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1       ment of forfeiture, when admitted into evidence, shall  
2       constitute probable cause that the property forfeited by  
3       such order or judgment of forfeiture is subject to for-  
4       feiture under this section and creates a rebuttable pre-  
5       sumption of the forfeitability of such property under  
6       this section.

7               “(4) A certified order or judgment of conviction  
8       by a court of competent jurisdiction of a foreign coun-  
9       try concerning an unlawful drug activity which gives  
10      rise to forfeiture under this section and any certified re-  
11      cordings or transcripts of testimony taken in a foreign  
12      judicial proceeding concerning such order or judgment  
13      of conviction shall be admissible in evidence in a pro-  
14      ceeding brought pursuant to this section. Such certified  
15      order or judgment of conviction, when admitted into  
16      evidence, creates a rebuttable presumption that the un-  
17      lawful drug activity giving rise to forfeiture under this  
18      section has occurred.

19              “(5) The provisions of paragraphs (3) and (4) of  
20      this subsection shall not be construed as limiting the  
21      admissibility of any evidence otherwise admissible, nor  
22      shall they limit the ability of the United States to es-  
23      tablish probable cause that property is subject to for-  
24      feiture by any evidence otherwise admissible.

25              “(j) For purposes of this section—

1           “(1) the term ‘Attorney General’ means the At-  
2           torney General or his delegate; and

3           “(2) the term ‘Secretary of the Treasury’ means  
4           the Secretary of the Treasury or his delegate.

5   “§ 982. Criminal forfeiture

6           “(a) The court, in imposing sentence on a person con-  
7           victed of an offense under section 1956 of this title shall  
8           order that the person forfeit to the United States any proper-  
9           ty, real or personal, which represents the gross receipts the  
10          person obtained, directly or indirectly, as a result of such  
11          offense, or which is traceable to such gross receipts.

12          “(b) The provisions of subsections 413 (c) and (e)  
13          through (o) of the Comprehensive Drug Abuse Prevention  
14          and Control Act of 1970 (21 U.S.C. 853 (c) and (e)-(o)) shall  
15          apply to property subject to forfeiture under this section, to  
16          any seizure or disposition thereof, and to any administrative  
17          or judicial proceeding in relation thereto, if not inconsistent  
18          with this section.”.

19          (b) The chapter analysis of part I of title 18, United  
20          States Code, is amended by inserting after the item for chap-  
21          ter 45 the following:

“46. Forfeiture..... 981”.

1357.

*Subtitle*  
SEC. 7. If any provision of this ~~Act~~ or any  
amendment made by this Act, or the application  
thereof to any person or circumstance is held  
invalid, the provisions of every other part, and  
their application, shall not be affected thereby.

1                    Subtitle I--Armed Career Criminals

2    SEC. 1481. SERIOUS DRUG OFFENSES.

3            (a) The second sentence of subsection (a) of section 1282  
4 of title VII of the Omnibus Crime Control and Safe Streets  
5 Act of 1968 (18 U.C.S. App. 1282(a)) is amended by striking  
6 out "for robbery or burglary, or both," and inserting in  
7 lieu thereof "for a crime of violence or a serious drug  
8 offense, or both,".

9            (b) Subsection (c) of section 1282 of title VII of such  
10 Act is amended by striking out paragraphs (8) and (9) and  
11 inserting in lieu thereof:

12            "(8) 'serious drug offense' means--

13                    (1) an offense for which a maximum term of  
14 imprisonment of ten years or more is prescribed in  
15 the Controlled Substances Act (21 U.S.C. 881 et  
16 seq.), the Controlled Substances Import and Export  
17 Act (21 U.S.C. 951 et seq.), or section 1 of the Act  
18 of September 15, 1988 (21 U.S.C. 955a et seq.); and

19                    "(11) an offense under State law, involving  
20 manufacturing, distributing, possessing with intent  
21 to manufacture or distribute, a controlled substance  
22 (as defined in section 102 of the Controlled  
23 Substances Act (21 U.S.C. 802)), for which a maximum  
24 term of imprisonment of ten years or more is  
25 prescribed by law; and

1           “(9) ‘crime of violence’ means any offense  
2 punishable by imprisonment for a term exceeding one year  
3 that--

4           “(A) has as an element the use, attempted use,  
5 or threatened use of physical force against the  
6 person or property of another; or

7           “(B) by its nature, involves a substantial risk  
8 that physical force against the person or property of  
9 another may be used in the course of committing the  
10 offense.”.

1 Subtitle J--Authorization of Appropriations for Drug Law  
2 Enforcement

3 SEC. 1451. AUTHORIZATION OF APPROPRIATIONS.

4 (a) There is authorized to be appropriated for fiscal  
5 year 1987 for the Department of Justice for the Drug  
6 Enforcement Administration, \$438,000,000 of which \$15,000,000  
7 shall be for an All Source Intelligence Center; except, that  
8 notwithstanding section 1345 of title 31, United States Code,  
9 funds made available to the Department of Justice for the  
10 Drug Enforcement Administration in any fiscal year may be  
11 used for travel, transportation, and subsistence expense of  
12 State, county, and local officers attending conferences,  
13 meetings, and training courses at the FBI Academy, Quantico,  
14 Virginia.

