greater, or imprisonment for not
more than twenty years, or both.~~

ITALIC

1 funds involved in the transportation represent the proceeds
 2 of some form of unlawful activity and knowing that such
 3 transportation is designed in whole or in part--
 4 (A) to conceal or disguise the nature, the
 5 location, the source, the ownership, or the control of
 6 the proceeds of specified unlawful activity; or
 7 (B) to avoid a transaction reporting
 8 requirement under State or Federal law,
 9 shall be sentenced to a fine of \$~~500,000~~ if the offender is
 10 an individual or \$5,000,000 if the offender is a person other
 11 than an individual, or twice the value of the monetary
 12 instrument or funds involved in the transportation, whichever
 13 is greater, or imprisonment for not more than twenty years,
 14 or both.

15 (b) Whoever conducts or attempts to conduct a
 16 transaction described in subsection (a)(1), or a
 17 transportation described in subsection (a)(2), is liable to
 18 the United States for a civil penalty of not more than the
 19 greater of--

20 (1) the value of the property, funds, or monetary
 21 instruments involved in the transaction; or

22 (2) \$10,000.

23 (c) As used in this section--

24 (1) the term 'knowing that the property involved in
 25 a financial transaction represents the proceeds of some

~~41~~

ITALIC

1 form of unlawful activity' means that the person knew the
 2 property involved in the transaction represented proceeds
 3 from some form, though not necessarily which form, of
 4 activity that constitutes a felony under State or Federal
 5 law, regardless of whether or not such activity is
 6 specified in paragraph (7);

7 (2) the term 'conducts' includes initiating,
 8 concluding, or participating in initiating, or concluding
 9 a transaction;

10 (3) the term 'transaction' includes a purchase,
 11 sale, loan, pledge, gift, transfer, delivery, or other
 12 disposition, and with respect to a financial institution
 13 includes a deposit, withdrawal, transfer between
 14 accounts, exchange of currency, loan, extension of
 15 credit, purchase or sale of any stock, bond, certificate
 16 of deposit, or other monetary instrument, or any other
 17 payment, transfer, or delivery by, through, or to a
 18 financial institution, by whatever means effected;

19 (4) the term 'financial transaction' means a
 20 transaction involving the movement of funds by wire or
 21 other means or involving one or more monetary
 22 instruments, which in any way or degree affects
 23 interstate or foreign commerce, or a transaction
 24 involving the use of a financial institution which is
 25 engaged in, or the activities of which affect, interstate

1 or foreign commerce in any way or degree;

2 `` (5) the term 'monetary instruments' means coin or
3 currency of the United States or of any other country,
4 travelers' checks, personal checks, bank checks, money
5 orders, investment securities in bearer form or otherwise
6 in such form that title thereto passes upon delivery, and
7 negotiable instruments in bearer form or otherwise in
8 such form that title thereto passes upon delivery;

9 `` (6) the term 'financial institution' has the
10 definition given that term in section 5312(a)(2) of title
11 31, United States Code, and the regulations promulgated
12 thereunder;

13 `` (7) the term 'specified unlawful activity' means--

14 `` (A) any act or activity constituting an offense
15 listed in section 1961(1) of this title except an act
16 which is indictable under the Currency and Foreign
17 Transactions Reporting Act;

18 `` (B) with respect to a financial transaction
19 occurring in whole or in part in the United States,
20 an offense against a foreign nation involving the
21 manufacture, importation, sale, or distribution of a
22 controlled substance (as such term is defined for the
23 purposes of the Controlled Substances Act);

24 `` (C) any act or acts constituting a continuing
25 criminal enterprise, as that term is defined in

1 section 408 of the Controlled Substances Act (21
2 U.S.C. 848); or
3 (D) an offense under section 152 (relating to
4 concealment of assets; false oaths and claims;
5 bribery), section 215 (relating to commissions or
6 gifts for procuring loans), any of sections 500
7 through 503 (relating to certain counterfeiting
8 offenses), section 511 (relating to securities of
9 States and private entities), section 543 (relating
10 to smuggling goods into the United States), section
11 641 (relating to public money, property, or records),
12 section 656 (relating to theft, embezzlement, or
13 misapplication by bank officer or employee), section
14 666 (relating to theft or bribery concerning programs
15 receiving Federal funds), section 793, 794, or 798
16 (relating to espionage), section 875 (relating to
17 interstate communications), section 1201 (relating to
18 kidnaping), section 1203 (relating to hostage
19 taking), section 1344 (relating to bank fraud), or
20 section 2113 or 2114 (relating to bank and postal
21 robbery and theft) of this title, section 38 of the
22 Arms Export Control Act (22 U.S.C. 2778), section 2
23 (relating to criminal penalties) of the Export
24 Administration Act of 1979 (50 U.S.C. App. 2401),
25 section 203 (relating to criminal sanctions) of the

1 International Emergency Economic Powers Act (50
2 U.S.C. 1702), or section 3 (relating to criminal
3 violations) of the Trading with the Enemy Act (50
4 U.S.C. App. 3).

5 (d) Nothing in this section shall supersede any
6 provision of Federal, State, or other law imposing criminal
7 penalties or affording civil remedies in addition to those
8 provided for in this section.

9 (e) Violations of this section may be investigated by
10 such components of the Department of Justice as the Attorney
11 General may direct, and by such components of the Department
12 of the Treasury as the Secretary of the Treasury may direct,
13 as appropriate. Such authority of the Secretary of the
14 Treasury shall be exercised in accordance with an agreement
15 which shall be entered into by the Secretary of the Treasury
16 and the Attorney General.

17 (f) There is extraterritorial jurisdiction over the
18 conduct prohibited by this section if--

19 (1) the conduct is by a United States citizen or,
20 in the case of a non-United States citizen, the conduct
21 occurs in part in the United States; and

22 (2) the transaction or series of related
23 transactions involves funds or monetary instruments of a
24 value exceeding \$10,000.

25 §1957. Engaging in monetary transactions in property

of a value given
of \$10,000 or less

is a fine under title 18 United
States Code, or imprisonment for

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

derived from specified unlawful activity

"(a) (1) Except as provided in paragraph (2), whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property derived from specified unlawful activity, shall be punished as provided in subsection (b).

(2) This subsection does not apply to a monetary transaction to the extent such transaction involves bona fide fees an attorney accepts for representing a client in a criminal investigation or any proceeding arising therefrom.

"(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is--

(A) a fine of not more than \$1,000,000 or imprisonment for not more than 20 years, or both, if the offender is an individual; and

(B) a fine of not more than \$5,000,000, if the offender is a person other than an individual.

