No. 20-71433

In the United States Court of Appeals for the Ninth Circuit

SUZANNE SISLEY, M.D.; SCOTTSDALE RESEARCH INSTITUTE, LLC; BATTLEFIELD FOUNDATION, DBA FIELD TO HEALED; LORENZO SULLIVAN; KENDRICK SPEAGLE; GARY HESS,

Petitioners,

v.

U.S. DRUG ENFORCEMENT ADMINISTRATION; WILLIAM BARR, ATTORNEY GENERAL; TIMOTHY SHEA, ACTING ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION,

Respondents

EXCERPTS OF RECORD
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Contract at 17. And the contract provides for federal monitoring of compliance by the NIDA representative, although that supervision occurs primarily from NIDA's headquarters in Bethesda, Maryland. *Id*. at 16, 26, 34. But the control that NIDA exercises through these contractual provisions amounts at most to constructive possession of the marijuana, and is thus insufficient to meet the treaty requirement of physical possession by the federal government.

In particular, this requirement demands that the government have physical control over the crop. Because a government acts through its agents, that mandate means the marijuana must be delivered to government agents who must have personal and direct physical access to the crops in question, and not simply the ability or power to obtain access to them.

b.

It could be argued that the National Center's employees are acting as federal government agents, and that the federal government physically possesses marijuana grown by the National Center through those employees. But in a similar context, for purposes of asking whether the federal government is liable for the actions of a contractor under the Federal Tort Claims Act, the Supreme Court has emphasized that requiring compliance with "federal standards and regulations" or contract terms that "fix specific and precise conditions to implement federal objectives" does not suffice to "convert the acts of [contractors] into federal governmental acts." *United States v. Orleans*, 425 U.S. 807, 815–16 (1976). A contractor's employees may become federal agents only if the government has the authority "to control the detailed physical performance of the contractor" and supervise its "day-to-day operations." *Id*. at 814–16 (internal quotation marks omitted).

For analogous reasons, the National Center's employees are not agents of the federal government. The parameters of the contract do not provide for DEA or NIDA to supervise closely the day-to-day physical operations of the National Center's distribution and storage functions. And the NIDA contract disavows the notion that it creates an agency relationship. It provides that the National Center operates "[i]ndependently, *and not as an agent* of the Government" and, further, that the National Center "shall be required to furnish all necessary services, qualified personnel, materials, equipment, and facilities, not otherwise provided by the Government." 2015 NIDA Contract at 15 (emphasis added). There is simply no indica-

tion that the federal government, rather than the National Center, exercises the kind of close supervision of the National Center's employees that would make them federal agents.

We are also not persuaded by a similar line of argument contending that the National Center "could be considered an extension of" the federal government. Applications To Manufacture Marijuana, 81 Fed. Reg. at 53,847. The suggestion is that the National Center itself operates as the federal government in carrying out the controls required by the Single Convention. The question of whether an entity is part of the federal government turns on a variety of factors, including whether the government owns the entity; whether the government appoints its officers and directors; whether Congress has defined its corporate purposes or appropriated funds for its operations; and whether the entity is controlled by or operates for the benefit of the federal government. *See Dep't of Transp. v. Ass'n of Am. Railroads*, 575 U.S. 43, 51–55 (2015); *United States v. New Mexico*, 455 U.S. 720, 739–40 (1982); Memorandum for Edward A. Frankle, General Counsel, National Aeronautics & Space Administration, from Randolph D. Moss, Assistant Attorney General, Office of Legal Counsel, *Re: Applicability of Government Corporation Control Act to Gain Sharing Benefit Agreement* at 7–9 (Sept. 18, 2000).

Under those factors, the National Center is not an extension of the federal government. The National Center is part of the University of Mississippi, located on campus in a university-owned building, and run by its own employees. It does not operate solely for a federal purpose, but instead was established to help the University conduct "research to discover and develop natural products for use as pharmaceuticals, dietary supplements and agrochemicals, and to understand the biological and chemical properties of medicinal plants." National Center for Natural Products Research, About NCNPR, https://pharmacy.olemiss.edu/ncnpr/about-ncnpr/ (last visited June 6, 2018). While the federal government pays the National Center to grow marijuana and exercises some supervision over its growing operations, the government does not generally fund or control the National Center. That the National Center may physically possess the marijuana it grows, then, does not satisfy the federal government's obligation to do so.[8]

[8] The Supreme Court has cautioned against applying "background principle[s] of American law" that are "relevant to the interpretation of federal statutes" but were not necessarily adopted by the signatories to a treaty (for example, the presumption in favor

c.

In addition to taking "physical possession," Article 23(2)(d) requires that the national agency "purchase" the marijuana from the cultivator. That requirement provides for the government to pay for and take legal title to the marijuana. The *Commentary* advises that the payment of money was meant to encourage the delivery of the crops because "[p]rompt payment, a good price and other favourable conditions of purchase may be incentives to producers to deliver speedily their total" crops to the agency. *Commentary* at 283. The exchange of payment for the harvested crops encourages each grower to deliver its full inventory to the government.

Neither NIDA nor DEA "purchases" the harvested crops from the National Center, but it could be said that NIDA does not need to do so if it already has title to the marijuana. *See* State Mem. at 4–5; HHS Mem. at 5–6. Although the contract between NIDA and the National Center includes some provisions discussing government property, they do not expressly address or otherwise make clear where title to the marijuana crops lies.[9] But we need not decide whether NIDA has title to the crops. The requirement that the federal government physically possess the marijuana crops is distinct from the requirement that it "purchase" the crops and thus secure title. *See* Single Convention art. 23(d). Physical possession is not conferred by mere "transfer of title or risk of loss." *In re World Imports, Ltd.*, 862 F.3d 338, 344 (3d Cir. 2017) (interpreting the Bankruptcy Code's reference to "receipt of goods" as requiring "physical

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of equitable tolling of federal statutes of limitations). *Lozano v. Montoya Alvarez*, 572 U.S. 1, 12 (2014). Here, we have sought help from analogies drawn from U.S. law to interpret the Single Convention "in good faith in accordance with the ordinary meaning to be given to its terms in their context and in light of its object and purpose." *Restatement of Foreign Relations* § 325(1).

[9] The current NIDA contract incorporates a clause of the Federal Acquisition Regulation dealing with government title to property. 2015 NIDA Contract at 55. That clause states that "[t]itle to property (and other tangible personal property) purchased with funds available for research and having a unit acquisition cost of less than $5,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided that the Contractor obtained the Contracting Officer's approval before each acquisition." 48 C.F.R. § 52.245-1 Alternate II (2012). If the unit acquisition cost is $5,000 or more, title vests "as set forth in this contract." *Id*. The application of this clause to marijuana the contractor grows rather than purchases is ambiguous and the contract does not otherwise expressly address title to the crops.

possession"); *see Matter of Brio Petroleum, Inc.*, 800 F.2d 469, 472 (5th Cir. 1986) (same); *Matter of Marin Oil, Inc.*, 740 F.2d 220, 225 (3d Cir. 1984) (same). Moreover, DEA certainly does not have title to the crops. Even if NIDA had formal legal title to the crops, the current arrangement would still have to be adjusted to comply with the treaty's requirements that a single government agency be charged with licensing cultivators, purchasing, and physically possessing the crops. In the course of making those adjustments, DEA could enter into a contract that expressly states that it owns the marijuana crops, should the agency seek to obviate the need for a purchase and claim ownership in the marijuana from its inception, rather than buying back the crops shortly after the harvest.

3.

Finally, we do not believe that the current arrangement provides for the federal government to exercise "the exclusive right of importing, exporting, wholesale trading and maintaining stocks" in the drug, as required by Article 23(2)(e). DEA has authority to control the lawful distribution of the crops in certain respects. But just as with the physical possession requirement, the Single Convention contemplates that the government monopoly will involve more than the exercise of regulatory authority. The *Commentary* on the Convention stresses that wholesale trade "must be undertaken by governmental authorities," rather than private parties, because of the risk of diversion. *Commentary* at 278. The Convention contemplates an actual "monopoly," *id.* at 284, i.e., "[t]he market condition existing when only one economic entity produces a particular product or provides a particular service." *Black's Law Dictionary* 1160 (10th ed. 2014). The government agency responsible for the relevant controls must own the crops and be the sole distributor of the marijuana. In allowing the National Center to maintain possession of the marijuana and ship it to DEA-approved researchers, the NIDA contract does not create the required government monopoly over the lawful marijuana trade.[10]

[10] The government monopoly need not extend to "medicinal" marijuana. Single Convention art. 23(e). But that exception is not available under current federal law. As noted above, the federal government has not recognized any accepted medical use for marijuana. *See Oakland Cannabis Buyers' Co-op.*, 532 U.S. at 491. As a result, "there is currently no such thing in the United States as 'medicinal cannabis'" for purposes of the Single Convention. Lyle E. Craker, 74 Fed. Reg. at 2116. Moreover, anyone who wished to produce medicinal marijuana or marijuana preparations would still be required to pur-

For the reasons discussed above, the National Center does not play the role of the government monopolist. *See supra* Part II.A.2.b. Indeed, that conclusion is buttressed here by a constitutional concern. If the National Center were viewed as exercising significant authority in establishing a federal government monopoly over the lawful distribution of marijuana, in conformity with the international obligations of the United States, its officials might be viewed as officers of the United States, who would need to be appointed consistent with the Appointments Clause. *See Ass'n of Am. Railroads*, 575 U.S. at 55–56; *Officers of the United States Within the Meaning of the Appointments Clause*, 31 Op. O.L.C. 73, 87–93, 100–110, 121 (2007). If any National Center officials were officers of the United States, they would have to be appointed either by the President with the advice and consent of the Senate, or, pursuant to statutory authority, by a court of law, a department head, or the President alone. *See* U.S. Const. art. II, § 2, cl. 2. We are not aware that any National Center officials are so appointed, but because, as discussed above, we do not believe that the National Center is exercising the sovereign authority of the United States, such concerns do not arise.

B.

Even if the current framework departs from Article 23, it would still comply with the Convention if it satisfied Article 39, which provides that, "[n]otwithstanding anything contained in this Convention, a Party shall not be, or be deemed to be, precluded from adopting measures of control more strict or severe than those provided by this Convention." We therefore must consider whether the NIDA contract system may be viewed as resulting in a "more strict or severe" system of controls than one where the government physically possesses the marijuana crops and monopolizes their distribution. *See* State Mem. at 4–6.

Article 39 permits a party to the Single Convention to impose substitute measures that result in tighter controls than those otherwise required. *See Commentary* at 449. But as the *Commentary* explains, such "substitute measures should *clearly* be 'more strict or severe' to prevent any . . . doubts" about their validity. *Id.* (emphasis added). As examples of "[p]ermissible substitute controls," the *Commentary* identifies "the prohibition

chase cannabis stocks from the national cannabis agency that purchases and takes physical possession of the marijuana crop grown by licensees. *See Commentary* at 284.

of manufacture of and trade in certain drugs instead of subjecting them to a system of licensing, or the imposition of the death penalty in place of 'imprisonment or other penalties of deprivation of liberty.'" *Id.* at 449–50.

The close regulation of the National Center is not clearly more strict or severe than the controls in Articles 23 and 28. The Office of the Legal Adviser points out that the NIDA contract, unlike the controls required by Article 23(2), addresses the risk of diversion during the cultivation process in addition to diversion that may occur after the crops are harvested. *See* State Mem. at 5; State Supp. Mem. at 1.[11] For example, the National Center must maintain its registration for working with scheduled drugs, 2015 NIDA Contract at 13, which requires certain security measures for manufacturing activities, *see, e.g.*, 21 C.F.R. § 1301.73(b) ("Manufacturing activities with controlled substances shall be conducted in an area or areas of clearly defined limited access which is under surveillance by an employee or employees designated in writing as responsible for the area.").