15 (b) There is authorized to be appropriated for fiscal  
16 year 1987 for the Department of Justice for the Federal  
17 Prison System, \$895,887,000 of which \$179,000,000 shall be  
18 for the construction of Federal penal and correctional  
19 institutions.

20 (c) There is authorized to be appropriated for fiscal  
21 year 1987 for the Judiciary for Defender Services,  
22 \$88,000,000.

23 (d) There is authorized to be appropriated for fiscal  
24 year 1987 for the Judiciary for Fees and Expenses of Jurors  
25 and Commissioners, \$54,500,000.

1 (e) There is authorized to be appropriated for fiscal  
2 year 1987 for the Department of Justice for the Office of  
3 Justice Assistance, \$2,000,000 to carry out a pilot prison  
4 capacity program.

5 (f) There is authorized to be appropriated for fiscal  
6 year 1987 for the Department of Justice for the United States  
7 Marshals Service, \$157,000,000.

8 (g) There is authorized to be appropriated for fiscal  
9 year 1987 <sup>For the Department of Justice</sup> for Support of United States prisoners in non-  
10 Federal Institutions, \$59,000,000.

11 (h) There is authorized to be appropriated for fiscal  
12 year 1987 for the Department of Justice for the Offices of  
13 the United States Attorneys, \$351,093,000.

14 Subtitle K--CONTROLLED SUBSTANCES PRODUCTION CONTROL  
15 SEC. 1501. CONTROLLED SUBSTANCES PRODUCTION CONTROL.

16 Section 1764 of the Food Security Act of 1985 (21 U.S.C.  
17 881a) is amended--

18 (1) in subsection (b), by striking out "four" each  
19 place it appears in paragraphs (1) and (2)(1) and  
20 inserting in lieu thereof "nine";

21 (2) by redesignating subsection (c) as subsection  
22 (d); and

23 (3) by inserting after subsection (b) the following  
24 new subsection:

25 "(c)(1) The Secretary shall pay a reward, in such amount

1 as the Secretary shall determine, for information leading to  
2 the conviction of any person--

3       “(A) who receives a program benefit described in  
4 subsection (b); and

5       “(B) who is subsequently determined to be ineligible  
6 for the benefit as the result of the conviction.

7       “(2) The reward shall be paid out of funds not expended  
8 as the result of the ineligibility of the person for the  
9 program benefit under this section.”.

10       Subtitle I--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. OFFICE OF JUSTICE ASSISTANCE DRUG GRANT PROGRAM.

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 H as part N,

18           (2) by redesignating section 1381 as section 1481,

19       and

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

21       “Part H--Grants for Drug Law Enforcement Programs

22           “FUNCTION OF THE ATTORNEY GENERAL

23       “Sec. 1381. The Attorney General shall provide funds to  
24 eligible States and units of local government pursuant to  
25 this part.



1        **DESCRIPTION OF DRUG LAW ENFORCEMENT GRANT PROGRAM**

2        **Sec. 1302. The Attorney General is authorized to make**  
3 **grants under this part to States for the purpose of enforcing**  
4 **State and local laws that establish offenses similar to**  
5 **offenses established in the Controlled Substances Act (21**  
6 **U.S.C. 801 et seq.), and to--**

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

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

20           **(3) provide additional personnel (including**  
21 **judges), equipment, personnel training, and supplies for**  
22 **more widespread adjudication of cases involving persons**  
23 **accused of violating such State laws, to pay operating**  
24 **expenses in connection with such adjudication, and to**  
25 **provide quickly temporary facilities in which to conduct**

1 adjudications of such cases,

2       “(4) provide additional correctional facilities  
3 (including the expansion of existing prisons) for the  
4 detention of persons convicted of violating State laws  
5 relating to the production, possession, or transfer of  
6 controlled substances, and to establish and improve  
7 treatment and rehabilitative counseling provided to drug  
8 dependent persons convicted of violating State laws,

9       “(5) conduct programs of eradication aimed at  
10 destroying wild or illicit growth of plant species from  
11 which controlled substances may be extracted, and

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

20               “APPLICATIONS TO RECEIVE GRANTS

21       “Sec. 1383. (a) To request a grant under section 1382,  
22 the chief executive officer of a State shall submit to the  
23 Attorney General an application at such time and in such form  
24 as the Attorney General may require. Such application shall  
25 include a statewide strategy for the enforcement of State

1 laws relating to the production, possession, and transfer of  
2 controlled substances. Such strategy shall be prepared after  
3 consultation with State and local officials whose duty it is  
4 to enforce such laws. Such strategy shall include an  
5 assurance that following the first fiscal year covered by an  
6 application and each fiscal year thereafter, the applicant  
7 shall submit to the Bureau or to the State, as the case may  
8 be, a performance report concerning the activities carried  
9 out pursuant to section 1302 of this title.

10       “(b) Applications for a grant under this section shall  
11 include a certification that the State will expend from its  
12 own funds for the purposes for which the grant is made an  
13 amount equal to the amount of the grant.