"(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) 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

1 was derived was specified unlawful activity.

2 "(d) The circumstances referred to in subsection (a)

3 are--

4 "(1) that the offense under this section takes place
5 in the United States or in the special maritime and
6 territorial jurisdiction of the United States; or

7 "(2) that the offense under this section takes place
8 outside the United States and such special jurisdiction,
9 but the defendant is a United States person (as defined
10 in section 3077 of this title, but excluding the class
11 described in paragraph (2)(D) of such section).

12 "(e) Violations of this section may be investigated by
13 such components of the Department of Justice as the Attorney
14 General may direct, and by such components of the Department
15 of the Treasury as the Secretary of the Treasury may direct,
16 as appropriate. Such authority of the Secretary of the
17 Treasury shall be exercised in accordance with an agreement
18 which shall be entered into by the Secretary of the Treasury
19 and the Attorney General.

20 "(f) As used in this section--

21 "(1) the term 'monetary transaction' means the
22 deposit, withdrawal, transfer, or exchange, in or
23 affecting interstate or foreign commerce, of funds or a
24 monetary instrument (as defined for the purposes of
25 subchapter II of chapter 53 of title 31) by, through, or

1 to a financial institution (as defined in section 5312 of
2 title 31);

3 "(2) the term 'criminally derived property' means
4 any property constituting, or derived from, proceeds
5 obtained from a criminal offense; and

6 "(3) the term 'specified unlawful activity' has the
7 meaning given that term in section 1956 of this title."

8 (b) The table of sections at the beginning of chapter 95
9 of title 18 is amended by adding at the end the following new
10 items:

11 "1956. Laundering of monetary instruments".

12 "1957. Engaging in monetary transactions in property derived
13 from specified unlawful activity".

14 SEC. 1353. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT.

15 (a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO
16 REPORT SUSPECTED VIOLATIONS.--Section 1103(c) of the Right to
17 Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended
18 by adding at the end thereof the following new sentences:

19 "Such information may include only the name or other
20 identifying information concerning any individual or account
21 involved in ^{and the nature of} any suspected illegal activity. Such infor-
22 ~~of the~~ mation may be disclosed notwithstanding any constitution, ~~state~~
23 ~~to enact~~ law, or regulation of any State or political subdivision thereof ~~or~~
~~copies~~ to the contrary. Any financial institution, or officer, employ-
~~provides under~~ ~~the~~ ~~provisions~~ ~~of~~ ~~the~~ ~~act~~ ~~and~~ ~~the~~ ~~provisions~~ ~~of~~ ~~the~~ ~~act~~
~~or, except to the extent provided in the preceding sentence,~~

20

1 ee, or agent thereof, making a disclosure of information pur-
 2 suant to this subsection, shall not be liable to the customer
 3 under any law or regulation of the United States or
 4 any constitution, law, or regulation
 5 of any State or political subdivision thereof, for such
 6 disclosure or for any failure to notify the customer of such
 7 disclosure."

74110
 received
 Such

~~(A) FINANCIAL RECORDS OF INSIDERS. -- Section 1113 of the
 Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is
 amended by adding at the end thereof the following new
 subsection:~~

9 (b) Section 1113(i) of the Right to Financial Privacy Act
 10 of 1978 (12 U.S.C. 3413(i)) is amended by inserting immedi-
 11 ately before the period at the end thereof a comma and the
 12 following: "except that a court shall have authority to order
 13 a financial institution, on which a grand jury subpoena for
 14 customer records has been served, not to notify the cus-
 15 tomer of the existence of the subpoena or information that
 16 has been furnished to the grand jury, under the circumstances and for
 17 the period
 18 specified and pursuant to the procedures established in sec-
 19 tion 1109 of the Right to Financial Privacy Act of 1978 (12
 20 U.S.C. 3409)".

1011
 of
 14
 17

~~Treasury ... to believe that such record is
 relevant to a possible violation by such individual of
 any law relating to crimes against financial
 institutions or supervisory agencies by directors,
 officers, employees, or controlling shareholders of
 financial institutions or~~

ITALIC

1 ~~... (3) any provision of subchapter II of chapter 53 of~~
2 ~~title 31, United States Code."~~

3 (c) PROTECTION FROM LIABILITY.--Section 1117(c) of the
4 Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is
5 amended--

6 (1) by inserting "or providing in good faith a
7 notification referred to in section 1103(c)" after
8 "authority"; and

9 (2) by inserting "or notification" after "such
10 disclosure".

11 (d) NONDISCLOSURE ORDER.--Section 1113(i) of the Right to
12 Financial Privacy Act of 1978 (12 U.S.C. 3413(i)) is amended
13 by adding at the end the following: "A court may, for a
14 cause shown that would justify delay in notice under section
15 1109, issue an order precluding, for such time as the court
16 deems appropriate, the recipient of a grand jury subpoena for
17 financial records from notifying any other person (except the
18 recipient's attorney) of the existence of the subpoena."

19 SEC. 1354. STRUCTURING TRANSACTIONS TO EVADE REPORTING
20 REQUIREMENTS PROHIBITED.

21 (a) IN GENERAL.--Subchapter II of chapter 53 of title 31,
22 United States Code (relating to records and reports on
23 monetary instruments transactions) is amended by adding at
24 the end thereof the following new section:

25 "§5324. Structuring transactions to evade reporting

63
27
58

63

ITALIC

1 requirement prohibited

2 "No person shall for the purpose of evading the
3 reporting requirements of section 5313(a) with respect to
4 such transaction--

5 "(1) cause or attempt to cause a domestic financial
6 institution to fail to file a report required under
7 section 5313(a);

8 "(2) cause or attempt to cause a domestic financial
9 institution to file a report required under section
10 5313(a) that contains a material omission or misstatement
11 of fact; or

12 "(3) structure or assist in structuring, or attempt
13 to structure or assist in structuring, any transaction
14 with one or more domestic financial institutions."

15 (b) CLERICAL AMENDMENT.--The table of sections for
16 chapter 53 of title 31, United States Code, is amended by
17 adding at the end thereof the following new item:

"5324. Structuring transactions to evade reporting
requirement prohibited.

18 SEC. 1355. SEIZURE AND CIVIL FORFEITURE OF MONETARY
19 INSTRUMENTS AND RELATED PROVISIONS.

20 (a) CUSTOMS AUTHORITY TO CONDUCT SEARCHES AT
21 BORDER.--Section 5317(b) of title 31, United States Code, is
22 amended to read as follows:

23 "(b) SEARCHES AT BORDER.--For purposes of ensuring

1 compliance with the requirements of section 5316, a customs
 2 officer may stop and search, at the border and without a
 3 search warrant, any vehicle, vessel, aircraft, or other
 4 conveyance, any envelope or other container, and any person
 5 entering or departing from the United States." .