As effective as those contractually imposed diversion controls may be during marijuana *cultivation*, however, we cannot say that they clearly compensate for the absence of the required controls governing the *trade* in the crops, which the treaty drafters evidently believed posed greater risks of diversion. The controls required by Article 23 of the Single Convention reflect the specific concern that "experience has shown that permitting licensed private traders to purchase the crops results in diversion of large quantities of drugs into illicit channels." *Commentary* at 278. The treaty drafters thus concluded that "the acquisition of the crops and the wholesale and international trade in these agricultural products cannot be entrusted to private traders, but must be undertaken by governmental authorities in the producing countries." *Id.* The *Commentary* then explains that pursuant to Article 23 "[f]armers should be required to deliver the opium as soon as the Agency requests it, that is, is in a position to take physical possession of the crops of the cultivator concerned. . . . The Convention not only requires that the Agency should take physical possession of the

[11] The Office of the Legal Adviser suggests that DEA's framework is also stricter than required by the Single Convention because DEA establishes annual quotas for the National Center's marijuana production. *See* State Mem. at 1, 5. But those quotas not only indirectly implement the requirements in Article 23(2) for the national cannabis agency to designate the land on which cultivation is permitted, *see Commentary* at 281, but also directly implement Article 21 of the Convention, which requires parties to limit the annual quantity of drugs lawfully manufactured and imported. DEA's quotas are therefore not more strict or severe than the Single Convention otherwise requires.

opium, but also that it should 'purchase' it as soon as possible." *Id.* at 283. In other words, allowing the National Center, rather than the federal government, to distribute marijuana replicates in critical respects a system that the drafters rejected as inadequate, not one that they would have seen as "clearly more strict."

We also believe that reliance upon Article 39 here would be hard to reconcile with other provisions in the Single Convention that expressly provide parties with discretion to impose appropriate controls. For example, Article 28(3) gives parties discretion "to adopt such measures as may be necessary to prevent the misuse of, and illicit traffic in, the leaves of the cannabis plant."[12] *See also* Single Convention art. 2(8) (requiring parties to "use their best endeavours to apply . . . such measures of supervision as may be practicable" to substances that "may be used in the illicit manufacture of drugs"); *id.* art. 30(2)(b)(ii) (stating that parties should require that prescriptions for Schedule I drugs be written on official forms "[i]f the Parties deem these measures necessary or desirable"); *id.* art. 30(4) (stating that parties should require certain drug wrappings if the parties "consider[] such measure necessary or desirable"). Article 23 and the remaining provisions of Article 28, however, require a party to adopt very specific controls over the cultivation of marijuana (aside from the leaves of the plant) and do not give discretion to choose alternative means, simply because the party believes in good faith that the controls will accomplish the same purpose. Article 39 thus permits parties to depart from the specific controls mandated only where the alternatives are plainly more "strict or severe." The existing licensing scheme falls short of that standard.

C.

In considering the appropriate interpretation of the Single Convention, we have reviewed the statements and practice of the International Narcotics Control Board ("INCB"), the international body established by the Single Convention to monitor treaty compliance, which we understand has not objected to the United States' licensing scheme. While the interpretation of a body charged with monitoring treaty implementation may

[12] As noted above, the Single Convention's definition of cannabis does not include the leaves when unaccompanied by the top of the plant. Single Convention art. 1(1)(b). The CSA's definition of marijuana, by contrast, includes the leaves. 21 U.S.C. § 802(16).

sometimes help in resolving ambiguities in the treaty's text, such views are not authoritative interpretations of the treaty or legally binding on the United States or other parties.[13]

Here, the INCB's failure to object reveals little. The INCB's mandate does not require it to note every instance of noncompliance. Rather, the INCB is charged with identifying situations in which the Convention's aims "are being seriously endangered by reason of the failure of any Party, country or territory to carry out [its] provisions." Single Convention art. 14(1)(a). In fulfilling this mandate, the INCB has, for example, objected to "the legalization of the production, sale and distribution of cannabis for non-medical and non-scientific purposes in the states of Alaska, Colorado, Oregon and Washington." 2014 INCB Report at 25. But the fact that the INCB has not objected to the federal licensing scheme does not mean that the INCB views that framework as complying with the Single Convention.

Indeed, the INCB's interpretation of the Single Convention appears entirely consistent with ours. For instance, the INCB's 2014 annual report advises that "States wishing to establish programmes for the use of cannabis for medical purposes that are consistent with the requirements of the Single Convention must establish a national cannabis agency to control, supervise and license the cultivation of cannabis crops." *Id.* at 35. The national cannabis agency must "purchase and tak[e] physical possession of crops" and maintain "the exclusive right of wholesale trading and maintaining stocks." *Id.* While the INCB has not expressly objected to the United States' licensing scheme, it has "note[d] that the control measures in place under many existing programmes in different countries fall short of the requirements set out above." *Id.* at 36. We do not infer from the INCB's silence any affirmative approval of the existing licensing scheme or the licensing schemes of other countries.

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[13] *See INS v. Aguirre-Aguirre*, 526 U.S. 415, 427–28 (1999) (guidance issued by the Office of the UN High Commissioner for Refugees regarding the interpretation of the Refugee Convention "may be a useful interpretative aid, but it is not binding on the Attorney General, the [Board of Immigration Appeals], or United States courts"); Observations of the United States of America on the Human Rights Committee's Draft General Comment 35: Article 9, *2014 Digest of United States Practice in International Law* ch. 6, § A(2)(b), at 179 ("The United States believes the views of the Committee should be carefully considered by the States Parties. Nevertheless, they are neither primary nor authoritative sources of law.").

D.

We have also reviewed information about executive branch practice and the practice of other state parties to the Single Convention. As we have observed, the Executive Branch has long licensed the National Center to grow marijuana without having a single government agency purchase and take physical possession of the cannabis crops after harvest. A number of other state parties to the Single Convention apparently follow the U.S. practice. *See* State Mem. at 6–7; State Supp. Mem. at 3.

The practice of the Executive Branch and other state parties is relevant in treaty interpretation. Courts "find particularly persuasive a consistent pattern of Executive Branch interpretation, reflected in the application of the treaty by the Executive and the course of conduct of the parties in implementing the agreement." *Relevance of Senate Ratification History to Treaty Interpretation*, 11 Op. O.L.C. 28, 36 (1987) (citing *O'Connor v. United States*, 479 U.S. 27, 32–33 (1986)); *see also* Vienna Convention art. 31(3)(b) (noting that, "together with the context," treaty interpretation should take into account "[a]ny subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation"). The practices of a treaty's parties can also be useful evidence of the parties' "understanding of the agreement they signed." *United States v. Stuart*, 489 U.S. 353, 369 (1989); *see Medellín*, 552 U.S. at 507.

But as the Supreme Court has explained, "where the text [of a treaty] is clear . . . we have no power to insert an amendment." *Chan v. Korean Air Lines, Ltd.*, 490 U.S. 122, 134 (1989) (holding that the text of the Warsaw Convention controlled where it could not "be dismissed as an obvious drafting error").[14] Here, Articles 23 and 28 clearly require that the United

[14] *See Water Splash*, 137 S. Ct. at 1511 ("[W]hen a treaty provision is ambiguous, the Court may look beyond the written words to the history of the treaty, the negotiations, and the practical construction adopted by the parties." (internal quotation marks omitted)); *Eastern Airlines, Inc. v. Floyd*, 499 U.S. 530, 534–35 (1991) (explaining that treaty interpretation begins "with the text of the treaty and the context in which the written words are used," while "[o]ther general rules of construction may be brought to bear on difficult or ambiguous passages" (internal quotation marks omitted)); *United States v. Jeong*, 624 F.3d 706, 711 (5th Cir. 2010) ("Only if the language of a treaty, when read in the context of its structure and purpose, is ambiguous may we resort to extraneous information like the history of the treaty, the content of negotiations concerning the treaty, and the practical construction adopted by the contracting parties." (internal quotation

States have a single government agency "purchase and take physical possession of" lawfully grown cannabis crops "as soon as possible, but not later than four months after the end of the harvest," Single Convention art. 23(2)(d), and that this agency thereafter "have the exclusive right of importing, exporting, wholesale trading and maintaining stocks" of marijuana, *id*. art. 23(2)(e).

In addition to the fact that the Single Convention is unambiguous, state practice does not appear to reflect a conclusive or consistent interpretation of the controls required. *See* Memorandum for Edwin Meese, III, Attorney General, from Charles J. Cooper, Assistant Attorney General, Office of Legal Counsel, *Re: Intent and Constitutionality of Legislation Prohibiting the Maintenance of an Office of the Palestine Liberation Organization in the United States* at 4 n.5 (Feb. 13, 1988) (declining to depart from the text of an international agreement based on inconclusive post-ratification practice). The Office of the Legal Adviser identifies Australia, Canada, Israel, and the United Kingdom as countries with similar licensing practices as the United States, in which the government agency does not purchase or take physical possession of the marijuana, but allows private growers to distribute it. State Supp. Mem. at 3. But the practices of a handful of the 186 parties to the treaty are entitled to comparatively little weight in illuminating the meaning of the treaty, and certainly do not supply the kind of subsequent practice that "establishes the agreement of the parties regarding its interpretation." Vienna Convention art. 31(3)(b).

In fact, the practice of parties regarding lawful marijuana cultivation is hardly unambiguous. In the Czech Republic, for example, the applicable legal regime requires licensed cannabis growers to "transfer cannabis grown and harvested . . . exclusively to the State Institute for Drug Control," which is instructed to "buy cannabis harvested within 4 months of its harvesting." On Dependency Producing Substances and on Amending Certain Other Acts, Act No. 167/1998 Coll. sec. 24b(1) (as amended). And a 2017 report on cannabis legislation in Europe states that in Italy, "[f]rom November 2015, the [Ministry of Health] can issue permits for

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marks omitted)); *Avero Belgium Ins. v. American Airlines, Inc.*, 423 F.3d 73, 86 (2d Cir. 2005) (holding that secondary evidence of the parties' intent "may be useful where the intentions of the party States cannot be deduced by the treaty's plain language, but we need not rely upon such evidence here as the text of Montreal Protocol No. 4 is clear and, consequently, controlling" (internal citation omitted)).

cultivation" of cannabis and that "[l]icensed farmers deliver the cannabis to the ministry, which then allocates it for production." European Monitoring Centre for Drugs and Drug Addiction, *Cannabis Legislation in Europe: An Overview* 8 (2017).[15] Currently, it appears that the only authorized grower in Italy is the Italian Army, *see* Anna Momigliano, *In Italy, the Army Provides Medical Marijuana. And Some Say That's a Problem*, Wash. Post, Dec. 1, 2017, which would suggest that a single Italian government agency has physical possession of the crop and a monopoly on trade in cannabis, as the text of Articles 23 and 28 requires. There is also evidence that other parties to the Single Convention have established a single government agency to administer the controls required by Articles 23 and 28. *See, e.g.*, *Narcotic Drugs Act 1967*, Act No. 53/1967 (Cth) ch 2 pt 2 (as amended) (Austl.) (establishing marijuana licensing framework operated by the Department of Health); Report of the International Narcotics Control Board for 2005, at 16 (Mar. 1, 2006) (noting that "since the last report of the Board was published, the Government of the United Kingdom has established a national cannabis agency"); David Mansfield, *An Analysis of Licit Opium Poppy Cultivation: India and Turkey* 10–17 (Apr. 2001) (describing the regulation of opium in Turkey under the Grain Marketing Board and in India under the Central Bureau for Narcotics).

We find relevant as well the practice of countries that license private growers to cultivate the opium poppy and the coca leaf—both of which are subject to the same Article 23 regime as the cannabis plant.[16] The practice among countries that permit lawful production of those plants is consistent with the text of Article 23. In India, Turkey, and Peru, for

[15] The report also describes the Netherlands' regime for medicinal cannabis, which provides that cannabis producers may be "licenced by the Dutch government and must sell all produce to the [Office of Medicinal Cannabis], which then distributes it to pharmacies." *Cannabis Legislation in Europe: An Overview* at 7. Although this regime appears to comply with the text of the Single Convention, the Netherlands has a separate regime for non-medical cannabis, pursuant to which it licenses coffee shops to sell small quantities of cannabis. The INCB has objected to this practice and noted that it "is in contravention of the provisions of the [Single] Convention." Report of the International Narcotics Control Board for 2001, at 35 (Feb. 27, 2002).