14                               “REPORTS

15       “Sec. 1304. (a) Each State which receives a grant under  
16 section 1302 shall submit to the Attorney General, for each  
17 year in which any part of such grant is expended by a State  
18 or local government entity, a report which contains--

19               “(1) a summary of the activities carried out with  
20 such grant and an assessment of the impact of such  
21 activities on meeting the needs identified in the State  
22 strategy submitted under section 1303, and

23               “(2) such other information as the Attorney General  
24 may require by rule.

25 Such report shall be submitted in such form and by such time

1 as the Attorney General may require by rule.

2     “(b) Not later than ninety days after the end of each  
3 fiscal year for which grants are made under section 1382, the  
4 Attorney General shall submit to the Speaker of the House of  
5 Representatives and the President pro tempore of the Senate a  
6 report that includes with respect to each State--

7         “(1) the aggregate amount of such grants made to  
8 such State for such fiscal year,

9         “(2) the amount of such grants expended for each of  
10 the five general purposes specified in section 1382, and

11         “(3) a summary of the information provided in  
12 compliance with subsection (a)(1).

13             “EXPENDITURE OF GRANTS; RECORDS

14     “Sec. 1385. (a) A grant made under section 1382 may not  
15 be expended for more than 75 per centum of the cost of the  
16 identified uses, in the aggregate, for which such grant is  
17 received to carry out any one of the five general purposes  
18 specified in section 1382. The non-Federal portion of the  
19 expenditures for such uses shall be paid in cash.

20     “(b) Not more than 10 per centum of a grant made under  
21 section 1382 may be used for costs incurred to administer  
22 such grant.

23     “(c)(1) Each State which receives a grant under section  
24 1382 shall keep, and shall require units of local government  
25 which receive any part of such grant to keep, such records as

1 the Attorney General may require by rule to facilitate an  
2 effective audit.

3 "(2) The Attorney General and the Comptroller General of  
4 the United States shall have access, for the purpose of audit  
5 and examination, to any books, documents, and records of  
6 States which receive grants, and of State and local  
7 government entities which receive any part of a grant, made  
8 under section 1302 if, in the opinion of the Attorney General  
9 or the Comptroller General, such books, documents, and  
10 records are related to the receipt or use of any such grant.

11 "STATE OFFICE

12 "Sec. 1306. (a) The chief executive of each  
13 participating State shall designate a State office for  
14 purposes of--

15 "(1) preparing an application to obtain funds under  
16 section 1302 of this title; and

17 "(2) administering funds received under such section  
18 from the Bureau, including receipt, review, processing,  
19 monitoring, progress and financial report review,  
20 technical assistance, grant adjustments, accounting,  
21 auditing, and fund disbursements.

22 "(b) An office or agency performing other functions  
23 within the executive branch of a State may be designated to  
24 carry out the functions specified in subsection (a)."

25 (b)(1) Subsections (a) and (b) of section 401 of title I

1 of the Omnibus Crime Control and Safe Streets Act of 1968 (42  
 2 U.S.C. 3741) are each amended by striking out "part E" and  
 3 inserting in lieu thereof "parts E and H".

4 (2) Section 801(b) of title I of the Omnibus Crime  
 5 Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is  
 6 amended--

7 (A) by striking out "parts D and E" and inserting  
 8 in lieu thereof "parts D, E, and H", and

9 (B) by striking out "part D" each place it appears  
 10 and inserting in lieu thereof "parts D and H".

11 (3) Section 802(b) of title I of the Omnibus Crime  
 12 Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is  
 13 amended by inserting "or H" after "part D".

14 (4) Section 808 of title I of the Omnibus Crime Control  
 15 and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by  
 16 inserting "or 1306, as the case may be," after "section  
 17 408".

18 (5) The table of contents of title I of the Omnibus Crime  
 19 Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)  
 20 is amended by striking out the items relating to part H and  
 21 section 1301, and inserting in lieu thereof the following new  
 22 items:

"Part H--Grants for Drug Law Enforcement Programs

"Sec. 1301. Function of the Attorney General.

"Sec. 1302. Description of drug law enforcement grant  
 program.

"Sec. 1303. Applications to receive grants.

- \*\*Sec. 1304. Reports.
- \*\*Sec. 1305. Expenditure of grants; records.
- \*\*Sec. 1306. State office.

**\*\*Part N--Transition--Effective Date--Repealer**

**\*\*Sec. 1401. Continuation of rules, authorities, and proceedings.\*\***

1 (c) Section 1001 of title I of the Omnibus Crime Control  
2 and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended--

3 (1) in subsection (a)--

4 (A) in paragraph (3) by striking out "and I"  
5 and inserting in lieu thereof "I, and H",

6 (B) by redesignating paragraph (6) as paragraph  
7 (7), and

8 (C) by inserting after paragraph (5) the  
9 following new paragraph:

10 "(6) There are authorized to be appropriated  
11 \$115,000,000 for fiscal year 1987, \$115,000,000 for fiscal  
12 year 1988, and \$115,000,000 for fiscal year 1989, to carry  
13 out the programs under part N of this title.", and

14 (2) in subsection (b) by striking out "and E" and  
15 inserting in lieu thereof ", E, and H".