6 (b) FAILURE TO REPORT EXPORT OR IMPORT OF MONETARY
 7 INSTRUMENT.--The first sentence of section 5317(c) of title
 8 31, United States Code (relating to seizure and forfeiture of
 9 monetary instruments in foreign commerce) is amended to read
 10 as follows: "If a report required under section 5316 with
 11 respect to any monetary instrument is not filed (or if filed,
 12 contains a material omission or misstatement of fact), the
 13 instrument and any interest in property, including a deposit
 14 in a financial institution, traceable to such instrument may
 15 be seized and forfeited to the United States Government."

16 (c) SEIZURE AND CIVIL FORFEITURE OF MONETARY INSTRUMENTS
 17 INVOLVED IN STRUCTURED TRANSACTION VIOLATION.--section 5317
 18 of title 31, United States Code, is amended by adding at the
 19 end thereof the following new subsection:

20 "(d) SEIZURE AND CIVIL FORFEITURE OF MONETARY
 21 INSTRUMENTS INVOLVED IN STRUCTURED TRANSACTION VIOLATION.--

22 "(1) IN GENERAL.--Any--

23 "(A) United States coins or currency (or such
 24 other monetary instrument as the Secretary of the
 25 Treasury may prescribe by regulation) involved in any

SEC. 1356. COMPLIANCE AUTHORITY FOR SECRETARY OF THE TREASURY
AND RELATED MATTERS.

(a) SUMMONS POWER.--Section 5318 of title 31, United States Code, is amended--

(1) by inserting "(a) GENERAL POWERS OF SECRETARY.--" before "The Secretary of the Treasury";

(2) in paragraph (1), by inserting "except as provided in subsection (b)(2)," before "delegate";

(3) by striking out "and" at the end of paragraph (2);

(4) by inserting after paragraph (2) the following new paragraphs:

"(3) examine any books, papers, records, or other data of ^{domestic} financial institutions relevant to the recordkeeping or reporting requirements of this subchapter;

"(4) summon a financial institution, an officer or employee of a financial institution (including a former officer or employee), or any person having possession, custody, or care of the reports and records required under this subchapter, to appear before the Secretary of the Treasury or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation described in subsection (b); and"

6
30
58

1 (5) by redesignating paragraph (3) as paragraph (5);
2 and

3 (6) by adding at the end the following new
4 subsections:

5 `` (b) LIMITATIONS ON SUMMONS POWER.--

6 `` (1) SCOPE OF POWER.--The Secretary of the Treasury
7 may take any action described in paragraph (3) or (4) of
8 subsection (a) only in connection with investigations for
9 the purpose of civil enforcement of violations of this
10 subchapter, section 21 of the Federal Deposit Insurance
11 Act, section 411 of the National Housing Act, or chapter
12 2 of Public Law 91-508 (12 U.S.C. 1951 et seq.) or any
13 regulation under any such provision.

14 `` (2) AUTHORITY TO ISSUE.--A summons may be issued
15 under subsection (a)(4) only by, or with the approval of,
16 the Secretary of the Treasury or a supervisory level
17 delegate of the Secretary of the Treasury.

18 `` (c) ADMINISTRATIVE ASPECTS OF SUMMONS.--

19 `` (1) PRODUCTION AT DESIGNATED SITE.--A summons
20 issued pursuant to this section may require that books,
21 papers, records, or other data stored or maintained at
22 any place be produced at any designated location in any
23 State or in any territory or other place subject to the
24 jurisdiction of the United States not more than 500 miles
25 distant from any place where the financial institution

~~51~~ 69
5/ 10/11

ITALIC

1 operates or conducts business in the United States.

2 “(2) FEES AND TRAVEL EXPENSES.--Persons summoned
3 under this section shall be paid the same fees and
4 mileage for travel in the United States that are paid
5 witnesses in the courts of the United States.

6 “(3) NO LIABILITY FOR EXPENSES.--The United States
7 shall not be liable for any expense, other than an
8 expense described in paragraph (2), incurred in
9 connection with the production of books, papers, records,
10 or other data under this section.

11 “(d) SERVICE OF SUMMONS.--Service of a summons issued
12 under this section may be by registered mail or in such other
13 manner calculated to give actual notice as the Secretary may
14 prescribe by regulation.

15 “(e) CONTUMACY OR REFUSAL.--

16 “(1) REFERRAL TO ATTORNEY GENERAL.--In case of
17 contumacy by a person issued a summons under paragraph
18 (3) or (4) of subsection (a) or a refusal by such person
19 to obey such summons, the Secretary of the Treasury shall
20 refer the matter to the Attorney General.

21 “(2) JURISDICTION OF COURT.--The Attorney General
22 may invoke the aid of any court of the United States
23 within the jurisdiction of which--

24 “(A) the investigation which gave rise to the
25 summons is being or has been carried on;

1 (B) the person summoned is an inhabitant; or

2 (C) the person summoned carries on business or
3 may be found,

4 to compel compliance with the summons.

5 (3) COURT ORDER.--The court may issue an order
6 requiring the person summoned to appear before the
7 Secretary or his delegate to produce books, papers,
8 records, and other data, to give testimony as may be
9 necessary to explain how such material was compiled and
10 maintained, and to pay the costs of the proceeding.

11 (4) FAILURE TO COMPLY WITH ORDER.--Any failure to
12 obey the order of the court may be punished by the court
13 as a contempt thereof.

14 (5) SERVICE OF PROCESS.--All process in any case
15 under this subsection may be served in any judicial
16 district in which such person may be found."

INSERT
ATTACHED
(see 77A)

17 ~~(b) AMENDMENTS RELATING TO EXEMPTIONS GRANTED FOR~~
18 ~~MONETARY TRANSACTION REPORTING REQUIREMENTS, Section 3110 of~~
19 ~~title 31, United States Code, is amended by adding after~~
20 ~~subsection (c) (as added by subsection (a) of this section)~~
21 ~~the following new subsections:~~

22 ~~(6) REVIEW OF EXEMPTIONS. In any case in which there~~
23 ~~is a change in management or control of a financial~~
24 ~~institution, the Secretary of the Treasury shall review such~~
25 ~~currently outstanding exemption granted by such institution~~

INSSEKT 71
~~77A~~

MW193

1 (b) AMENDMENT RELATING TO EXEMPTIONS GRANTED FOR MONETARY
2 TRANSACTION REPORTING REQUIREMENTS.--Section 5318 of title
3 31, United States Code, is amended by adding after subsection
4 (e) (as added by subsection (a) of this section) the
5 following new subsection:

6 (f) WRITTEN AND SIGNED STATEMENT REQUIRED.--No person
7 shall qualify for an exemption under subsection (a)(5) unless
8 the relevant financial institution prepares and maintains a
9 statement which--

10 (1) describes in detail the reasons why such person
11 is qualified for such exemption; and

12 (2) contains the signature of such person."