[16] Article 26 provides that Article 23 applies to licit cultivation of the coca leaf except that the government agency is not required to take physical possession of the crops within four months, but only "as soon as possible after the end of the harvest." Single Convention art. 26(1).

example, a government agency purchases and takes physical possession of those crops following the harvest.[17]

The Office of the Legal Adviser suggests that state practice with regard to opium may not be instructive as to marijuana because "[t]he vulnerabilities of the two plants" to diversion "are significantly different" owing to their different properties. State Mem. at 6. But the Single Convention's drafters recognized that "the conditions under which the cannabis plant is cultivated for the production of drugs are very different from those under which the opium poppy is grown for opium," and nonetheless "provide[d] the same regime for both, namely that of article 23." *Commentary* at 313.[18]

While state practice is therefore inconclusive, the Single Convention's drafting history would strongly support our interpretation of the text of Articles 23 and 28 even if the treaty were ambiguous. *See Water Splash*, 137 S. Ct. at 1511. An earlier draft of the Single Convention would have provided a less-stringent regime for cannabis than applicable to the coca leaf, under which a closely regulated private entity could grow marijuana. Under that draft, a "'licensed scientific institute'" would have been permitted to "'produce, manufacture, possess and export under close State supervision to the government of another Party small amounts of cannabis . . . for the purpose of scientific research.'" Memorandum for Malcolm R. Wilkey, Assistant Attorney General, Criminal Division, from Robert Kramer, Assistant Attorney General, Office of Legal Counsel, *Re: Constitutionality of Legislation to Carry Out Certain Provisions of Draft Single Convention on Narcotic Drugs* at 2–3 n.2 (Jan. 20, 1960) (quoting Article 39 of draft Single Convention). With regard to the coca leaf, however, the draft would have provided for the Article 23 system of controls. *See id.*

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[17] *See* Central Bureau of Narcotics, Licit Cultivation, http://www.cbn.nic.in/html/operationscbn.htm (last visited June 6, 2018) (explaining that licensed opium cultivators in India "are required to tender their entire produce to the Government"); Mansfield, *An Analysis of Licit Opium Poppy Cultivation* at 10–12 (describing the licensing and control measures for opium cultivation in Turkey, overseen by the Grain Marketing Board, which takes physical possession of crops); United Nations Office on Drugs and Crime, *Peru Coca Cultivation Survey* 8 (June 2005) (explaining that the National Coca Enterprise ("ENACO") "has a monopoly on the commercialization and industrialization of the coca leaves," such that "the selling of coca leaves to any party other than ENACO is considered illicit by national law").

[18] Indeed, the *Commentary* suggests that the regime for opium could, "in practice," prove to be inadequate to control cannabis production. *Commentary* at 313 n.9.

at 1–2 n.1 (quoting Article 36 of draft Single Convention). In other words, the Single Convention's drafters considered, but rejected, allowing licensed private institutions to produce, store, and ship marijuana under close government supervision, and instead adopted a requirement that the government take physical possession of the crop and conduct trade in the drug. That history also shows that the drafters of the Single Convention considered applying less-stringent controls to marijuana, but declined to do so and instead applied the same stringent controls to marijuana, opium, and the coca leaf.

III.

For similar reasons, DEA's 2016 policy statement also fails to establish a framework that would fully comply with Articles 23 and 28 of the Single Convention.

Under that policy, DEA would allow a licensee "to operate independently" of NIDA, "provided the grower agrees (through a written memorandum of agreement with DEA) that it will only distribute marijuana with prior, written approval from DEA." Applications To Manufacture Marijuana, 81 Fed. Reg. at 53,848. Such a licensee would also "be subject to all applicable requirements of the CSA and DEA regulations, including those relating to quotas, record keeping, order forms, security, and diversion control." *Id*. DEA suggests that these requirements would be consistent with the purposes of Articles 23 and 28 of the Single Convention because these requirements "will succeed in avoiding one of the scenarios the treaty is designed to prevent: Private parties trading in marijuana outside the supervision or direction of the federal government." *Id.*

While DEA focuses on its view of the broader purposes of the treaty's requirements, the Single Convention requires the United States to adopt specific, listed controls if it licenses cannabis cultivation. A single government agency must purchase and take physical possession of harvested cannabis, and generally monopolize the wholesale trade in that plant. The United States cannot satisfy those requirements simply by employing alternatives that the government believes may prevent unlawful diversion. As we have explained, Articles 23 and 28 certainly could have given the parties the discretion to determine the particular controls necessary. Rather than take that route, the parties to the treaty agreed to certain specific controls, and Congress has required the Attorney General to apply those strictures when granting licenses under the CSA. Accord-

ingly, DEA's licensing procedures must comply with those choices. DEA's announced policy, however, would not comply with Articles 23 and 28 of the Single Convention.

IV.

We conclude that DEA must alter the marijuana licensing framework to comply with the Single Convention. DEA has discretion to develop a regulatory framework that meets the requirements of Articles 23 and 28. In doing so, DEA need not rule out a regime in which DEA purchases or takes legal title to the marijuana plants prior to their cultivation; adopts a system of regulation and day-to-day supervision that would create an agency relationship; or relies upon NIDA's expertise to assist the agency in its functions. At a minimum, however, this licensing framework must provide for a system in which DEA or its legal agent has physical possession and ownership over the cultivated marijuana and assumes control of the distribution of marijuana no later than four months after harvesting.

In justifying the current licensing framework, DEA had concluded that the division of labor with NIDA was "a result of the existing statutes, regulations, and Congressional appropriations," and declined to opine on whether, absent legislation, DEA could carry out all the functions required by the Single Convention. Lyle E. Craker, PhD, 76 Fed. Reg. at 51,409–10. Having examined DEA's and NIDA's authorities, we do not believe that further legislation is required for DEA to perform those functions. DEA has statutory authority to do so pursuant to 21 U.S.C. § 823(a), which obliges DEA (by delegation from the Attorney General) to ensure that registrations for the manufacture of marijuana comply with the Single Convention. That language authorizes DEA to take steps reasonably necessary to ensure that the registration scheme complies with the Single Convention, which as we have said clearly contemplates that a single government agency will purchase and take physical possession of marijuana crops from registrants. The statute thus authorizes DEA to perform the control functions contemplated by the Single Convention, including the functions of purchasing (or otherwise securing title over) and taking physical possession of marijuana crops. Reading the statute otherwise would preclude DEA from registering any marijuana manufacturer because no registration could be in compliance with the Single Convention, contrary to Congress's evident intent that DEA administer the registration system. Congress has also established a fund for DEA's

diversion control program, which includes DEA activities "related to the *registration* and control of the manufacture, distribution, [and] dispensing . . . of controlled substances." 21 U.S.C. § 886a(2)(B) (emphasis added). Because Congress has made compliance with the Single Convention a necessary condition of registration, *id.* § 823(a), that fund may be used in purchasing, storing, and monopolizing the wholesale trade in marijuana. And although HHS has statutory authority to "determine the qualifications and competency" of the *researchers* who seek to purchase marijuana from licensed growers to conduct research, *id.* § 823(f), that provision would not bar DEA from establishing a government monopoly from which those researchers could purchase marijuana.

The NIDA contract is a longstanding feature of the marijuana licensing scheme, and the current version of that contract is annually renewable through March 2020. 2015 NIDA Contract at 27. Although DEA must discharge the obligations required by Article 23(2), NIDA may still play a significant role. The relevant statutes require that "[r]egistration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary [of Health and Human Services], who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol." 21 U.S.C. § 823(f). The Single Convention does not require that a single government agency be charged with all responsibilities related to marijuana, and the congressional decision to delegate those responsibilities to HHS is consistent with the Single Convention. Aside from carrying out its role under section 823(f), NIDA may continue to exercise some supervision over certain aspects of the marijuana cultivation, and DEA may consult NIDA in the process. We see no reason why the NIDA contract framework might not remain in place under a system in which DEA assumes clear title to the marijuana, either at inception or by purchase after harvest, and then takes physical possession after harvest. For instance, DEA could station one or more employees at the National Center after cultivation as a way of ensuring physical possession of the marijuana and exclusive control over its distribution.

We would be pleased to advise on these or any other matters concerning implementation of a new licensing framework.

HENRY C. WHITAKER
Deputy Assistant Attorney General
Office of Legal Counsel

U.S. NEWS

One doctor vs. the DEA: Inside the battle to study marijuana in America

Millions of people across the U.S. can legally buy pot at dispensaries – but scientists aren't allowed to study it.

Since 1968, the Drug Enforcement Administration has required scientists who want to study cannabis's effects to use marijuana from a 12-acre farm at the University of Mississippi.

Chelsea Stahl / NBC News; Redux; Getty Images

April 29, 2020, 5:24 PM CDT / Updated April 30, 2020, 5:45 PM CDT

By Tyler Kingkade

Early in Dr. Sue Sisley's medical career, military veterans with post-traumatic stress disorder told her that smoking marijuana prevented nightmares and helped them sleep. Sisley, a primary care physician and psychiatrist in Scottsdale, Arizona, who has treated vets for two decades, said she was initially skeptical of her patients' claims, but their families vouched that pot was helping with their symptoms.

"Even though I was dubious, they never really gave up," Sisley said of the patients. "They were so relentless."

About a decade ago, Sisley decided to study pot's psychiatric effects to see if she could prove what her patients were experiencing. But, because of marijuana's federal status as an illegal drug, this turned out to be far from a simple task.

— Dr. Sue Sisley. Courtesy of Scottsdale Research Institute

Since then, Sisley has been fired from her job at the University of Arizona; lost a study partner at another university; and had the U.S. Department of Veterans Affairs block her attempts to recruit patients for research. By 2016, her scientific study was underway through the Scottsdale Research Institute, and she finally had federally approved cannabis in hand to provide to 76 military vets.

But she was not happy with the weed she received.

The marijuana was a "powdery mishmash of stems, sticks and leaves," Sisley said. The level of tetrahydrocannabinol – or THC, the chemical that gets people high – was around 8 percent, far lower than the smokable products at pot dispensaries that often surpass 20 percent. The research weed also tested positive for yeast and mold, she said.

"I'm astonished by that," Sisley said. "As a physician, how do I hand out moldy weed to study subjects?"

Sisley couldn't shop around, though, because since 1968, the Drug Enforcement Administration has required scientists who want to study cannabis's effects to use only marijuana from a 12-acre farm at the University of Mississippi. While the director of the farm disputes Sisley's characterization of the cannabis supplied, Sisley and other scientists argue that government rules forcing them to use only the Mississippi weed have stifled research because it doesn't match what people are actually using.

"We haven't done any research on the stuff that people are buying and consuming today – that's the problem," said Cindy Kiel, executive associate vice chancellor for research administration at the University of California, Davis.

The DEA promised a few years ago it would let more people grow marijuana for research purposes, but it wasn't until late last month – as the country hunkered down under stay-at-home orders to combat the coronavirus pandemic – that the agency unveiled a plan for how it would do that. Under the DEA's newly proposed rules, the agency would allow more scientists and companies to grow marijuana for research, but they would have to turn it over to the DEA, which would then dole it out to scientists.

Sisley saw this as another way to slow-walk marijuana research. So she sued the government, demanding it reveal its legal justification. On Wednesday, the Department of Justice unveiled a secret 2018 memo that blocked the DEA from approving additional cultivators like Sisley, in the absence of stricter rules. The memo also raised questions about the existing arrangement with the University of Mississippi, and whether it must change to comply with an international treaty.

Sisley never envisioned that her attempt to study marijuana's potential benefits would become a decade-long quest involving fights with universities and the federal government, and attempts to uncover a confidential legal document. Yet this is the complicated maze scientists studying cannabis have been navigating for years.

Now, Sisley and others hope the DEA will finally expand the kind of marijuana available for research – even if the government adds onerous requirements for those who want to grow it –

which could ultimately determine its benefits and potential harms, and whether it will ever be legalized federally.

"We're trying to make sure the public is aware of what we believe is an injustice, a suppression of scientific freedom," Sisley said, "and to understand the myriad ways that the government has ensured that cannabis drug development research will never proceed."

Jeff Sessions pumps the brakes

Legal pot is already a bigger industry than organic produce in the United States, and the demand for products with cannabidiol – a nonpsychoactive component often referred to as CBD that has therapeutic properties – is projected to top $23 billion within three years. A majority of the country now has medical marijuana programs on the books, and 11 states have legalized weed for adult recreational use.