16 **Subtitle N--Study on the Use of Existing Federal Buildings as**  
17 **Prisons**

18 **SEC. 1601. STUDY REQUIRED.**

19 (a) Within 90 days of the date of enactment of this Act,  
20 the Secretary of Defense shall provide to the Attorney  
21 General--

1 (1) a list of all sites under the jurisdiction of the  
2 Department of Defense including facilities beyond the  
3 excess and surplus property inventories whose facilities  
4 or a portion thereof could be used, or are being used, as  
5 detention facilities for felons, especially those who are  
6 a Federal responsibility such as illegal alien felons and  
7 major narcotics traffickers;

8 (2) a statement of fact on how such facilities could  
9 be used as detention facilities with detailed  
10 descriptions on their actual daily percentage of use;  
11 their capacities or rated capacities; the time periods  
12 they could be utilized as detention facilities; the cost  
13 of converting such facilities to detention facilities;  
14 and, the cost of maintaining them as such; and

15 (3) in consultation with the Attorney General, a  
16 statement showing how the Department of Defense and the  
17 Department of Justice would administer and provide  
18 staffing responsibilities to convert and maintain such  
19 detention facilities.

20 (b) Copies of the report and analysis required by  
21 subsection (a) shall be provided to the Congress.

22 Subtitle N--Drug Law Enforcement Cooperation Study  
23 SEC. 1651. DRUG LAW ENFORCEMENT COOPERATION STUDY.

24 (a) The National Drug Enforcement Policy Board, in  
25 consultation with the National Narcotics Border Interdiction



1 System and State and local law enforcement officials, shall  
 2 study Federal drug law enforcement efforts and make  
 3 recommendations as provided in subsection (b). The Board  
 4 shall report to Congress within 180 days of enactment of this  
 5 subtitle on its findings and conclusions.

6 (b) The report of the Board shall include recommendations  
 7 on--

8 (1) the means of improving the Nation's drug  
 9 interdiction programs;

10 (2) the relative effectiveness and efficiency of  
 11 various law enforcement strategies, including  
 12 interdiction;

13 (3) ways to maximize coordination and cooperation  
 14 among Federal, State, local drug law enforcement  
 15 agencies; and

16 (4) ways to maximize coordination and cooperation  
 17 between the several Federal agencies involved with drug  
 18 interdiction, along with a recommendation on the transfer  
 19 of mission from one agency to another.

20 Subtitle 0--Arrest Authority for INS Officers

21 SEC. 1701. ~~ARREST AUTHORITY FOR INS OFFICERS.~~

22 (a) Title II of the Immigration and Nationality Act is  
 23 amended by adding at the end thereof the following new  
 24 section:

25 "GENERAL ARREST AUTHORITY

1     "Sec. 294. Any officer of the Service as the Attorney  
2 General shall designate any--

3         "(1) carry a firearm;

4         "(2) execute and serve any order, warrant, subpoena,  
5 summons, or other process issued under the authority of  
6 the United States;

7         "(3) make an arrest without a warrant for any  
8 offense against the United States committed in the  
9 officer's presence or for a felony, cognizable under the  
10 laws of the United States committed outside the officer's  
11 presence if the officer has reasonable grounds to believe  
12 that the person to be arrested has committed or is  
13 committing a felony; and

14         "(4) perform any other law enforcement duty that the  
15 Attorney General may designate."

16     (b) The table of contents of such Act is amended by  
17 inserting after the item relating to section 293 the  
18 following new item:

"Sec. 294. General arrest authority."

1 Subtitle P--Narcotics Traffickers Deportation Act  
2 SEC. 1751. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

3 (a) Section 212(a)(23) of the Immigration and Nationality  
4 Act (8 U.S.C. 1182(a)(23)) is amended--

5 (1) by striking out "any law or regulation relating  
6 to" and all that follows through "addiction-sustaining  
7 opiate" and inserting in lieu thereof "any law or  
8 regulation of a State, the United States, or a foreign  
9 country relating to a controlled substance (as defined in  
10 section 102 of the Controlled Substances Act (21 U.S.C.  
11 802))"; and

12 (2) by striking out "any of the aforementioned  
13 drugs" and inserting in lieu thereof "any such  
14 controlled substance".

15 (b) Section 241(a)(11) of such Act (8 U.S.C. 1251(a)(11))  
16 is amended by striking out "any law or regulation relating  
17 to" and all that follows through "addition-sustaining  
18 opiate" and inserting in lieu thereof "any law or  
19 regulation of a State, the United States, or a foreign  
20 country relating to a controlled substance (as defined in  
21 section 102 of the Controlled Substances Act (21 U.S.C.  
22 802))".

23 (c) The amendments made by this section shall apply to  
24 convictions occurring before, on, or after the date of the  
25 enactment of this part, and the amendments made by subsection

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S.I.C.

- 1 (a) shall apply to aliens entering the United States after
- 2 the date of the enactment of this part.