7672-
~~33~~
STB

ITALIK

1 under subsection (a)(5) not later than 30 days after the date
2 such change in management or control occurs.

3 "(g) WRITTEN AND SIGNED STATEMENT REQUIRED.--No person
4 shall qualify for an exemption under subsection (a)(5) unless
5 the relevant financial institution--

6 "(1) prepares and maintains a statement which--

7 "(A) describes in detail the reasons why such
8 person is qualified for such exemption; and

9 "(B) contains the signature of such person; and

10 "(2) certifies to the Secretary that such person is
11 qualified for such exemption."

12 (c) CONFORMING AMENDMENTS.--

13 (1) Sections 5321 and 5322 of title 31, United States
14 Code, are each amended by striking out "5318(2)" each
15 place such term appears and inserting in lieu thereof
16 "5318(a)(2)".

17 (2) The heading of section 5318 of title 31, United
18 States Code, is amended to read as follows:

19 "5318. Compliance, exemptions, and summons authority".

20 (d) CLERICAL AMENDMENT.--The table of sections for
21 chapter 53 of title 31, United States Code, is amended by
22 striking out the item relating to section 5318 and inserting
23 in lieu thereof the following:

"5318. Compliance, exemptions, and summons authority".

24 SEC. 1357. PENALTY PROVISIONS.

34 -73-

ITALIC

1 (a) CIVIL MONEY PENALTY FOR STRUCTURED TRANSACTION
2 VIOLATION.--Section 5321(a) of title 31, United States Code,
3 is amended by adding at the end thereof the following new
4 paragraph:

5 (4) STRUCTURED TRANSACTION VIOLATION.--

6 (A) PENALTY AUTHORIZED.--The Secretary of the
7 Treasury may impose a civil money penalty on any person
8 who ~~knowingly or with reckless disregard for a duty~~
9 ~~imposed by section 5324~~ ^{willfully} violates any provision of section
10 5324.

11 (B) MAXIMUM AMOUNT LIMITATION.--The amount of any
12 civil money penalty imposed under subparagraph (A) shall
13 not exceed the amount of the coins and currency (or such
14 other monetary instruments as the Secretary may
15 prescribe) involved in the transaction with respect to
16 which such penalty is imposed.

17 (C) COORDINATION WITH FORFEITURE PROVISION.--The
18 amount of any civil money penalty imposed by the
19 Secretary under subparagraph (A) shall be reduced by the
20 amount of any forfeiture to the United States under
21 section 5317(d) in connection with the transaction with
22 respect to which such penalty is imposed.

23 (b) INCREASE IN AMOUNT OF PENALTY FOR FINANCIAL
24 INSTITUTIONS.--Section 5321(a)(1) of title 31, United
25 States Code, is amended--

78
35
-74-

ITALIC

1 (1) by striking out "\$10,000" and inserting in lieu
2 thereof "the greater of the amount (not to exceed
3 \$100,000) involved in the transaction or \$25,000"; and

4 (2) by striking out "section 5315" each place such
5 term appears and inserting in lieu thereof "sections
6 5314 and 5315".

~~7 (c) Clarification of "State of Mind" Standards. Section
8 5321(a)(1) of title 31, United States Code, is amended by
9 striking out "willfully violating" and inserting in lieu
10 thereof "who knowingly or with reckless disregard for a duty
11 imposed by this subchapter violates"~~

12 **Ⓢ** SEPARATE CIVIL MONEY PENALTY FOR VIOLATION OF SECTION
13 5314.--Section 5321(a) of title 31, United States Code, is
14 amended by inserting after paragraph (4) (as added by
15 subsection (a) of this section) the following new paragraph:

16 "(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.--

17 "(A) PENALTY AUTHORIZED.--The Secretary of the
18 Treasury may impose a civil money penalty on any person
19 who ~~knowingly or with reckless disregard for a duty~~ **willfully**
20 ~~imposed by section 5314~~ violates any provision of section
21 5314.

22 "(B) MAXIMUM AMOUNT LIMITATION.--The amount of any
23 civil money penalty imposed under subparagraph (A) shall
24 not exceed--

25 "(i) in the case of violation of such section

~~36~~ -75- 79
S B

ITALIC

1 involving a transaction, the greater of--
 2 (I) the amount (not to exceed \$100,000) of
 3 the transaction; or
 4 (II) \$25,000; and
 5 (ii) in the case of violation of such section
 6 involving a a failure to report the existence of an
 7 account or any identifying information required to be
 8 provided with respect to such account, the greater
 9 of--

10 (I) an amount (not to exceed \$100,000)
 11 equal to the balance in the account at the time
 12 of the violation; or
 13 (II) \$25,000."

14 ^d SEPARATE CIVIL MONEY PENALTY FOR NEGLIGENT VIOLATION
 15 OF SUBCHAPTER.--Section 5321(a) of title 31, United States
 16 Code, is amended by inserting after paragraph (5) (as added
 17 by subsection (d) of this section) the following new
 18 paragraph:

19 (6) NEGLIGENCE.--The Secretary of the Treasury may
 20 impose a civil money penalty of not more than \$500 on any
 21 financial institution which negligently violates any
 22 provision of this subchapter or any regulation prescribed
 23 under this subchapter."

24 ^e EXTENSION OF TIME LIMITATIONS FOR ASSESSMENT OF CIVIL
 25 PENALTY.--Section 5321(b) of title 31, United States Code, is

~~37~~ 80
85 ~~76~~

ITALIC

1 amended to read as follows:

2 "(b) TIME LIMITATIONS FOR ASSESSMENTS AND COMMENCEMENT
3 OF CIVIL ACTIONS.--

4 "(1) ASSESSMENTS.--The Secretary of the Treasury may
5 assess a civil penalty under subsection (a) at any time
6 before the end of the 6-year period beginning on the date
7 of the transaction with respect to which the penalty is
8 assessed.

9 "(2) CIVIL ACTIONS.--The Secretary may commence a
10 civil action to recover a civil penalty assessed under
11 subsection (a) at any time before the end of the 2-year
12 period beginning on the later of--

13 "(A) the date the penalty was assessed; or

14 "(B) the date any judgment becomes final in any
15 criminal action under section 5322 in connection with
16 the same transaction with respect to which the
17 penalty is assessed."