However, the DEA still classifies marijuana as a Schedule I drug – a restrictive category reserved for substances believed to have no medical value and be susceptible to abuse. The DEA has repeatedly said it won't support reclassifying marijuana because there aren't well-controlled studies or scientific evidence approved by the Food and Drug Administration to show medical benefits. Yet scientists say that if evidence of those benefits is ever going to exist, they need to put real-world weed – not what's made available from the University of Mississippi – through these studies.

This sets up a paradox, in which practically no one can show through an FDA-approved clinical trial that the cannabis products on the market are safe or beneficial because researchers can't legally study them.

"Effectively 200 million Americans can access cannabis right now, but a doctor or scientist can't," said George Hodgin, founder of the Biopharmaceutical Research Company, a marijuana analytical firm. "It is at best irresponsible, and, at worst, it's dangerous."

Cannabis research is so tightly controlled that the DEA denied a request by UC Davis faculty two years ago to buy CBD products for pets from a nearby dispensary to study their effects on animals, said Kiel, the research administrator at the university. The DEA shot down the study because the scientists weren't going to use cannabis grown by the University of Mississippi operation, Kiel said.

In 2016, following requests from scientists, the DEA announced that it would allow more facilities to cultivate cannabis for research. Sisley, Hodgin and UC Davis were among at least 33

applicants that lined up for a license, hopeful that this was the beginning of a renaissance in marijuana research.

Then Jeff Sessions became attorney general.

A former senior DEA official, who spoke on the condition of anonymity to share internal agency deliberations, told NBC News that Sessions was "adamantly opposed" to expanding the options to study marijuana, and in 2017 he halted the government's plans to allow more growers. When members of Congress later pressed Sessions on the pending applications, he suggested that allowing more than one producer could put the country at risk of violating the U.N. Single Convention on Narcotic Drugs, a 1961 international treaty.

Frustrated, Sisley said she essentially went on "a nationwide tour to speak to every Bob's Burger Barn or American Legion post, anyone who would have me," to talk about the government's stonewalling of cannabis research. That's how she met Texas-based attorneys Matt Zorn and Shane Pennington, who took on Sisley's case pro bono last year.

Together, they sued the DEA for not processing Sisley's application, and in July 2019, a court ordered the agency to explain itself. Just before a court deadline last August, the DEA said it planned to issue new regulations for how it would permit additional growers.

The new rules proposed by the DEA last month were the result of an opinion written by lawyers in the DOJ's Office of Legal Counsel in June 2018, while Sessions was still attorney general. The opinion concluded that the Single Convention treaty required the DEA to "monopolize" the exchange of all legal marijuana for research. The existing set-up – letting the University of Mississippi grow and ship marijuana – didn't satisfy the Single Convention treaty, the memo concluded, and the DEA needed a new framework in which the agency takes control of the cannabis before distributing it to scientists.

That opinion was kept secret until Sisley and her legal team filed a lawsuit in March against the department, which settled this week with the release of the document.

Pennington said the memo reveals that the limitations under the treaty were not based on who is growing the marijuana. "It's about who's possessing it, purchasing it, and doing wholesale trade in it, so it's been a myth that we've had to have this University of Mississippi weed this whole time," he said.

Wisconsin college students take on Covid-19

U.S. NEWS

Chicago Bears Hall of Famer Gale Sayers, known for 'Brian's Song,' dead at 77

A spokesman for the DEA defended the agency's handling of marijuana for research.

"DEA must operate within the bounds of law, regulations, and international treaties," the spokesman said in an email. "DEA must ensure the Schedule I substance is procured from a lawful source, and therefore requires the researcher identify the controlled substance, source, and amount involved. Because many state dispensaries comport only with state law and not federal law, a Schedule I substance from a state dispensary cannot be used for research."

The proposed regulations, the spokesman added, "could permit a greater range of product available for scientific research."

The Mississippi farm defends its weed

The grow operation on the University of Mississippi's Oxford campus has heavy security, with dozens of cameras, guards on duty, motion-activated sensors and multiple security gates equipped with vibration detectors. It's a far cry from 40 years ago, when undergraduates once tried to cast fishing rods over a fence to snag a marijuana plant. The farm is set up through a contract with the National Institute on Drug Abuse, which decides what kind of marijuana should be grown and is involved in the lengthy approval process for researchers who want to study it.

Mahmoud ElSohly, the longtime director of the Marijuana Project at Ole Miss, bristles at the criticisms of his products, including that it has tested positive for mold and has lower THC levels than advertised. He says these complaints are untrue and part of "propaganda to push an agenda that's mainly going toward legalization."

— The indoor marijuana grow operation at the University of Mississippi. University of Mississippi

"I welcome the opportunity for other growers to get involved," ElSohly said, "so people can't complain about that anymore." He notes that studies showing benefits of cannabis "are coming from the material we produce. So it's not that bad after all."

ElSohly, a professor who also researches cannabis, said that on top of ensuring their material is clear of salmonella and E. coli, the project now tests for yeast and mold.

The National Institute on Drug Abuse said all marijuana provided to scientists for studies is safe, and there's never been "any known health consequences from contaminants."

A typical growing season at the University of Mississippi yields over 1,100 pounds of plant material, which is dried and prepared to researchers' requests, like being rolled into joints. ElSohly acknowledged that he can't match the many marijuana products on the market, but he said he offers a range of potency levels, which is what he believes should matter most to scientists.

"If we match one, what about all the others?" he said. "Are we supposed to match all of the growers that a dispensary has? It makes no sense."

But Staci Gruber, director of the Marijuana Investigations for Neuroscientific Discovery program at McLean Hospital in Massachusetts, said the menu from the Ole Miss farm – which is largely confined to smokeable flower and THC extract – excludes high-potency products like edibles, shatter or wax.

"It's not as if we can get gummies with a standardized amount," Gruber said. "That's inherently limited."

Sisley said this is the result of having only one supplier of marijuana for research.

"I'm a lifelong Republican, and as a conservative I think monopolies are inherently problematic because they promote apathy," Sisley said. "The University of Mississippi has enjoyed a government-enforced monopoly for over 50 years. They've had no competition, no need, no drive to be responsive to the public, to scientists' needs."

ElSohly scoffed at the idea of a monopoly, noting that the University of Mississippi submits a bid for the government contract every few years, and "anyone who has the capabilities the infrastructure" is welcome to compete.

How professors get creative to study cannabis

It's difficult to find someone who publicly opposes expanding marijuana research. Members of Congress who oppose legalizing pot have called for more research. Major scientific groups want it. Even the National Institute on Drug Abuse would like to have more competition, because only having one grow operation at Ole Miss "slows the development of cannabis-based medications," the agency's director, Nora Volkow, testified to Congress this year.

Dr. Kevin Sabet, former drug policy adviser in the Obama administration, said more research is needed so that lawmakers can understand the effects of high-potency marijuana.

"For the vast majority of products, we don't have the long-term research to establish their safety at all," said Sabet, president of Smart Approaches to Marijuana, a nonprofit opposed to legalizing recreational pot.

— Marijuana buds grown indoors at the University of Mississippi, left, and buds received through the DEA after confiscation. University of Mississippi

Under the current restrictions, scientists have had to get creative to study weed.

Washington State University researchers are conducting a study in which they ask participants to buy cannabis at a legal dispensary, go home and smoke it, and then take an Uber or Lyft to the lab to give a blood sample. Michael McDonell, a psychology professor at the university, acknowledges that the system isn't perfect, but it circumvents prohibitions on university staff possessing marijuana.

"I'd like to be able to go buy one strain of cannabis, send it to a lab to know what's in it, know what's exactly the dose that's in it, and then study that," McDonell said.

Scientists are cautiously optimistic about the direction things are heading for marijuana research. Attorney General William Barr has promised to expand the number of marijuana growers approved by the DEA.

But while the public comment period on the proposed regulations ends on May 22, there's no deadline after that for next steps by the DEA. And some are concerned the expansion of growers isn't enough. Kiel, of UC Davis, said the DEA hasn't clarified whether newly approved growers will have to use marijuana seeds from the only approved source – the University of Mississippi farm.

"Which isn't going to solve the research problem," Kiel said. "It just won't."

Sisley's study with Arizona veterans wrapped up last year, and she expects it will be published in the coming weeks. She said it took her awhile to shake her medical school training that marijuana is dangerous and addictive, but she's come to believe it "is so much more benign than the prescriptions I write for patients every day."

"People recognize this plant has significant medical properties," Sisley said. "We just don't know how to harness them specifically to treat various illnesses. That's why people are still skeptical. We still don't know what varieties to use to treat different illnesses because the research has been systemically impeded by our federal government."

Tyler Kingkade

Tyler Kingkade is a national reporter for NBC News, based in Los Angeles.

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GREED, LIES, AND THE POISONING OF AMERICA

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To Trisha, my muse
and eternal love,
all things are possible
only with you

was quoted, including his observation that "I don't think man was constructed to ride subway trains."[26]

Arthur did not need to say "I told you so" when he gave copies of the *Times* article to Mortimer and Raymond. It was not just about continuing clinical research that he kept haranguing them. He even prodded the two about why they were not filing more drug patents. He had several approved, all related to innovative and improved anatomical models for the brain and central nervous system, inventions that would be useful for medical students and researchers. Mortimer and Raymond did file for a series of patents, all related to Purdue products. Even then, Arthur lectured one or both about how they could have done it better. When Raymond had filed in 1966 for a chemical base that allowed for a considerably faster absorption rate for suppositories, Arthur lectured him about why it was smart to assign those rights to a Sackler company abroad. It might afford more legal protections and even a better tax rate should that patent become valuable. Raymond did assign "Novel Hydrogen Bonded Compounds and Pharmaceutical Compositions" to Mundipharma AG, the Swiss company the brothers had created in 1957.[27] Although Raymond made the transfer mostly to stop Arthur explaining why he should do so, it would turn out to have significant consequences when it later played a role in the development of Purdue's extended release coating for its narcotic painkiller, OxyContin. Putting trademarks, patents, designs, and copyrights—so-called IP, intangible or intellectual property—in a tax haven was an idea that not only became widespread in the pharmaceutical industry, but later allowed the Sacklers to save hundreds of millions in taxes when OxyContin became a blockbuster success.[28]

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"TELL HIM HIS LAWYER IS CALLING"

In November 1969, Arthur's attention was abruptly brought back to Valium and Roche. The Fourth Circuit Court of Appeals, in Richmond, Virginia, ruled against drugmaker Carter-Wallace in its two-year-old lawsuit to overturn the FDA's decision that Miltown had the "potential for abuse."[1] The Fourth Circuit noted, "The evidence on this issue is in sharp conflict. It ranges from testimony of Carter-Wallace's experts that the potential for abuse of candy or aspirin is greater than for meprobamate to testimony from a government witness that he became so uneasy about alcoholics' affinity for the drug he stopped prescribing it for them."[2] Although the court acknowledged that the FDA's administrative judgment was "not supported by direct evidence," it was satisfied there was sufficient "circumstantial evidence, or indirect proof" of "future or potential abuse."[3] The unanimous verdict was bad news for Carter. Its broad language also did not bode well for Roche, whose appeal of the FDA's similar ruling against Librium and Valium was working its way through the courts.

Could the Nixon administration regulate the benzos while Roche's judicial appeal was pending? Roche and Sackler were not certain. They were not aware that a thirty-year-old Justice Department attorney, Michael Sonnenreich, was working on doing just that. He was drafting a law that would turn out to be Roche's feared worst-case scenario. Sonnenreich and Sackler did not know each other. In a few years, however, the young lawyer would play as important a role in Sackler's life as anyone, even becoming a closer confidant to Arthur than his own brothers.

Sonnenreich, born in 1938, was the second son in a middle-class

Jewish family in the mostly Italian neighborhood of Marble Hill, in the northernmost tip of Manhattan. His mother, Fay, who had graduated college with honors at only seventeen, was a former teacher. She was the first female administrator and executive secretary for Manhattan's Temple Israel.[4] Emmanuel (Manny), Sonnenreich's father, had a doctorate in ancient languages and had studied to be a rabbi before working at several New York social agencies. He became the membership director of B'nai B'rith, the world's oldest Jewish service organization. While the family was steeped in Judaism, Sonnenreich went to a public school.