1 Subtitle Q--Federal Drug Law Enforcement Agent Protection Act  
 2 of 1986

3 SEC. 1771. SHORT TITLE.

4 This subtitle may be cited as the "Federal Drug Law  
 5 Enforcement Agent Protection Act of 1986".

6 SEC. 1772. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

7 Subsection (e) of section 511 of the Controlled  
 8 Substances Act (21 U.S.C. 881(e)) is amended by--

9 (1) inserting after "(e)" the following: "(1)";

10 (2) redesignating paragraphs (1), (2), (3), and (4)  
 11 as subparagraphs (A), (B), (C), and (D), respectively;  
 12 and

13 (3) striking out the matter following subparagraph  
 14 (D), as redesignated, and inserting in lieu thereof the  
 15 following:

16 "(2)(A) The proceeds from any sale under subparagraph  
 17 (B) of paragraph (1) and any moneys forfeited under this  
 18 title shall be used to pay--

19 "(1) all property expenses of the proceedings for  
 20 forfeiture and sale including expenses of seizure,  
 21 maintenance of custody, advertising, and court costs; and

22 "(11) awards of up to \$100,000 to any individual who  
 23 provides original information which leads to the arrest  
 24 and conviction of a person who kills or kidnaps a Federal  
 25 drug law enforcement agent.

1 Any award paid for information concerning the killing or  
2 kidnapping of a Federal drug law enforcement agent, as  
3 provided in clause (ii), shall be paid at the discretion of  
4 the Attorney General.

5 "(B) The Attorney General shall forward to the Treasurer  
6 of the United States for deposit in accordance with section  
7 524(c) of title 28, United States Code, any amounts of such  
8 moneys and proceeds remaining after payment of the expenses  
9 provided in subparagraph (A)."

10 Subtitle B--Common Carrier Operation Under the Influence of  
11 Alcohol or Drugs

12 SEC. 1791. OFFENSE.

13 (a) Part I of title 18, United States Code, is amended by  
14 inserting after chapter 17 the following:

15 "CHAPTER 17A--COMMON CARRIER OPERATION UNDER THE INFLUENCE  
16 OF ALCOHOL OR DRUGS

"Sec.

"341. Definitions.

"342. Operation of a common carrier under the influence of  
alcohol or drugs.

"343. Presumptions.

17 "§341. Definitions

18 "As used in this chapter, the term 'common carrier'  
19 means a rail carrier, a sleeping car carrier, a bus  
20 transporting passengers in interstate commerce, a water  
21 common carrier, and an air common carrier.

22 "§342. Operation of a common carrier under the influence of

1 alcohol or drugs

2 "Whoever operates or directs the operation of a common  
3 carrier while under the influence of alcohol or drugs, shall  
4 be imprisoned not more than five years or fined not more  
5 than \$10,000, or both.

6 "§343. Presumptions

7 "For purposes of this chapter--

8 "(1) an individual with a blood alcohol content of  
9 .10 or more shall be conclusively presumed to be under  
10 the influence of alcohol; and

11 "(2) an individual shall be conclusively presumed to  
12 be under the influence of drugs if the quantity of the  
13 drug in the system of the individual would be sufficient  
14 to impair the perception, mental processes, or motor  
15 functions of the average individual."

16 (b) The table of chapters for part I of title 18, United  
17 States Code, is amended by adding after the item for chapter  
18 77 the following:

" 171. Common Carrier Operation Under the Influence of Alcohol or  
Drugs

1 alcohol or drugs

2 "Whoever operates or directs the operation of a common  
3 carrier while under the influence of alcohol or drugs, shall  
4 be imprisoned not more than five years or fined not more  
5 than \$10,000, or both.

6 "§343. Presumptions

7 "For purposes of this chapter--

8 "(1) an individual with a blood alcohol content of  
9 .10 or more shall be conclusively presumed to be under  
10 the influence of alcohol; and

11 "(2) an individual shall be conclusively presumed to  
12 be under the influence of drugs if the quantity of the  
13 drug in the system of the individual would be sufficient  
14 to impair the perception, mental processes, or motor  
15 functions of the average individual."

16 (b) The table of chapters for part I of title 18, United  
17 States Code, is amended by adding after the item for chapter  
18 17 the following:

"17A. Common Carrier Operation Under the Influence of Alcohol or  
Drugs



1 Subtitle S--Freedom of Information Act

2 SEC. 1801. LAW ENFORCEMENT.

3 (a) Section 552(b)(7) of title 5, United States Code, is  
4 amended to read as follows:

5 "(7) records or information compiled for law  
6 enforcement purposes, but only to the extent that the  
7 production of such law enforcement records or information  
8 (A) could reasonably be expected to interfere with  
9 enforcement proceedings, (B) would deprive a person of a  
10 right to a fair trial or an impartial adjudication, (C)  
11 could reasonably be expected to constitute an unwarranted  
12 invasion of personal privacy, (D) could reasonably be  
13 expected to disclose the identity of a confidential  
14 source, including a State, local, or foreign agency or  
15 authority or any private institution which furnished  
16 information on a confidential basis, and, in the case of  
17 a record or information compiled by criminal law  
18 enforcement authority in the course of a criminal  
19 investigation or by an agency conducting a lawful  
20 national security intelligence investigation, information  
21 furnished by a confidential source, (E) would disclose  
22 techniques and procedures for law enforcement  
23 investigations or prosecutions, or would disclose  
24 guidelines for law enforcement investigations or  
25 prosecutions if such disclosure could reasonably be

1 expected to risk circumvention of the law, or (F) could  
2 reasonably be expected to endanger the life or physical  
3 safety of any natural person;''.