SEPT 21 1980
Text
Handwritten notes and scribbles

18 (g) AMENDMENTS TO CRIMINAL PENALTY FOR CERTAIN
19 OFFENSES.--Section 5322(b) of title 31, United States Code,
20 is amended--

21 (1) by striking out "illegal activity involving
22 transactions of" and inserting in lieu thereof "any
23 illegal activity involving"; and

24 ~~(2) by striking out "500,000" and inserting in~~
25 ~~lieu thereof "50,000,000 if the person is an individual"~~

~~38~~
~~38~~

77-

TWIP

16 (F) ~~(S)~~ CLARIFICATION OF RELATIONSHIP BETWEEN CIVIL PENALTY
17 AND CRIMINAL PENALTY.--Section 5321 of title 31, United
18 States Code, is amended by adding at the end thereof the
19 following new subsection:

20 ~~new~~ (d) CRIMINAL PENALTY NOT EXCLUSIVE OF CIVIL PENALTY.--A
21 civil money penalty may be imposed under subsection (a) with
22 respect to any violation of this subchapter notwithstanding
23 the fact that a criminal penalty is imposed with respect to
24 the same violation."

25

82 78
~~39~~
56

ITALY

1 ~~(and not more than \$5,000,000 in any other case, and~~
2 (X) by striking out "5 years" and inserting in lieu
3 thereof "10 years".

4 (X) CONFORMING AMENDMENT.--Section 5321(c) of title 31,
5 United States Code, is amended by striking out "section
6 5317(b)" and inserting in lieu thereof "subsection (c) or
7 (d) of section 5317".

8 SEC. 1358. MONETARY TRANSACTION ~~RECORDKEEPING AND~~ REPORTING
9 AMENDMENTS.

10 ~~AMENDMENTS RELATING TO REPORTS ON EXPORTS OR IMPORTS~~
11 ~~OF MONEY.~~

20

12 (a) (X) CLOSELY RELATED EVENTS.--Section 5316 of title
13 31, United States Code, is amended by adding at the end
14 the following new subsection:

15 "(d) CUMULATION OF CLOSELY RELATED EVENTS.--The
16 Secretary of the Treasury may prescribe regulations under
17 this section defining the term 'at one time' for purposes of
18 subsection (a). Such regulations may permit the cumulation of
19 closely related events in order that such events may
20 collectively be considered to occur at one time for the
21 purposes of subsection (a)."

20

22 (b) (X) INCHOATE OFFENSE.--Section 5316(a)(1) of title
23 31, United States Code, is amended--

22

24 (1) (X) by striking out "or attempts to transport or
25 have transported," and

~~40~~
~~ST~~

22

1 (2) (c) by inserting "", is about to transport,"
2 after "transports".

20

3 (c) TECHNICAL AND CONFORMING AMENDMENT.--Section
4 5316(a)(2) of title 31, United States Code, is amended by
5 striking out "\$5,000" and inserting in lieu thereof
6 "\$10,000".

7 ~~(b) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR~~
8 ~~DOMESTIC COIN AND CURRENCY TRANSACTIONS.--Subchapter II of~~
9 ~~chapter 53 of title 31, United States Code (relating to~~
10 ~~records and reports on monetary instruments transactions) is~~
11 ~~amended by adding after section 5324 (as added by section~~
12 ~~1354(a) of this subtitle) the following new section:~~
13 ~~"§5325. Records of certain domestic coin and currency~~
14 ~~transactions~~
15 ~~"(a) RECORDS AUTHORIZED TO BE REQUIRED UNDER PARTICULAR~~
16 ~~CIRCUMSTANCES.--Under such circumstances as the Secretary of~~
17 ~~the Treasury may prescribe by regulation, the Secretary may~~
18 ~~issue an order requiring any domestic financial institution--~~
19 ~~"(1) to obtain such information as the Secretary may~~
20 ~~describe in such order concerning--~~
21 ~~"(A) any transaction in which such financial~~
22 ~~institution is involved for the payment, receipt, or~~
23 ~~transfer of United States coins or currency (or such~~
24 ~~other monetary instruments as the Secretary may~~
25 ~~describe in such order) in amounts or denominations~~

81
80
~~11~~

ITALIC

~~1 13326. Information requirements~~
~~2 In each case in which a person is required to provide~~
~~3 any information to a domestic financial institution or other~~
~~4 person under any provision of this subchapter or any~~
~~5 regulation prescribed under this subchapter, the information~~
~~6 provided by such person shall be complete and accurate with~~
~~7 respect to all material facts.~~
~~8 (d) CLERICAL AMENDMENT.--The table of sections for~~
~~9 chapter 53 of title 31, United States Code (as amended by~~
~~10 section 1354(b)), is amended by adding at the end thereof the~~
~~11 following new items:~~
~~1325. Records of certain domestic coin and currency~~
~~transactions.~~

12 SEC. 1359. BANKING REGULATORY AGENCY SUPERVISION OF
 13 RECORDKEEPING SYSTEMS.

14 (a) INSURED BANKS.--

15 (1) IN GENERAL.--Section 8 of the Federal Deposit
 16 Insurance Act (12 U.S.C. 1818) is amended by adding at
 17 the end thereof the following new subsection:

18 "(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING
 19 AND REPORT REQUIREMENTS.--

20 "(1) COMPLIANCE PROCEDURES REQUIRED.--Each
 21 appropriate Federal banking agency shall prescribe
 22 regulations requiring insured banks to establish and
 23 maintain procedures reasonably designed to assure and

85
45 81
NS

ITALIC

1 monitor the compliance of such banks with the
2 requirements of subchapter II of chapter 53 of title 31,
3 United States Code.

4 "(2) EXAMINATIONS OF BANK TO INCLUDE REVIEW OF
5 COMPLIANCE PROCEDURES.--

6 "(A) IN GENERAL.--Each examination of an insured
7 bank by the appropriate Federal banking agency shall
8 include a review of the procedures required to be
9 established and maintained under paragraph (1).

10 "(B) EXAM REPORT REQUIREMENT.--The report of
11 examination shall describe any problem with the
12 procedures maintained by the insured bank.

13 "(3) ORDER TO COMPLY WITH REQUIREMENTS.--If the
14 appropriate Federal banking agency determines that an
15 insured bank--

16 "(A) has failed to establish and maintain the
17 procedures described in paragraph (1); or

18 "(B) has failed to correct any problem with the
19 procedures maintained by such bank which was
20 previously reported to the bank by such agency,
21 the agency shall issue an order in the manner prescribed
22 in subsection (b) or (c) requiring such bank to cease and
23 desist from its violation of this subsection or
24 regulations prescribed under this subsection."