A self-described "great test taker," he graduated near the top of his Bronx High School of Science class. Although he got a New York Regents "scholarship for academic excellence" to Cornell, he chose the University of Wisconsin ("I didn't want to stay in New York, and I liked Bob La Follette a lot)."[5]*

Without a scholarship Sonnenreich worked a series of odd jobs. Later his talent at duplicate bridge and billiards provided "just enough to pay" his bills. With majors in Applied Engineering, Mathematics, and History, he was the first American to spend a year abroad at the University of Spain.[6] There, he became a habitué of the Prado Museum's archives, indulging interests in art history and Thomistic philosophy. When he returned to Wisconsin for his senior year, he married a childhood friend four years his junior.[7]

Sonnenreich wanted a history doctorate but when he graduated from Wisconsin, he agreed to take the law boards to satisfy his father. "I bought a textbook about the law tests and that was all I needed," he recounted.[8] His aced the exams and was accepted at three schools to which he applied, Harvard, Yale, and Columbia. He selected Harvard. After graduating near the top of his law school class in 1963, he was drafted. His Harvard law degree meant the Army dispatched him to the Judge Advocate General's School in Charlottesville.[9] Two years later he was a civilian again and applied to some large New York firms.

* La Follette, nicknamed "Fighting Bob," was the founder of the Progressive Party under whose banner Teddy Roosevelt made his final run for the presidency in 1912. Under La Follette, a former Wisconsin governor, U.S. congressman, and senator, the progressives and the socialists fought for similar issues. La Follette advocated against the abuse of workers, the corruption of the moneyed industrial class, racial inequality, and suffrage. He ran for president in 1924, garnering 17 percent of the national vote. The Progressive Party dissolved after his death the following year.

"There was a long list of white-shoe law firms then that didn't hire Jews," he recalls, "so my choices were limited."[10] A traditionally WASPish breed, Abbott and Morgan made him an offer but he was not very interested in the bankruptcy, mergers, and business litigation that had become the mainstay for many large law firms in the 1960s. Sonnenreich accepted an offer in the Criminal Division of the Justice Department. As he had been in school, he proved a fast study. It was not long before his colleagues took notice of the young attorney with the eidetic memory capable of synthesizing complex issues into simple-to-understand talking points. Fred Vinson Jr., the Criminal Division's assistant attorney general, made him part of a team handling civil rights cases.

Sonnenreich's colleagues were by now accustomed to how he tackled assignments. Few could keep up when it came to working through a roomful of documents. He could read more than a thousand words a minute and retain them. By then he had gotten the attention of William Bittman, best known for his successful 1965 prosecution of Teamster boss Jimmy Hoffa.[11]

Sonnenreich would quickly be front and center in the debate over reforming the nation's drug laws. It was about a month later that John Dean, then an associate deputy under Nixon's attorney general, John Mitchell, walked into Sonnenreich's office. The two had met the previous year when Dean was the associate staff director to LBJ's National Commission on Reform of Federal Criminal Laws.

"I hear you rewrote the drug laws," Dean said to him.

"Yes."

It was not an empty boast. Later that year, the Government Printing Office would publish Sonnenreich's *Handbook of Federal Narcotic and Dangerous Drug Laws*.[12]

"Would you be willing to meet with the attorney general?"

"Yes."[13]

When Sonnenreich and Mitchell met, he told the attorney general that the "drug laws are archaic" and the enforcement and regulatory framework was a confusing and sometimes contradictory hodgepodge of laws and amendments that had been cobbled together over the decades. In 1951 Congress instituted the first mandatory minimum sentences for drug convictions and barred probation for first offenses.[14] Five years later a different Congress increased the minimum jail terms.[15] In 1965, faced with a wave of unknown psychedelic drugs,

it criminalized manufacturing or possessing those hallucinogens and gave HEW enforcement responsibility.[16]

None of the laws addressed treatment, Sonnenreich told Mitchell. He believed it was not enough for reforms to curb supply. They should also cut the demand for drugs.[17] Mitchell asked Sonnenreich if he would meet with Nixon.

"Of course, I'd be willing to talk to the president."

A few days later in the Oval Office, Sonnenreich told Nixon about his idea for a commission to examine existing laws before making any final recommendations. Nixon liked that. Sonnenreich was transferred to the Bureau of Narcotics and Dangerous Drugs. There, as deputy chief counsel, he began drafting what would become the heart of the Controlled Substances Act. He established "schedules" by which drugs were listed, balancing their medical usefulness, if any, against their potential for abuse.

Sonnenreich was thirty-one years old and liked his work. He expected to to spend his career in government service. "My wife and I were happy; we had no problem in wanting more. We did everything we wanted to do. . . . One day this guy comes in with some Roche people and he says to me that 'If you schedule Librium or Valium, we're gonna challenge this, we're gonna challenge that.'"

It was Arthur Sackler. Sonnenreich had never heard of him.

"I welcome your challenge, it makes my day," Sonnenreich replied.

Sackler again warned that Roche would battle any effort to restrict the sale of its drugs.

"I'm going to do something better," said Sonnenreich. "I'm going to file an administrative action to put your drugs under control and put them on the three times prescription rule [a controlled substance limited to a maximum of three refills]."[18]

When Sonnenreich later held that administrative hearing to determine whether Roche's benzodiazepines should be covered in one of the Controlled Substances Act schedules, he recalls "they had all the big law firms there, the biggest D.C. powerhouses. They were wrong if they thought that might scare me. They didn't understand I was having a good time. They had just irritated me so much. I was still getting paid the same $7,900 a year, it didn't make any difference to me."

Sonnenreich and the Justice Department won the administrative action. "Arthur was obviously very, very upset," he recalls.[19]

Sonnenreich's draft of the Controlled Substances Act was at the heart of sweeping reorganization legislation—the Comprehensive Drug Abuse Prevention and Control Act—that the Nixon administration submitted to Congress in early 1970.[20]

In creating four schedules of "controlled substances," Sonnenreich had in part relied on extensive research and guidelines set out earlier that year by the World Health Organization.[21] The public initially misinterpreted those schedules to think the drugs were listed in order of danger. Sonnenreich had instead balanced the potential for abuse with whether a drug had "any currently accepted medical use." Although Cicely Saunders was then praising heroin as an effective pain reliever at her London hospice, it was judged to have no medical benefit. There was grim evidence of its abuse between hospital admissions and deaths from overdoses. It, along with LSD and ecstasy, were on Schedule I. So was marijuana, although that was a political compromise. The assistant secretary of health had suggested it be placed there temporarily until Nixon appointed a commission to recommend a final status.

Cocaine, methamphetamine, oxycodone, and fentanyl at least had demonstrated medical uses—cocaine in dental surgery as a topical anesthetic—and were listed on Schedule II, although they had a risk of "severe psychological or physical dependence." Drugs on Schedule III were those with recognized therapeutic benefits but with a moderate risk of "physical or high psychological dependence." That is where Miltown, along with amphetamines and barbiturates, was put. Schedule IV was designed to include combination drugs that had a "low potential for abuse."

What was notably missing from the statute sent to Congress was any mention of Librium and Valium. Sonnenreich had expected they would later be added to the same category as Miltown, the industry's original mild tranquilizer. Roche, however, argued that could not happen while its judicial appeal of the FDA's effort to regulate more strictly the benzos was still pending.[22]

A new round of administrative hearings attempted to settle the matter once and for all. Neil Chayet, the founder of the Law-Medicine Institute at Boston University and a member of the National Institute of Mental Health's Narcotic Addiction and Drug Abuse Committee, appeared in hearings as "an expert in legal medicine." He set forth Roche's position: Valium and Librium were not "drugs of abuse in the usual sense." Roche even presented eleven letters from police departments

that stated that none had seen criminal problems associated with either Valium or Librium.[23]

Roche's lobbying worked. When Congress passed the law in the fall of 1970 it had a fifth grouping, what some called "the Roche schedule."[24] It covered drugs with the lowest potential for abuse, and it included Valium, Librium, and a few codeine-cased cough syrups that contained codeine.*

As Congress debated the bill, Neil Chayet called Sonnenreich. The two had been Harvard law school classmates. Chayet said he did legal work for Arthur Sackler and suggested the next time Sonnenreich was in New York, Sackler would like to meet him "to discuss Roche's drugs and federal oversight."[25]

"Why should I meet with that idiot?" Sonnenreich replied. ("Those are the types of things you say when you're very young," Sonnenreich told the author).[26]

Shortly after that conversation, Sonnenreich visited New York. Chayet arranged a dinner at Sackler's sprawling apartment at United Nations Plaza. The twin thirty-eight-story towers had opened only a couple of years earlier and had been designed by the same architects who did the United Nations. Sonnenreich knew it was home to some of New York's most prominent families.

"We had dinner," recalls Sonnenreich, "and during the discussion Arthur got frustrated and started yelling at me. Well, I don't respond well to being yelled at and I yelled back. Marietta was there and she got up from the table and left the room. Neil sat there quietly. And Arthur and I went on arguing for several hours. I had all the confidence and cockiness of a young guy and I kept telling him he was an 'old dog who didn't know the new things that had to be done.' He was trying hard to persuade me that I was wrong on the regulations. Neither of us convinced the other."[27]

The next day, when Sonnenreich was back at the Department of Justice, Sackler's secretary called.

"I got on the phone."

* The Schedules were amended repeatedly even after Nixon signed it into law on October 27, 1970. They were regularly updated with drugs added or removed and others transferred from one schedule to another. Barbiturates, originally on Schedule III, were reassigned to the more stringent Schedule II in 1972. In 1973, when the DEA was created, it upgraded the benzodiazepines to Schedule IV and moved Miltown there.

"You know I like you," Sackler started. "I would like you one day, if you leave the government, to do some work for me. Think about it."

"I am going to stay in the government," Sonnenreich told him. "This is what I'm happy doing, this is where I'm staying."[28]

Sonnenreich's career was moving fast. Nixon had embraced Sonnenreich's idea of a national commission to study and recommend how the government should address marijuana.[29] Going into private practice did not entice him.

The president appointed nine of the thirteen members on the National Commission on Marihuana and Drug Abuse. They included doctors, academics, psychiatrists, and attorneys. The congressional leadership appointed two U.S. senators, and two congressmen. Former Republican governor of Pennsylvania Raymond Shafer was its chairman (it was mostly referred to later as the Shafer Commission). Nixon tapped Sonnenreich to become the executive director, in charge of a staff of seventy-six.[30]

Nixon expected that the conservative Republican majority with which he had stacked the Shafer Commission would return with an uncompromising finding about the dangers of marijuana. Instead, after eighteen months of testimony from dozens of experts, Sonnenreich and Shafer knew they had reached a conclusion that Nixon was not likely to embrace: they had not found evidence that marijuana was physically addictive, nor was it a gateway drug.

"When I told them at the White House what we were planning to say," Sonnenreich told the author, "they thought I was crazy. They could not understand that we were going to recommend decriminalization."

"You need to take marijuana out of the criminal justice system," Sonnenreich argued in vain. "These young people are not criminals. You are degrading the criminal system. It can't handle all of them."[31]

Sonnenreich was not a proponent of the drug but thought criminalizing it was the wrong solution. He pointed out when Nixon had come into office, the government "spent a total of $66.4 million for the entire federal effort in the drug abuse area." That had ballooned to $796.3 million by 1972, and for the next budget it would exceed $1 billion.[32]

The administration hard-liners were furious with the interim report. They feared the public would interpret decriminalization as an endorsement for using marijuana. "From that moment on," Sonnenreich told the author, "I was cut off from the White House."[33]

The Shafer Commission did not finish its final report, with 3,700

pages of appendices, until 1973.[34] Nixon ignored its recommendations.*[35]

By that time, a special Senate committee had begun investigating the Watergate scandal. That fall, "Dean told me it was all going south," recalls Sonnenreich.[36]

It was evident later that year that the Nixon presidency was in trouble.

"I got a call from Arthur Sackler one day. And he says, 'Remember when I told you I wanted you to be my lawyer? Are you interested now?'"

"And then, in one of the great all-time stupid things I've said, I told him, 'If I was interested, you couldn't afford me.'"

"Try me," replied Sackler.

"I named a number, which I refuse to disclose," says Sonnenreich. "The next day, a check was on my desk."