4 (b) Section 552(a) of title 5, United States Code, is  
5 amended by adding after paragraph (6) thereof the following  
6 new paragraph:

7 ''(7) Nothing in this section shall be deemed applicable  
8 in any way to the informant records maintained by a law  
9 enforcement agency under an informant's name or personal  
10 identifier, whenever access to such records is sought by a  
11 third party according to the informant's name or personal  
12 identifier.''.  
13

13 SEC. 1802. ORGANIZED CRIME.

14 Section 552 of title 5, United States Code, is amended by  
15 redesignating subsections (c), (d), and (e) as subsections  
16 (d), (e), and (f), respectively, and by inserting after  
17 subsection (b) the following new subsection:

18 ''(c) Nothing in this section shall be deemed applicable  
19 to documents compiled in any lawful investigation of  
20 organized crime, designated by the Attorney General for the  
21 purposes of this subsection and conducted by a criminal law  
22 enforcement authority for law enforcement purposes, if the  
23 requested document was first generated or acquired by such  
24 law enforcement authority within five years of the date of  
25 the request, except where the agency determines pursuant to

1 regulations promulgated by the Attorney General that there is  
2 an overriding public interest in earlier disclosure or in  
3 longer exclusion not to exceed three years. Notwithstanding  
4 any other provision of law, no document described in the  
5 preceding sentence may be destroyed or otherwise disposed of  
6 until the document is available for disclosure in accordance  
7 with subsections (a) and (b) of this section for a period of  
8 not less than ten years.".

1 Subtitle I--Prohibition on the Interstate Sale and  
2 Transportation of Drug Paraphernalia

3 SEC. 1821. SHORT TITLE.

4 This subtitle may be cited as the "Mail Order Drug  
5 Paraphernalia Control Act".

6 SEC. 1822. OFFENSE.

7 (a) It is unlawful for any person--

8 (1) to make use of the services of the Postal Service  
9 or other interstate conveyance as part of a scheme to  
10 sell drug paraphernalia;

11 (2) to offer for sale and transportation in  
12 interstate or foreign commerce drug paraphernalia; ~~and~~ <sup>OR</sup>

13 (3) to import or export drug paraphernalia.

14 (b) Anyone convicted of an offense under subsection (a)  
15 of this section shall be imprisoned for not more than three  
16 years and fined not more than \$100,000.

17 (c) Any drug paraphernalia involved in any violation of  
18 subsection (a) of this section shall be subject to seizure  
19 and forfeiture. Any such paraphernalia shall be delivered to  
20 the Administrator of General Services, General Services  
21 Administration, who may order such paraphernalia destroyed or  
22 may authorize its use for law enforcement or educational  
23 purposes by Federal, State, or local authorities.

24 (d) The term "drug paraphernalia" means any equipment,  
25 product, or material of any kind which is primarily intended

1 or designed for use in manufacturing, compounding,  
 2 converting, concealing, producing, processing, preparing,  
 3 injecting, ingesting, inhaling, or otherwise introducing into  
 4 the human body a controlled substance in violation of the  
 5 Controlled Substances Act (title II of Public Law 91-513). It  
 6 includes, but is not limited to, items primarily intended or  
 7 designed for use in ingesting, inhaling, or otherwise  
 8 introducing marijuana, cocaine, hashish, hashish oil, PCP, or  
 9 amphetamines into the human body, such as:

10 (1) metal, wooden, acrylic, glass, stone, plastic, or  
 11 ceramic pipes with or without screens, permanent screens,  
 12 hashish heads, or punctured metal bowls;

13 (2) water pipes;

14 (3) carburetion tubes and devices;

15 (4) smoking and carburetion masks;

16 (5) roach clips: meaning objects used to hold burning  
 17 material, such as a marijuana cigarette, that has become  
 18 too small or too short to be held in the hand;

19 (6) miniature spoons with level capacities of one-  
 20 tenth cubic centimeter or less;

21 (7) chamber pipes;

22 (8) carburetor pipes;

23 (9) electric pipes;

24 (10) air-driven pipes;

25 (11) chillums;

- 1 (12) bongs;
- 2 (13) ice pipes or chillers;
- 3 (14) wired cigarette papers; or
- 4 (15) cocaine freebase kits.

5 (e) In determining whether an item constitutes drug  
6 paraphernalia, in addition to all other logically relevant  
7 factors, the following may be considered:

- 8 (1) instructions, oral or written, provided with the  
9 item concerning its use;
- 10 (2) descriptive materials accompanying the item which  
11 explain or depict its use;
- 12 (3) national and local advertising concerning its  
13 use;
- 14 (4) the manner in which the item is displayed for  
15 sale;
- 16 (5) whether the owner, or anyone in control of the  
17 item, is a legitimate supplier of like or related items  
18 to the community, such as a licensed distributor or  
19 dealer of tobacco products;
- 20 (6) direct or circumstantial evidence of the ratio of  
21 sales of the item(s) to the total sales of the business  
22 enterprise;
- 23 (7) the existence and scope of legitimate uses of the  
24 item in the community; and
- 25 (8) expert testimony concerning its use.