25 (2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN

86 82
~~46~~
H S

ITALIC

1 COMPLIANCE PROCEDURES.--Section 8(i)(2)(i) of the Federal
2 Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)) is
3 amended by striking out "subsection (b) or (c)" and
4 inserting in lieu thereof "subsection (b), (c), or
5 (s)".

6 (3) PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN
7 RECORDKEEPING REQUIREMENTS--Section 21 of the Federal
8 Deposit Insurance Act (12 U.S.C. 1829b) is amended by
9 adding at the end thereof the following new subsection:

10 (j) CIVIL AND CRIMINAL PENALTIES.--

11 (1) CIVIL PENALTY.--Any insured bank and any
12 director, officer, or employee of an insured bank who
13 knowingly or with reckless disregard for any duty imposed
14 by any regulation prescribed under subsection (b) of this
15 section violates any such regulation shall be liable to
16 the United States for a civil penalty of not more than
17 \$10,000. Any penalty imposed under this paragraph shall
18 be assessed, mitigated, and collected in the manner
19 provided in subsections (b) and (c) of section 5321 of
20 title 31, United States Code.

21 (2) CRIMINAL PENALTY.--Whoever knowingly violates
22 subsection (b) of this section or any regulation
23 prescribed under such subsection shall be fined not more
24 than \$250,000 or imprisoned for not more than 5 years, or

~~17~~
~~82~~

1 (b) INSTITUTIONS REGULATED BY THE BANK BOARD.--

2 (1) IN GENERAL.--Section 5(d) of the Home Owners'
3 Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by adding
4 at the end thereof the following new paragraph:

5 "(16) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING
6 AND REPORT REQUIREMENTS.--

7 "(A) COMPLIANCE PROCEDURES REQUIRED.--The Board
8 shall prescribe regulations requiring associations to
9 establish and maintain procedures reasonably designed to
10 assure and monitor the compliance of such associations
11 with the requirements of subchapter II of chapter 53 of
12 title 31, United States Code.

13 "(B) EXAMINATIONS OF ASSOCIATIONS TO INCLUDE REVIEW
14 OF COMPLIANCE PROCEDURES.--

15 "(i) IN GENERAL.--Each examination of an
16 association by the Board shall include a review of
17 the procedures required to be established and
18 maintained under subparagraph (A).

19 "(ii) EXAM REPORT REQUIREMENT.--The report of
20 examination shall describe any problem with the
21 procedures maintained by the association.

22 "(C) ORDER TO COMPLY WITH REQUIREMENTS.--If the
23 Board determines that an association--

24 "(i) has failed to establish and maintain the
25 procedures described in subparagraph (A); or

48 84
79

ITALIC

1 “(ii) has failed to correct any problem with the
2 procedures maintained by such association which was
3 previously reported to the association by the Board,
4 the Board shall issue an order in the manner prescribed
5 in paragraph (2) or (3) requiring such association to
6 cease and desist from its violation of this paragraph or
7 regulations prescribed under this paragraph.”.

8 (2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN
9 COMPLIANCE PROCEDURES.--Section 5(d)(8)(B)(i) of the Home
10 Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)) is
11 amended by striking out “paragraph (2) or (3)” and
12 inserting in lieu thereof “paragraph (2), (3), or
13 (16)”.

14 (c) INSURED THRIFT INSTITUTIONS.--

15 (1) IN GENERAL.--Section 407 of the National Housing
16 Act (12 U.S.C. 1730) is amended by adding at the end
17 thereof the following new subsection:

18 “(s) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING
19 AND REPORT REQUIREMENTS.--

20 “(1) COMPLIANCE PROCEDURES REQUIRED.--The
21 Corporation shall prescribe regulations requiring insured
22 institutions to establish and maintain procedures
23 reasonably designed to assure and monitor the compliance
24 of such institutions with the requirements of subchapter
25 II of chapter 53 of title 31, United States Code.

89
~~40~~ 85
78

ITALIC

1 “(2) EXAMINATIONS OF INSTITUTIONS TO INCLUDE REVIEW
2 OF COMPLIANCE PROCEDURES.--

3 “(A) IN GENERAL.--Each examination of an insured
4 institution by the Corporation shall include a review
5 of the procedures required to be established and
6 maintained under paragraph (1).

7 “(B) EXAM REPORT REQUIREMENT.--The report of
8 examination shall describe any problem with the
9 procedures maintained by the insured institution.

10 “(3) ORDER TO COMPLY WITH REQUIREMENTS.--If the
11 Corporation determines that an insured institution--

12 “(A) has failed to establish and maintain the
13 procedures described in paragraph (1); or

14 “(B) has failed to correct any problem with the
15 procedures maintained by such institution which was
16 previously reported to the institution by the
17 Corporation,

18 the Corporation shall issue an order in the manner
19 prescribed in subsection (e) or (f) requiring such
20 institution to cease and desist from its violation of
21 this subsection or regulations prescribed under this
22 subsection.”.

23 (2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN
24 COMPLIANCE PROCEDURES.--Section 407(k)(3)(A) of the
25 National Housing Act (12 U.S.C. 1730(k)(3)(A)) is amended

90
~~50~~ 86
21 91

ITALIC

it.

1 by striking out "subsection (e) or (f) of this section
2 shall forfeit" and inserting in lieu thereof
3 "subsection (e), (f), or (s) of this section shall
4 forfeit".

~~(j) PENALTIES FOR FAILURE TO COMPLY WITH CERTAIN
RECORDKEEPING REQUIREMENTS.--Section 411 of the National
Housing Act (12 U.S.C. 1730d) is amended by adding at the
end thereof the following new sentence: "The penalties
provided in subsection (j) of section 21 of the Federal
Deposit Insurance Act for violations of any regulation
prescribed under subsection (b) of such section shall
apply with respect to any violation of any regulation
prescribed under this section which corresponds to the
regulation prescribed under such subsection (j)."~~

(d) INSURED CREDIT UNIONS.--

(1) IN GENERAL.--Section 206 of the Federal Credit
Union Act (12 U.S.C. 1786) is amended by adding at the
end thereof the following new subsection:

"(g) COMPLIANCE WITH MONETARY TRANSACTION RECORDKEEPING
AND REPORT REQUIREMENTS.--

"(1) COMPLIANCE PROCEDURES REQUIRED.--The board
shall prescribe regulations requiring insured credit
unions to establish and maintain procedures reasonably
designed to assure and monitor the compliance of such
credit unions with the requirements of subchapter II of

54 87
8 92

STAIR

1 chapter 53 of title 31, United States Code.