What Sonnenreich did not know was that Sackler was more anxious than ever to hire him. It was not only because Sonnenreich was exceptionally smart, something Arthur considered an indispensable trait, but also because within eight months of each other the Sacklers had lost two of their most loyal confidants, Bill Frohlich and Félix Martí-Ibáñez. Frohlich was only fifty-eight when he died from a brain tumor on September 28, 1971. Just prior to his death, he had acquired a network of leading underground FM radio stations he christened the National Science Network.[37] And over several years, he oversaw IMS International's growth into one of the largest compilers of private medical and pharmaceutical information, with offices in thirty-two cities. He had expanded his eponymously named medical advertising agency in New York to seven countries. It had 340 employees.[38]

Martí-Ibáñez had just turned sixty when he died of a heart attack at his Manhattan townhouse only eight months after Frohlich. At the

* The "temporary" placement of cannabis on Schedule I, along with heroin, LSD, and ecstasy, became permanent once Nixon refused to follow his commission's decriminalization proposal. As anecdotal accounts accumulated over the decades that marijuana might have some medicinal properties, its advocates abandoned their effort to get it reclassified to a lower Controlled Substances schedule. Instead, starting in the 1990s a movement coalesced around legalizing medicinal marijuana. That opened the door for broader legalization arguments. As of December 2019, thirty-three states have approved medical marijuana and ten of those have legalized recreational use. The opioid crisis has created a possible market for medical cannabis as scientists debate mixed science about its pain-relieving properties.

time of his unanticipated death he was the editor of five international medical journals and the chairman of the History of Medicine Department at New York Medical College. Martí-Ibáñez was the author of several dozen illustrated histories of medicine, science, and philosophy, as well as half a dozen novels and several hundred academic articles and commercial short stories and essays (he left behind eleven unfinished manuscripts on varying projects).[39]

Marietta had hoped that the unexpected deaths of Frohlich and Martí-Ibáñez might serve as warning signal for Arthur. When she raised it, Arthur argued their deaths were unrelated to how hard the two had pushed themselves. Frohlich had the bad luck of developing cancer, he told Marietta. And Martí-Ibáñez was an inveterate smoker, he said, someone whose only exercise was lifting a martini glass every evening. Marietta was not surprised that Arthur tried brushing aside any suggestion that the death of his close friends should be a reason for him to slow down.

Although Arthur may not have seen a lesson in the early deaths of Frohlich and Martí-Ibáñez, he and his brothers mourned their passing. They had been two of their most trusted friends, as close to the brothers as family. The five had secretly owned stakes in each other's companies and all had more success than they could have imagined when they began. Now, their deaths had created a vacuum.

Having unexpectedly received the check from Sackler, Sonnenreich called Arthur's office. His secretary answered.

"I'd like to talk to Dr. Sackler."

"Who should I say is calling?"

"Tell him his lawyer is calling."[40]

mice," *Pharmacology Biochemistry and Behavior*, March 1973; "Gonadal effects of vasectomy and vasoligation," *Science*, Feb. 1973; "Plasma protein and free fatty acid levels in male whirler mice," *Experientia*, Sep. 1971; "Acute effects of mescaline HCl on behavior, resistance, and endocrine function of male mice," *Experimental Medicine and Surgery*, Feb. 1971; "Effect of mescaline HCl on resistance of male mice to histamine stress," *Journal of Pharmaceutical Sciences*, Nov. 1970; "Metabolic and endocrine aspects of the whirler mutation in male mice," *Proceedings of The Society for Experimental Biology and Medicine*, Nov 1966, updated in *Journal of Experimental Zoology*, May 1967, updated again in *Acta endocrinologica*, July 1970; "Blood glucose and liver glycogen content in male whirler mice," *Experientia*, May 1970; "Effects of isolation stress on female albino mice," *Laboratory animal care*, Sep. 1968; "Effects of levels of audiogenic-seizure susceptibility on endocrine function of rats," *Physiology & Behavior*, March 1968; "Maternal effects on behavior and white blood cells of isolated female mice," *Life Sciences*, April 1970; "Metabolism rate, biochemical and endocrine alterations in male whirler mice," *Physiology & Behavior*, Feb. 1970; "Pre-maternal isolation effects on behaviour and endocrine function of offspring," *Acta endocrinologica*, Nov. 1969; "Mescaline hydrochloride effects on the endocrine activity of male albino mice," *Experimental medicine and surgery*, Feb. 1968; "Effects of isolation on maternal aggressiveness and body growth rates of offspring," *Experientia*, Oct. 1967; "Effects of isolation stress on peripheral leucocytes of female albino mice," *Nature*, July 1967; "Isolation stress on female albino mice," *Aerospace medicine*, Sep. 1966; "Endocrine and metabolic effects of Lysergic acid diethylamide on female rats," *Toxicology and Applied Pharmacology*, Sep. 1966; "Metabolic and endocrine effects of lysergic acid diethylamide (LSD-25) on male rat," *Journal of Endocrinology*, Feb. 1966; "Effect of lysergic acid diethylamide (LSD-25) on growth metabolism and the resistance of male rats to histamine stress," *Journal of Pharmaceutical Sciences*, Sep. 1965; "Effects of Lysergic Acid Diethylamide on the Total Leukocytes and Eosinophils of the Female Rat," *Nature*, Oct. 1963; "Effects of vibration on the endocrine system of male and female rats," *Aerospace medicine*, March 1966; "Effects of Lysergic Acid Diethylamide on Urinary Ketosteroid and 1Corticosteroid Levels of Female Rats," *Nature*, June 1963; "Effect of Age and Thymectomy on Urinary 17-Ketosteroid-levels In Male Rats," *Nature*, July 1962; "Effects of Thymectomy on the Resistance of Rats to Drowning and Histamine Stress," *Nature*, Dec. 1961; "Effects of handling on weight gains and endocrine organs in mature male rats," *Journal of applied physiology*, Aug. 1961; "Effect of Splenectomy on the Resistance of Rats to Histamine Stress," *Nature*, May 1961; "Comparative evaluation and the Influence of various factors on eye-irritation scores," *Toxicology and Applied Pharmacology*, April 1965; "The effects of reserpine on histamine tolerance and endocrine organs of the rat," *Acta endocrinologica*, Sep. 1960; "Endocrine changes due to auditory stress," *Acta endocrinologica*, Aug. 1959; "Biochemical Responses of Rats to Auditory Stress," *Science*, June 1959; "Effect of Tranquillizing Agents on the Resistance of Rats to Histamine Stress," *Nature*, April 1959; "Methylphenidate effects on whirler mice/ Endocrine differences and audiogenic seizure susceptibility between whirler and normal strains of female mice/male mice," *Acta endocrinologica*, June 1961, August 1962.

16. Arthur later created Therapeutic Research Press, Inc, to publicize the research trials. DOS # 481282, NY State Incorporation files.
17. Statement of A. Stanley Weltman, Vol. VII—Physiological and psychological effects, Oct 28–29, 1971, Conducted by the Office of Noise Abatement and Control January 1, 1972 U.S. Environmental Protection Agency us govt printing office.
18. Author collection of Sackler post-1965 articles, in *Experientia* and *Pharmacology Biochemistry and Behavior*.
19. Weltman testified after Arthur was called away at the last moment. Public Hearings on Noise Abatement and Control, Oct 28–29, 1971, Conducted by the Office of Noise Abatement and Control, division of the Environmental Protection Agency, Boston, Massachusetts.
20. "Survey Shows Shortage of Medical Technicians," *New York Times*, December 13, 1970, 85.
21. See M.G. Candau, World Heath Workplace, 1967, "A Mutual Task for All," Deutsche Schwesternzeitung 20(4): 167.
22. Two previous British studies undertaken for the Association for the Aid of Crippled Children (AACC) had demonstrated that environmental factors were instrumental in determining whether children had "retardation in both intellectual and social incompetence and in physical growth." Sackler wanted to conduct a trial that followed a group of children born in the same year to determine whether the original investigators had overlooked the importance of genetic variabilities. If he had gotten the AACC grant, Sackler intended to use it as the starting point to pursue federal funding for studies that might help programs such as Head Start develop better standards for assisting disadvantaged children in health and education. See Association for the Aid of Crippled Children, Annual Report, 1971–1972, Wm. F. Fell Company, Philadelphia, PA, 1972; Meetings of the Executive Committee, June 24, 1971, the Association for the Aid of Crippled Children, Association Offices, Room 700, 345 East 46th St., NY, NY, see page 6 of "Declinations." Both in collection of author.
23. "Scientists Advising Rats to Avoid Subway Rides," *New York Times*, April 15, 1976.
24. The Noise Pollution and Abatement Act of 1970 (Title IV to the Clean Air Amendment of 1970—PL 91-604) had required that the Environmental Protection Agency hold a series of eight public hearings. The seventh hearing was entitled "Transportation (Rail and Other), Urban Noise Problems and Social Behavior—Physiological and Psychological Effects."
25. "Scientists Advising Rats to Avoid Subway Rides."
26. The *Times* reported that: "Dr. Sackler conceded that the severity of the shaking given the rats, in proportion to their body size, was well beyond anything that people normally sustain on subways." Still, Arthur thought the results "merit additional attention and study."
27. See Raymond Raphael Sackler, Inventor, to Current Assignee Mundipharma AG Worldwide applications, 1966 GB Application GB5022966A events 1966-11-09, Application filed by Mundipharma AG. 1966-11-09; Priority to GB5022966A, 1969-09-24. Publication of GB1164808A, in collection of author.
28. Madelein Kleyn, "BEPS and Intangibles: How does it impact IP tax structures?," *Chair of Intellectual Property* (CIP), February 1, 2018.

Chapter 27: "Tell Him His Lawyer Is Calling"

1. The court upheld the FDA's authority to restrict Miltown to a maximum of five refills; before the FDA ruling it had been unlimited. Carter-Wallace, Inc., Petitioner, v. John W. Gardner, Secretary of Health, Education, and Welfare, and

James L. Goddard, Commissioner of Food and Drugs, Respondents, 417 F.2d 1086 (1969).

2. Ibid.
3. Ibid.
4. Yvonne Shinhoster Lamb, "Devoted Jew Combined Faith, Progress," *Washington Post*, October 16, 2005.
5. Michael Sonnenreich, interview with author, January 19, 2019.
6. Before getting a thirty-hour-a-week job at the university's Hydrobiology Lab, he had worked as "a drugstore soda jerk and then a short order cook. Listen to me, never send food back to the kitchen. Don't ever, ever do that. I know what happens to that food before it goes back to the diner." He also wrote for the school newspaper and conducted interviews for the campus radio station (including one with Frank Lloyd Wright). Michael Sonnenreich, interview with author, January 19, 2019.
7. Sonnenreich says it was a marriage that the families wanted. Some of her family was in Canada, which resulted in "us having a service in Toronto with three rabbis." They are still married. Michael Sonnenreich, interview with author, January 19, 2019.
8. Ibid.
9. While at Charlottesville, he sometimes combined his legal knowledge with his experience in Spain. Typical was a review he wrote for the *Military Law Review* about a book in Spanish covering the history of the country's right-wing military. Michael R. Sonnenreich, Second Lieutenant, Book Review, (Foreign Periodical): *Revista Espanola de Derecho Militar*, by the Instituto Francisco de Vitoria. 27/153, Vol. 81, *Military Law Review*.
10. Michael Sonnenreich, interview with author, January 19, 2019. Also see Walter Powell, *From Patrician to Professional Elite* (New York: Russell Sage Foundation, 1989), 76.
11. After the Hoffa trial, Robert Kennedy brought Bittman from the U.S. Attorney's Office in Chicago to the Justice Department in Washington. Bittman led the successful prosecution later against Bobby Baker, the secretary of the Senate that *The Washington Post* described as "a protege of Lyndon Johnson." J. Y. Smith, "Lawyer William O. Bittman Dies," *Washington Post*, March 3, 2001.
12. Michael R Sonnenreich, *Handbook of Federal Narcotic and Dangerous Drug Laws* (Washington, D.C.: Government Printing Office, 1969).
13. Dean and Sonnenreich became good friends. After Dean divorced his first wife in 1970, he met Maureen (Mo) Kane. She was looking for work in the government and Sonnenreich found her a spot in his office doing advance work for Department of Justice trips. Michael Sonnenreich, interview with author, January 19, 2019.
14. The Boggs Act Amendment to the Narcotic Drugs Import and Export Act, 82nd Congress, Public Law 82-255, November 2, 1951.
15. Note 16: Traffic in Narcotics, Barbiturates and Amphetamines in the United States Amendment to the Internal Revenue Code of 1954 and the Narcotic Drugs Import and Export Act, 84th Congress, Public Law 728-81, January 1, 1956. "This Act may be cited as the 'Narcotic Control Act of 1956.'"
16. In 1965 Congress passed the Drug Abuse Control Amendments (DACA). It created the Bureau of Drug Abuse Control (BDAC) inside the Department of Health, Education, and Welfare.