1 (f) This subtitle shall not apply to--

2 (1) any person authorized by local, State, or Federal  
3 law to manufacture, possess, or distribute such items;

~~OR~~  
~~AND~~

5 (2) any person or entity that, in the normal lawful  
6 course of business, imports, exports, transports, or  
7 sells through the mail or by any other means any pipe,  
8 paper, or accessory primarily intended for use with  
9 tobacco products.

10 SEC. 1823. EFFECTIVE DATE.

11 This subtitle shall become effective ninety days after  
12 the date of enactment of this subtitle.

## 1                    Subtitle U--Manufacturing Operations

## 2    SEC. 1841. MANUFACTURING OPERATION.

3            (a) Part D of the Controlled Substances Act is amended by  
4 adding at the end thereof the following new section:

## 5                    ``ESTABLISHMENT OF MANUFACTURING OPERATIONS

6            ``Sec. 416. (a) Except as authorized by this title, it  
7 shall be unlawful to--

8                    ``(1) knowingly open or maintain any place for the  
9 purpose of manufacturing, distributing, or using any  
10 controlled substance;

11                    ``(2) manage or control any building, room, or  
12 enclosure, either as an owner, lessee, agent, employee,  
13 or mortgagee, and knowingly and intentionally rent,  
14 lease, or make available for use, with or without  
15 compensation, the building, room, or enclosure for the  
16 purpose of unlawfully manufacturing, storing,  
17 distributing, or using a controlled substance.

18            ``(b) Any person who violates subsection (a) of this  
19 section shall be sentenced to a term of imprisonment of not  
20 more than 20 years or a fine of not more than \$500,000, or  
21 both, or a fine of \$2,000,000 for a person other than an  
22 individual.''

23            (b) Section 405A of the Controlled Substances Act is  
24 amended--

25                    (1) in subsection (a) by inserting after ``section



- 1 481(a)(1)'' the following: ``or section 416''; and
- 2 (2) in subsection (b) by inserting after ``section
- 3 481(a)(1)'' the following: ``or section 416''.

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Subtitle Y--Controlled Substances Technical Amendments

Sec. 1861. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in section 3672 (formerly section 3656) of title 18 of the United States Code by adding at the end thereof:

... "He shall have the authority to contract, subject to appropriations, with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include, but not be limited to, providing equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under section 3552 (b) or (c) except for studies conducted by the Bureau of Prisons."

~~1862.~~ 1862.

SEC. 272. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the sentence beginning "Upon

the filing", by striking out "\$2,500" and inserting in lieu thereof "\$5,000".

<sup>1863.</sup>  
SEC. 273. (a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of the Tariff Act of 1930 (19 U.S.C. 1616) as enacted by Public Law 98-473 is repealed.

<sup>1864.</sup>  
SEC. 274. Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) is amended—

(1) in subsection (c) by striking out "(o)" and inserting in lieu thereof "(n)";

(2) in subsection (f) by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)"; and

(3) in subsection (k) by striking out "(o)" and inserting in lieu thereof "(n)".

<sup>1865.</sup>  
SEC. 275. (a) Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4) by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure."

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

<sup>1866.</sup>  
SEC. 270. (a) Subparagraph (E) of section 524(c)(1) of title 28 of the United States Code is amended by inserting "the Federal Bureau of Investigation, the United States Marshals Service," after the words "for official use by", and by inserting a comma before the word "or".

(b) Paragraph (4) of section 524(c) of title 28 of the United States Code is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

~~1867.~~  
**DRUG ENFORCEMENT AMENDMENTS (CHAPTER V)**

<sup>1867.</sup>  
**SEC. 277.** Paragraph (14) of section 102 of the Controlled Substances Act (21 U.S.C. 802(14)) is amended in the second and third sentences by striking out the word "the" after the words "the term 'isomer' means" and inserting in lieu thereof "any".

<sup>1868.</sup>  
**SEC. 278.** Paragraph (4) of subsection (a) of schedule II of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph."

<sup>1869.</sup>  
**SEC. 279.** Subsection (b) of section 405A of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

<sup>1870.</sup>  
**SEC. 280.** Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”; and

(3) adding at the end thereof the following:

“(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.”

<sup>1571.</sup>  
SEC. 281. Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended by—

(1) inserting “(a)” before “Any officer or employee”;

(2) inserting after “Drug Enforcement Administration” the following: “or any State or local law enforcement officer”; and

(3) adding at the end thereof the following new subsection:

“(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.”