2 "(2) EXAMINATIONS OF CREDIT UNIONS TO INCLUDE REVIEW
3 OF COMPLIANCE PROCEDURES.--

4 "(A) IN GENERAL.--Each examination of an insured
5 credit union by the Board shall include a review of
6 the procedures required to be established and
7 maintained under paragraph (1).

8 "(B) EXAM REPORT REQUIREMENT.--The report of
9 examination shall describe any problem with the
10 procedures maintained by the credit union.

11 "(3) ORDER TO COMPLY WITH REQUIREMENTS.--If the
12 Board determines that an insured credit union--

13 "(A) has failed to establish and maintain the
14 procedures described in paragraph (1); or

15 "(B) has failed to correct any problem with the
16 procedures maintained by such credit union which was
17 previously reported to the credit union by the Board,
18 the Board shall issue an order in the manner prescribed
19 in subsection (e) or (f) requiring such credit union to
20 cease and desist from its violation of this subsection or
21 regulations prescribed under this subsection."

22 (2) CIVIL MONEY PENALTIES FOR FAILURE TO MAINTAIN
23 COMPLIANCE PROCEDURES.--Section 206(k)(2)(A) of the
24 Federal Credit Union Act (12 U.S.C. 1786(k)(2)(A)) (as in
25 effect on September 1, 1986) is amended by striking out

52
75 95 88

ITALIC

1 "subsection (e) or (f)" and inserting in lieu thereof
2 "subsection (e), (f), or (g)".

3 SEC. 1360. CHANGE IN BANK CONTROL ACT AMENDMENTS.

4 (a) ADDITIONAL REVIEW TIME.--

5 (1) INITIAL EXTENSION AT DISCRETION OF AGENCY.--The
6 first sentence of section 7(j)(1) of the Federal Deposit
7 Insurance Act (12 U.S.C. 1817(j)(1)) is amended by
8 striking out "or extending up to another thirty days"
9 and inserting in lieu thereof "or, in the discretion of
10 the agency, extending for an additional 30 days".

11 (2) ADDITIONAL EXTENSIONS IN CASE OF INCOMPLETE OR
12 INACCURATE NOTICE OR TO CONTINUE INVESTIGATION.--The
13 second sentence of section 7(j)(1) of the Federal Deposit
14 Insurance Act (12 U.S.C. 1817(j)(1)) is amended to read
15 as follows: "The period for disapproval under the
16 preceding sentence may be extended not to exceed 2
17 additional times for not more than 45 days each time if--

18 "(A) the agency determines that any acquiring party
19 has not furnished all the information required under
20 paragraph (6);

21 "(B) in the agency's judgment, any material
22 information submitted is substantially inaccurate;

23 "(C) the agency has been unable to complete the
24 investigation of an acquiring party under paragraph
25 (2)(B) because of any delay caused by, or the inadequate

53 89 80 94

ITALIK

1 cooperation of, such acquiring party; or
 2 (D) the agency determines that additional time is
 3 needed to investigate and determine that no acquiring
 4 party has a record of failing to comply with the
 5 requirements of subchapter II of chapter 53 of title 31,
 6 United States Code."

7 (b) DUTY TO INVESTIGATE APPLICANTS FOR CHANGE IN CONTROL
 8 APPROVAL.--Section 7(j)(2) of the Federal Deposit Insurance
 9 Act (12 U.S.C. 1817(j)(2)) is amended--

10 (1) by striking out "(2)" and inserting in lieu
 11 thereof "(2)(A) NOTICE TO STATE AGENCY.--"; and

12 (2) by adding at the end thereof the following new
 13 subparagraphs:

14 (B) INVESTIGATION OF PRINCIPALS REQUIRED.--Upon
 15 receiving any notice under this subsection, the appropriate
 16 Federal banking agency shall--

17 (i) conduct an investigation of the competence,
 18 experience, integrity, and financial ability of each
 19 person named in a notice of a proposed acquisition as a
 20 person by whom or for whom such acquisition is to be
 21 made; and

22 (ii) make an independent determination of the
 23 accuracy and completeness of any information described in
 24 paragraph (6) with respect to such person.

25 (C) REPORT.--The appropriate Federal banking agency

~~ST~~ - 90 -
98.

FRANC

DB911

1 shall prepare a written report of any investigation under
2 subparagraph (B) which shall contain, at a minimum, a summary
3 of the results of such investigation. The agency shall retain
4 such written report as a record of the agency.''.
5

6 (c) PUBLIC COMMENT ON CHANGE OF CONTROL NOTICES.--Section
7 7(j)(2) of the Federal Deposit Insurance Act (12 U.S.C.
8 1817(j)(2)) is amended by adding after subparagraph (C) (as
9 added by subsection (b) of this section) the following new
10 subparagraph:

11 '(D) PUBLIC COMMENT.--Upon receiving notice of a
12 proposed acquisition, the appropriate Federal banking agency
13 shall, within a reasonable period of time--

14 '(i) publish the name of the insured bank proposed
15 to be acquired and the name of each person identified in
16 such notice as a person by whom or for whom such
17 acquisition is to be made; and

18 '(ii) solicit public comment on such proposed
19 acquisition, particularly from persons in the geographic
20 area where the bank proposed to be acquired is located,
21 before final consideration of such notice by the agency,
22 unless the agency determines in writing that such disclosure
23 or solicitation would seriously threaten the safety or
24 soundness of such bank.''.
25

(d) INVESTIGATIONS AND ENFORCEMENT.--Section 7(j) of the
Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is

ck

1 (b) DEFINITIONS.--Section 924(e)(2) of title 18, United
 2 States Code, is amended by striking out subparagraph (A) and
 3 all that follows through subparagraph (B) and inserting in
 4 lieu thereof the following:

5 (A) the term 'serious drug offense' means--

6 (i) an offense under the Controlled
 7 Substances Act (21 U.S.C. 801 et seq.), the
 8 Controlled Substances Import and Export Act (21
 9 U.S.C. 951 et seq.), or the first section or
 10 section 3 of Public Law 96-350 (21 U.S.C. 955a et
 11 seq.), for which a maximum term of imprisonment
 12 of ten years or more is prescribed by law; or

13 (ii) an offense under State law, involving
 14 manufacturing, distributing, or possessing with
 15 intent to manufacture or distribute, a controlled
 16 substance (as defined in section 102 of the
 17 Controlled Substances Act (21 U.S.C. 802)), for
 18 which a maximum term of imprisonment of ten years
 19 or more is prescribed by law; and

20 (B) the term 'violent felony' means any crime
 21 punishable by imprisonment for a term exceeding one
 22 year that--

23 (i) has as an element the use, attempted
 24 use, or threatened use of physical force against
 25 the person of another; or

ITALIC

116

MDB911

~~105-119~~

1 (ii) is burglary, arson, or extortion,
 2 involves use of explosives, or otherwise involves
 3 conduct that presents a serious potential risk of
 4 physical injury to another."