17. Michael Sonnenreich, interview with author, January 19, 2019.
18. Ibid. Sonnenreich was an advocate for limiting some controlled substances to no more than three refills in six months. The rules ultimately put in place were not as strict for those listed on Schedules III and IV. They got a "five time rule," no more than five refills in six months. A physician cannot call those prescriptions in to a pharmacy but must handwrite each on an original prescription pad. Schedule II medications, mostly narcotic painkillers, stimulants, and barbiturates, cannot be refilled. A new prescription must be written every time it is dispensed. Code of Federal Regulations, Title 21, Volume 9; 21CFR1306.22 and 21CFR1308.S.
19. As for his salary, Sonnenreich recalled "That's what I earned when I started at Justice because I was in the top 10 percent of my class. If I had been in the bottom 10 percent I would have been earning $7,200."
20. Some published reports say the Controlled Substances Act was drafted by Sonnenreich's boss, John Ingersoll, the director of the Bureau of Narcotics and Dangerous Drugs, as well as with John Dean. Sonnenreich told the author, "Dean did not write one word of the act and Ingersoll never saw it until I was finished."
21. See 1970 guidelines of the WHO Committee on Addiction-Producing Drugs; WHO Expert Committee on Addiction-Producing Drugs. Thirteenth report. Geneva, World Health Organization, 1964 (WHO Technical Report Series, No. 273).
22. See Hoffmann-La Roche, Inc., Petitioner, v. Richard G. Kleindienst, Attorney General of the United States, and John E. Ingersoll, Director, Bureau Of Narcotics and Dangerous Drugs, United States Department of Justice, respondents, 478 F.2d 1 (3d Cir. 1973).
23. Herzberg, *Happy Pills*, 142.
24. Ibid. Also, in response to considerable criticism about the unfairness of mandatory minimum sentences, the final bill passed by Congress and signed by Nixon made possession of controlled substances for personal use on Schedules III to V, and also marijuana, a misdemeanor. Judges were given the discretion to sentence first-time-possession defendants to probation. "Drug Scheduling: Drug Schedules," Drug Enforcement Administration, https://www.dea.gov/drug-scheduling. See also Calcaterra NE, Barrow JC, "Classics in Chemical Neuroscience: Diazepam (Valium)," *ACS Chemical Neuroscience*. 2014;5(4):253–60. Shorter, *Before Prozac*, 351 of 4159.
25. Michael Sonnenreich, interview with author, January 19, 2019.
26. Ibid.
27. Ibid.
28. Ibid.
29. Daniel Bessner, "National Commission on Marihuana and Drug Abuse," in *Encyclopedia of Drug Policy*, Edited by: Mark A. R. Kleiman & James E. Hawdon (Sage Publications, 2011).
30. Eric Sterling, "Shafer Commission Report on Marijuana and Drugs, Issued 40 Years Ago Today, Was Ahead of Its Time," *Huffington Post*, May 21, 2013.
31. Michael Sonnenreich, interview with author, January 19, 2019.
32. Sonnenreich coined the phrase "drug abuse industrial complex" for all the agencies that had a role in regulating and enforcing drug laws. Michael R. Sonnenreich, "Discussion of the Final Report of the National Commission on Marijuana and Drug Abuse," *Villanova Law Review*, 18:817–27 May 1973, 818.
33. Michael Sonnenreich, interview with author, January 19, 2019.
34. Sterling. "Shafer Commission Report on Marijuana and Drugs."

35. Elizabeth Hlavinka, "Can Cannabis Replace Opioids for Pain?" *MedPage*, September 7, 2019. See Skye Gould and Jeremy Berke, "Illinois just became the first state to legalize marijuana sales through the legislature—here are all the states where marijuana is legal," *Business Insider*, June 25, 2019.
36. Sterling, "Shafer Commission Report on Marijuana and Drugs."
37. "L. W. Frohlich; Led Ad Agency," *New York Times*, September 29, 1971. Among the dozen radio stations Frohlich acquired were WNCN in New York, KMPX in San Francisco, and WDHF in Chicago. Pasadena's KPPC-FM was at the forefront of counterculture politics and music in the late 1960s. Frohlich acquired it in 1969, at the height of its loyal underground following. Film director Francis Ford Coppola bought San Francisco's KMPX after Frohlich's death. See *SF Examiner*, Aug 27, 1975, and October 9, 1976. See also "Closed Circuit," *Broadcasting*, Vol. 85, No. 14, October 1, 1973, 48.
38. By then named L. W. Frohlich/Intercon International. At the time of his death, Frohlich had earned a reputation every bit the rival of Arthur Sackler's. He served as a trustee of Columbia College of Pharmaceutical Sciences, London's Royal Society of Medicine, New York's Pratt Institute, the American Council for Health and Education of the Public, the International Medical Congress, and the National Foundation of Science. Five years before his death he had funded the L.W. Frohlich Research Study Center, a think tank on the Italian island of Elba designed to speed scientific and medical innovation. Frohlich had built a grand villa there overlooking the sea for his own getaways (it was half a mile from where Napoleon Bonaparte had been exiled).

    Not even in death did Frohlich or his sister, Ingrid, acknowledge the family's Jewish heritage. The standing-room-only crowd of nine hundred at the memorial service was at one of Manhattan's top Episcopal churches, St. Bartholomew's. "L. W. Frohlich; Led Ad Agency," *New York Times*, September 29, 1971; Tanner, *Our Bodies, Our Data*, 28; "Frohlich Funeral Service Is Attended by 900 Here," *New York Times*, October 2, 1971.
39. "Dr. Felix Marti-Ibanez Is Dead; Psychiatrist and Publisher, 60," *New York Times*, May 25, 1972, 48.
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Chapter 28: A New Definition of Blockbuster

1. Emily P. Walker, "Since 1970s, 'Unimagined Progress' Seen in Cancer Research," *MedPage Today*, September 20, 2011.
2. Appropriations History by Institute/Center, 1938 to 2019, National Institutes of Health, Office of the Budget, at https://officeofbudget.od.nih.gov/approp_hist.html.
3. Vincent T. DeVita Jr. and Edward Chu, "A History of Cancer Chemotherapy," *Cancer Research*, November 2008, Vol. 68, Issue 21, 8643–53.
4. Bernard Fisher et al., "L-Phenylalanine Mustard (L-PAM) in the Management of Primary Breast Cancer—A Report of Early Findings," *NEJM*, 1975; 292:117–122. See also L. Turner et al., "Radical versus modified radical mastectomy for breast cancer," *Annals of the Royal College of Surgeons of England*, 1981, 63(4), 239–43.
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6. Lawrence H. Einhorn et al., "Cis-Diamminedichloroplatinum, Vinblastine, and Bleomycin Combination Chemotherapy in Disseminated Testicular Cancer," *Annals of Internal Medicine*, 1977;87(3):293–98; See "Cancer Progress Timeline; Major Milestones Against Cancer 1975–1980," *American Society of Clinical Oncology*, at https://www.asco.org/research-progress/cancer-progress-timeline.
7. Alfonso Gambardella, *Science and Innovation: The US Pharmaceutical Industry During the 1980s* (Cambridge, UK: Cambridge University Press, 1995), 25.
8. When the angiotensin-converting enzyme (ACE) is overactive, it creates hypertension. ACE inhibitors relax blood vessels and counteract the blood pressure increase.
9. Capoten was approved in 1981 for severe hypertension and in 1985 for both congestive heart failure as well as milder forms of high blood pressure. Gambardella, *Science and Innovation*, 93–94; Packer M et al., Comparative effects of low and high doses of the angiotensin-converting enzyme inhibitor, lisinopril, on morbidity and mortality in chronic heart failure. ATLAS Study Group. Circulation 1999; 100:2312–18; Jenny Bryan, "From snake venom to ACE inhibitor—the discovery and rise of captopril," *Pharmaceutical Journal*, April 17, 2009.
10. Popular competitors to Capoten included Lotensin (benazepril), Vasotec (enalapril), Fosinopril, Prinivil, Zestril (Lisinopril), Univasc (Moexipril), Aceon (perindopril), Accupril (quinapril), Altace (ramipril), and Mavik (Trandolapril). Nearly thirty years later, ACE inhibitors came under scrutiny for a possible link to an increased recurrence of breast cancer in women older than sixty-six years, Lu Chen et al., "Antihypertensive Drugs & Breast Cancer: Use Of Antihypertensive Medications And Risk Of Adverse Breast Cancer Outcomes In A SEER-Medicare Population," *American Association for Cancer Research: Cancer Epidemiol Biomarkers*, August 14, 2017.
11. Discovered and marketed by Indiana's Miles Laboratories. Bayer bought the single-product company in 1977 for $253 million, then the most expensive acquisition in the U.S. by a foreign drug company.
12. *The Discovery of Histamine H_2-Receptor Antagonists*, The American Chemical Society and The Royal Society of Chemistry, 1999. (Subscript used in title.)
13. The receptor is called the H2.
14. "Antihistamine" is a simple description of what Bovet had discovered. He had created an inactive version of a specific histamine molecule that he wanted to target. That inactive molecule (the antihistamine) then stimulated the receptor site involved in a disease, and thereby blocked the active histamine from attaching to the receptor. See generally Church, Martin K and Diana S Church, "Pharmacology of antihistamines," *Indian Journal of Dermatology* vol. 58,3 (2013): 219–24. "Daniel Bovet, Biographical," at https://www.nobelprize.org/prizes/medicine/1957/bovet/biographical/.
15. Gambardella, *Science and Innovation*, 24–25.
16. The disorder was agranulocytosis and was not completely unexpected by the H2-Receptor team.
17. Black and his team performed the equivalent of molecular surgery, substituting cyanoguanidine moiety for the compound's thiourea group.
18. It took ten years for Tagamet to reach the billion-dollar mark in the U.S.
19. Joseph A. DiMasi and Cherie Paquette, "The economics of follow-on drug research and development: trends in entry rates and the timing of development," *PharmacoEconomics* 2, 2004, Supp 2, 1-14.
20. Henry Grabowski, "The Evolution of the Pharmaceutical Industry Over the Past

HANDBOOK OF FEDERAL NARCOTIC AND DANGEROUS DRUG LAWS

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FOREWORD

This handbook is designed to provide, in one place, a digest of the Federal narcotic, marihuana, and dangerous drug laws. It is felt that by digesting and compiling the diverse parts of the law in one source, a better understanding of the legislative framework will result. Where individual statutes or parts of statutes overlapped each other, note was made of this fact. In digesting, narcotic drugs, marihuana, and the remaining dangerous drugs were each handled separately, so that the reader can see the major parts of the total area of concern to the Federal Bureau of Narcotics and Dangerous Drugs.

I anticipate that this handbook will serve as a ready reference guide for law enforcement officials, both Federal and State. I also hope that the handbook will provide an easy access to Federal drug laws for persons whose daily activities must be guided by those laws—for example, local druggists and physicians. Finally, I trust that the handbook will offer a founding stone for legislators contemplating reform of drug laws—for state legislators in shaping state drug laws to complement the Federal system and for Federal legislators in spotting areas requiring improvement.

John E. Ingersoll
Director
Bureau of Narcotics
and Dangerous Drugs

January 1969

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SINGLE CONVENTION ON NARCOTIC DRUGS, 1961—Con.

INTRODUCTION

The fragmentation of our statutory scheme for controlling narcotics, marihuana, and other dangerous drugs creates confusion—both for the casual observer and for the interested student. This patchwork of statutes, each covering one phase or piece of the total problem, has emerged over half a century, mostly in reaction to the particular problems and needs of a given time. Literally strewn throughout the United States Code, the drug laws have never been compiled, digested, and converted into a single workable package. To fill this void, this handbook was written. The handbook serves a two-fold purpose by placing all of the Federal drug laws in a single unit for practical use, while at the same time facilitating serious analysis of a system of control so often felt to stand in need of revision.