<sup>1572.</sup>  
SEC. 282. (a) Paragraph (1) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A) by striking out clauses (i), (ii), and (iii) and inserting in lieu thereof the following:

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

"(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

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

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

(2) in subparagraph (B) by inserting "a mixture or substance containing a detectable amount of" after "a kilogram or more of";

(3) in subparagraph (C) by inserting "a mixture or substance containing a detectable amount of" after "500 grams or more of";

(4) in subparagraph (D) by inserting "a mixture or substance containing a detectable amount of" after "5 grams or more of"; and

(5) by adding at the end thereof, "If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less

than four years in addition to such term of imprisonment."

(b) Paragraph (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out "except as provided in paragraph (4)"

1873

SEC. 282. Paragraph (2) of section 5316(a) of title 31 of the United States Code is amended by striking out "\$5,000" and inserting in lieu thereof "\$10,000".

1874

SEC. 284. Subsection (c) of section 924 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to any" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980

(21 U.S.C. 955a) or any";

(2) adding after the words "in addition to the punishment provided for such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the" the words "felony or".

1875

SEC. 285. Subsection (a) of section 929 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to the commission of a" the words "felony described in



the Controlled Substances Act (21 U.S.C. 801 et seq.),  
the Controlled Substances Import and Export Act (21  
U.S.C. 951 et seq.), or section 1 of the Act of Septem-  
ber 15, 1980 (21 U.S.C. 855a), or a;  
(2) adding after the words "in addition to the pun-  
ishment provided for the commission of such" the  
words "felony or"; and

(3) adding after the words "term of imprisonment  
including that imposed for the felony" the words "or  
crime of violence".

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Subtitle W - Precursor and Essential Chemical  
Division

1901.

7 SEC. 600. PRECURSOR AND ESSENTIAL CHEMICAL REVIEW.

8 (a) STUDY AND REPORT.—The Attorney General  
9 shall—

10 (1) conduct a study of the need for legislation,  
11 regulation, or alternative methods to control the diver-  
12 sion of legitimate precursor and essential chemicals to  
13 the illegal production of drugs of abuse; and

14 (2) report all findings of such study to Congress  
15 not later than the end of the 90th day after the date of  
16 enactment of this part.

17 (b) CONSIDERATIONS.—In conducting such study the  
18 Attorney General shall take into consideration that—

19 (1) clandestine manufacture continues to be a  
20 major source of narcotic and dangerous drugs on the  
21 illegal drug market;

22 (2) these drugs are produced using a variety of  
23 chemicals which are found in commercial channels and  
24 which are diverted to illegal uses;

(3) steps have been taken to deny drug traffickers access to key precursor chemicals, including that—

(A) P2P, a precursor chemical used in the production of amphetamines and methamphetamines was administratively controlled in schedule II of the Controlled Substances Act by the Drug Enforcement Administration;

(B) a variety of controls were placed on piperidine, the precursor for phencyclidine, by the Psychotropic Substance Act of 1978; and

(C) the Drug Enforcement Administration has maintained a voluntary system in cooperation with chemical industry to report suspicious purchases of precursors and essential chemicals; and

(4) despite the formal and voluntary systems that currently exist, clandestine production of synthetic narcotics and dangerous drugs continue to contribute to drug trafficking and abuse problems in the United States. ^

Sec. 294. Any officer of the Service as the Attorney General shall designate may--

“(1) carry a firearm;

“(2) execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States;

“(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

“(4) perform any other law enforcement duty that the Attorney General may designate.”.

(b) The table of contents of such Act is amended by inserting after the item relating to section 293 the following new item:

~~Sec. 294. General arrest authority.~~

X Subtitle X--Improved Drug Crime Reporting

1921  
SEC. 3951. IMPROVED DRUG CRIME REPORTING.

(a) The Congress--

(1) finds that--

(A) the Bureau of Justice Statistics currently conducts one of the largest public opinion survey

1 programs in the world, the National Crime Survey;

2 (B) this survey, conducted by the Census Bureau,  
3 involves detailed field surveys of 60,000 households  
4 and more than 100,000 individuals who are interviewed  
5 twice a year to measure the amount of crime actually  
6 occurring (crime victimization), as opposed to that  
7 reported to police through the uniform crime  
8 reporting system;

9 (C) currently the National Crime Report does not  
10 gather data involving drug abuse or victimization;

11 (D) further, the Bureau of Justice Statistics  
12 does not act as a clearinghouse for the gathering of  
13 data generated by Federal, State, local enforcement  
14 and together criminal justice agencies on their drug  
15 enforcement activities; and

16 (E) to obtain a comprehensive understanding of  
17 the dimensions of our crime problems and enforcement  
18 activities, one must sift through the annual reports  
19 of numerous agencies; and

20 (2) based on findings in paragraph (1) the purpose of  
21 this Act is to create a comprehensive and timely data  
22 base of the dynamics of the drug crisis.

23 (b)(1) The Bureau of Justice Statistics, in cooperation  
24 with the Federal Bureau of Investigation and other Federal  
25 enforcement agencies as well as other Federal, State, and

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1 local statistics gathering groups, shall compile and publish  
2 comprehensive data on drug trafficking and abuse.

3 (2) For purposes of carrying out the provisions of  
4 paragraph (1), the authorization for the Bureau of Justice  
5 Statistics for fiscal year 1987 is increased by \$3,000,000.