5 Subtitle J—Authorization of Appropriation for Drug Law
 6 Enforcement

7 SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

8 (a) There is authorized to be appropriated for fiscal
 9 year 1987 for the Department of Justice for the Drug
 10 Enforcement Administration, \$60,000,000; except, that
 11 notwithstanding section 1345 of title 31, United States Code,
 12 funds made available to the Department of Justice for the
 13 Drug Enforcement Administration in any fiscal year may be
 14 used for travel, transportation, and subsistence expenses of
 15 State, county, and local officers attending conferences,
 16 meetings, and training courses at the FBI Academy, Quantico,
 17 Virginia.

18 (b) The Drug Enforcement Administration of the Department
 19 of Justice is hereby authorized to plan, construct, renovate,
 20 maintain, remodel and repair buildings and purchase equipment
 21 incident thereto for an All Source Intelligence Center.

22 (c) There is authorized to be appropriated for fiscal
 23 year 1987 for the Department of Justice for the Federal
 24 Prison System, ~~\$124,500,000~~ ^{\$124,500,000}, of which ~~\$96,500,000~~ ^{\$96,500,000} shall be
 25 for the construction of Federal penal and correctional

~~Provided, That~~
 the existing El Paso Intelligence Center shall remain in
 Texas".

~~105-120~~

1 institutions and \$28,000,000 shall be for salaries and
2 expenses.

3 (d) There is authorized to be appropriated for fiscal
4 year 1987 for the Judiciary for Defender Services,
5 \$18,000,000.

6 (e) There is authorized to be appropriated for fiscal
7 year 1987 for the Judiciary for Fees and Expenses of Jurors
8 and Commissioners, \$7,500,000.

9 (f) There is authorized to be appropriated for fiscal
10 year 1987 for the Department of Justice for the Office of
11 Justice Assistance, \$2,000,000 to carry out a pilot prison
12 capacity program.

13 (g) There is authorized to be appropriated for fiscal
14 year 1987 for the Department of Justice for support of United
15 States prisoners in non-Federal Institutions, ~~\$2,000,000~~ ^{\$5,000,000}.

16 (h) There is authorized to be appropriated for fiscal
17 year 1987 for the Department of Justice for the Offices of
18 the United States Attorneys, \$31,000,000.

19 (i) There is authorized to be appropriated for fiscal
20 year 1987 for the Department of Justice for the United States
21 Marshals Service, ~~\$17,000,000~~ ^{\$17,000,000}.

~~On page 121, strike off beginning on line 11 through and
including 1986. On line 19 and insert in lieu thereof:~~

"(j) Authorizations of appropriations for fiscal year
1987 contained in this section are in addition to those
amounts agreed to in the conference agreement reached on
Title I of H.J.Res. 738."

118

TMK

~~107 + 27~~

1 (k) In addition to any other amounts that may be
 2 authorized to be appropriated for fiscal year 1987, the
 3 following sums are authorized to be appropriated to procure
 4 secure voice radios:

5 Federal Bureau of
 6 Investigation..... ~~3,000,000~~ ^{32,000,000}
 7 Secret Service.....\$5,000,000.

8 (1) This section may be cited as the "Drug Enforcement
 9 Enhancement Act of 1986".

10 Subtitle K—State and Local Narcotics Control Assistance
 11 SEC. 1551. SHORT TITLE.

12 This subtitle may be cited as the "State and Local Law
 13 Enforcement Assistance Act of 1986".

14 SEC. 1552. BUREAU OF JUSTICE ASSISTANCE DRUG GRANT PROGRAMS.

15 (a) Title I of the Omnibus Crime Control and Safe Streets
 16 Act of 1968 (42 U.S.C. 3712 et seq.) is amended--

- 17 (1) by redesignating part M as part N,
- 18 (2) by redesignating section 1301 as section 1401,
- 19 and

20 (3) by inserting after part L the following new part:

21 "Part M--Grants for Drug Law Enforcement Programs

22 "FUNCTION OF THE DIRECTOR

23 "SEC. 1301. The Director shall provide funds to eligible
 24 States and units of local government pursuant to this part.

25 "DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM

119

M-4911

~~108-122~~

1 "SEC. 1302. The Director is authorized to make grants to
 2 States, for the use of States and units of local government
 3 in the States, for the purpose of enforcing State and local
 4 laws that establish offenses similar to offenses established
 5 in the Controlled Substances Act (21 U.S.C. 801 et seq.), and
 6 to--

7 "(1) provide additional personnel, equipment,
 8 facilities, personnel training, and supplies for more
 9 widespread apprehension of persons who violate State and
 10 local laws relating to the production, possession, and
 11 transfer of controlled substances and to pay operating
 12 expenses (including the purchase of evidence and
 13 information) incurred as a result of apprehending such
 14 persons;

15 "(2) provide additional personnel, equipment,
 16 facilities (including upgraded and additional law
 17 enforcement crime laboratories), personnel training, and
 18 supplies for more widespread prosecution of persons
 19 accused of violating such State and local laws and to
 20 pay operating expenses in connection with such
 21 prosecution;

22 "(3) provide additional personnel (including
 23 judges), equipment, personnel training, and supplies for
 24 more widespread adjudication of cases involving persons
 25 accused of violating such State and local laws, to pay

M 1911

~~129~~ T-5

1 operating expenses in connection with such adjudication,
2 and to provide quickly temporary facilities in which to
3 conduct adjudications of such cases;

4 (4) provide additional public correctional
5 resources for the detention of persons convicted of
6 violating State and local laws relating to the
7 production, possession, or transfer of controlled
8 substances, and to establish and improve treatment and
9 rehabilitative counseling provided to drug dependent
10 persons convicted of violating State and local laws;

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

14 (6) provide programs which identify and meet the
15 needs of drug-dependent offenders; and

16 (7) conduct demonstration programs, in conjunction
17 with local law enforcement officials, in areas in which
18 there is a high incidence of drug abuse and drug
19 trafficking to expedite the prosecution of major drug
20 offenders by providing additional resources, such as
21 investigators and prosecutors, to identify major drug
22 offenders and move these offenders expeditiously through
23 the judicial system.

24 APPLICATIONS TO RECEIVE GRANTS

25 SEC. 1303. To request a grant under section 1302, the