The handbook is divided into four general parts. The first part deals with the narcotic, marihuana, and opium laws; the second with the Drug Abuse Control Amendments of 1965; the third with the Single Convention on Narcotic Drugs, 1961; and the fourth with selected cases arising under the narcotics and dangerous drug laws. The Narcotic Addict Rehabilitation Act of 1966 is discussed in Part One. Appendix I will include definitions from the pertinent statutes and the Single Convention, and Appendix II includes the Schedules of Drugs in the Single Convention.

Since 1914, nine major pieces of legislation have been passed in the narcotic and dangerous drug area. The Harrison Narcotic Act of 1914 brought under control opium and its derivatives—such as morphine and heroin, but not their synthetic equivalents or drugs having similar addiction liability. The opiates were brought under control in the Act of March 8, 1946.

In the 1930's, a massive increase in the use of marihuana led to the adoption of the Marihuana Tax Act of 1937.

To regulate opium poppy production, the Opium Poppy Act of 1942 was placed on the books. In 1956, Congress enacted the Narcotic Drug Act in response to the public demand for stiffer penalties for traffickers in narcotic drugs and marihuana. And in 1960, the Manufacturing Act was passed in an effort to improve control of the legal supplies of narcotic drugs.

During the 1950's, Congress began to focus on a group of dangerous drugs which are not narcotic drugs or marihuana. As early as 1951, legislation was proposed to remove barbiturates from the general coverage of the Federal Food, Drug, and Cosmetic Act and bring them under controls similar to those contained in the Harrison Narcotic Act. In 1956, a subcommittee of the House Committee on Ways and Means recommended to the full Committee enactment of more stringent controls over barbiturates and amphetamines. In January, 1963, the President's Advisory Committee on Narcotics and Drug Abuse was asked to recommend a program aimed at preventing abuse of these drugs. The Commission recommended that all non-narcotic drugs capable of producing serious psychotoxic effects when abused be brought under strict control.

H.R. 2 was introduced on January 4, 1965, and, after extensive hearings, it was passed by the House on March 10, 1965. The bill was amended and passed by the Senate on June 3, 1965. The House adopted the Senate version, and the bill was signed by the President on July 15, 1965. The Drug Abuse Control Amendments became fully effective on February 1, 1966.

The Narcotic Addict Rehabilitation Act became law on November 8, 1966. Modeled on the earlier rehabilitative systems established in California and New York, the Act was designed to remove certain addicts from the criminal process and bring them within a medically-conducted program of rehabilitation. Under Title I of the Act, institutional treatment is provided at Lexington, Kentucky, or Fort Worth, Texas, under the supervision of the National Institute of Mental Health. Under Title II, hospital treatment is provided at special facilities in Danbury, Connecticut, and Terminal

Island, California, under the supervision of the Bureau of Prisons. Treatment under the Narcotic Addict Rehabilitation Act is not available to persons addicted to non-narcotic drugs—such as barbiturates.

Another significant measure in the area of narcotic drug and marihuana control became effective on June 24, 1967, as a result of the United States acceding to the Single Convention on Narcotic Drugs, 1961. The Convention was a product of the United Nations, dating back to 1947. Worked into its present form in 1961, the Convention became effective internationally in 1964. Even though it contains some inadequate features, the Convention was finally acceded to by the United States after it became apparent that it could never be implemented successfully without United States accession—given that the United States is a principle target of the illicit drug traffic in the world.

This year, Congress again acted in the dangerous drug area, by toughening the sentence structure of the Drug Abuse Control Amendments. The new legislation makes sale, delivery, or other disposal of a depressant or stimulant drug a felony, and possession for personal use, when not pursuant to a valid prescription or by direction of an authorized physician, a misdemeanor. A third possession conviction, however, would invoke felony sanctions.

The new statute also contains a provision which portends a growing concern for persons apprehended in possession of dangerous drugs for the first time. If such persons fulfill conditions imposed by the court, the court may unconditionally discharge them—thus automatically setting aside the possession conviction. This approach is similar to that set forth in the Youth Corrections Act (18 U.S.C. 5005–5026), except that there are no age limitations in the new law.

As this brief outline of the Federal drug laws indicates, there is a need to re-examine these piecemeal statutes, and as recommended by the President's Advisory Commission on Narcotic and Drug Abuse, 1963, to work toward a composite law based on the Commerce Clause of the Constitution.

The President's Reorganization Plan No. 1 of 1968, which combined the Bureau of Narcotics (Treasury Department)

and the Bureau of Drug Abuse Control (Department of Health, Education, and Welfare) into a new Bureau of Narcotics and Dangerous Drugs within the Department of Justice has given new impetus to a re-evaluation of the existing scheme.

Impetus has also come from such puzzling aspects of drug abuse as the shift in the drug abuser population from what was once a small proportion of narcotic addicts among low socioeconomic groups to a disturbingly high percentage of experimenters and abusers of all types of drugs in our affluent groups. This has also highlighted the need to evaluate the inconsistencies of laws providing less effective controls of drugs eminently more dangerous and harmful than many drugs that are now controlled in the most stringent way.

The President's Commission on Law Enforcement and the Administration of Justice urged in its final Report that:

> Research be undertaken devoted to early action on the further development of a sound and effective framework of regulatory and criminal laws with respect to dangerous drugs.

This Handbook has been prepared as a starting point.

FEDERAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

HEARINGS

BEFORE THE

SPECIAL SUBCOMMITTEE ON ALCOHOLISM AND NARCOTICS

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE UNITED STATES SENATE

NINETY-FIRST CONGRESS

SECOND SESSION

ON

S. 3562

TO PROVIDE A COMPREHENSIVE FEDERAL PROGRAM FOR THE PREVENTION AND TREATMENT OF DRUG ABUSE AND DRUG DEPENDENCE

MARCH 26; APRIL 13, 14, AND 15, 1970

PART 2

Printed for the use of the Committee on Labor and Public Welfare

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42-424 O WASHINGTON : 1970

26 U.S.C. 4753: This provision requires annual registration of all persons required by 26 U.S.C. 4751 to pay the special tax.

26 CFR 152.29, 152.34, and 152.35: These regulations set out the taxing rates and the registrant classes. Persons using marihuana in laboratories are registered in Class V. Physicians and other practitioners distributing, dispensing, or administering marihuana in the course of treatment are registered in Class IV. This latter Class may also include persons conducting research in marihuana.

26 CFR 152.100: This regulation sets out the recordkeeping requirements for Class V registrants, who are those persons obtaining and using marihuana in a laboratory for analysis or research. Records of receipts, disposals, and stocks of marihuana on hand must be maintained; and special records must be kept of the dates, kinds, and quantities of marihuana used and the purposes for which they were used. Researchers registered as practitioners in Class IV are not governed by this regulation. They are governed by the recordkeeping requirements set out in 26 CFR 152.73.

Senator DOMINICK. Going back to the classification problems that you bring up in the process of your statement, and which Senator Hughes asked you about, let me ask you about a problem I see in the so-called Controlled Dangerous Substances Act which passed the Senate earlier this year.

As I understand it, that bill reduced the penalty for use of marihuana to a simple misdemeanor. Yet marihuana is classified in classification I with heroin. How do you put these two things together?

Mr. INGERSOLL. The reason for that, Senator, is that marihuana has no recognized medical use. All the drugs classified in schedule I, irrespective of the degree of danger or hazards they represent are those which are available and used only for research purposes. They have no recognized therapeutic use at all.

Investigation of new drug applications are required to perform any work on these substances at all.

Senator DOMINICK. The Army research which was conducted on marihuana—which I put into the Congressional Record—indicates that there might be some medical use for it.

Let me ask you this. Suppose doctors determine, or HEW does, that there is a medical use for marihuana. What, then, happens to the classification under the Controlled Dangerous Substances Act?

Mr. INGERSOLL. The drug would leave schedule I, either with congressional action or by administrative action on the part of the Attorney General.

If it is through administrative action, it could be removed only to schedule II by him. At a later time it could be removed completely or reduced to a lower schedule. This would apply to any of the drugs which are in schedule I.

Senator DOMINICK. The classifications in that bill, as I understand it, are for purposes of enforcement and control.

Is there any reason to feel that the same classifications must be maintained when we are dealing with rehabilitation and health aspects?

Mr. INGERSOLL. I think it would be desirable and probably necessary to have tighter definitions of the classifications. It would certainly be desirable from the legal viewpoint that standard classification and standard terminology be used in all Federal legislation. There is a probability that some of the terminology relating to these classifications would be found to be too vague to be supported constitutionally, and they do affect, as Mr. Sonnenreich has pointed out, some

provisions of this bill, the bill before us, that we are not testifying on at this time.

These mainly involve the criminal and legal fields.

Senator DOMINICK. I am not trying to argue with you, but just to point out some problems, let's take marihuana. It is in classification I at the present time, saying that it has no known medical value. It is not, however, yet thought of, and I put it in that way, as any kind of hard drug or an addictive type drug, something which for health purposes you may have to have some treatment psychiatrically or motivationally.

It would seem to me, therefore, that it would be very difficult for the Hughes bill to classify marihuana in the same manner.

Do you see the point I am raising here?

Mr. INGERSOLL. I am not sure that I understand it, but let me reply on what I think I understand. I don't see the need for classifying various kinds of drugs for—just for treatment purposes—or, indeed, for a different classification system. I can't understand how the fact that marihuana is in schedule I in the Controlled Dangerous Substances Act would have any effect at all upon treating a person who was a marihuana user.

Senator DOMINICK. Well, it is my understanding, and perhaps I am wrong, that by being classified in No. 1 you are talking about a drug which has no known medical use, but which is also, in the mind of the public, therefore considered as one of the more dangerous drugs, and subject of course, to prosecution if you use it, sell it, possess it, and so on.

Mr. INGERSOLL. What I am saying, Senator, is that the classification scheme will not affect the way in which a doctor or a mental health worker or social worker or a therapist would treat somebody who is involved with abuse of marihuana.

Therefore, we fail to see the need for this classification system for this purpose.

Senator DOMINICK. In other words, it is your feeling that we could leave the schedules the way they are in the Controlled Dangerous Substances Act and still carry out whatever treatment may be needed for rehabilitation or health purposes?

Mr. INGERSOLL. Yes, sir, exactly.

Senator HUGHES. Would the Senator yield on that for a moment?

Senator DOMINICK. Yes.

Senator HUGHES. We have had absolutely contradictory testimony on that from most of the doctors who have testified before us. I wonder if we can reconcile that in some way. We are left with two sets of testimony, yours saying it doesn't make any difference, and theirs saying it does. So it is a matter of flipping a coin and taking one or the other.

Mr. INGERSOLL. Logically, Mr. Chairman, I can't see where the point at which marihuana fits is classified for legal purposes, would have any bearing on the treatment of a marihuana user.

A marihuana user is not treated by giving him more marihuana.

Senator HUGHES. Are you an expert in the treatment of a marihuana user?

Mr. INGERSOLL. No, sir; but I doubt that anybody is, really, and I think that just commonsense would indicate the——

Senator HUGHES. I am not so sure. In the case of alcoholism, you know, there are many treatments which use alcohol.

Mr. INGERSOLL. They can do this, but marihuana, today, is not available for therapeutic purposes.

Senator HUGHES. I understand that. That is what we are talking about.

Mr. INGERSOLL. Your classification schedule will not make it available for treatment purposes, as I see it, in view of other legislation.

Senator HUGHES. Psychologically, it will have an effect; will it not?

Mr. INGERSOLL. I am not sure what kind of effect you are looking for.

Senator HUGHES. Well—excuse me, Senator Dominick.

Marihuana in this country is classified with heroin, and the kids in this country know there is no relationship between marihuana and heroin. I think, for that reason, that we place a great psychological barrier when we try to do anything to eliminate the broad, general use of marihuana. I am talking about that psychological barrier.

Mr. INGERSOLL. Both the Senate and the administration have recognized this in terms of the penalty sanctions which were recommended in the Controlled Dangerous Substances Act, and which was passed by the Senate. This is where the great problem arises in the minds of young people, as I understand it.

Now, in the scheduling scheme that was used in the Controlled Dangerous Substances Act, all of those drugs which had no medical utility, no recognized medical use at this time were put in that schedule I. There are other laws, also, that affect their use for research purposes, and one of these is that the FDA procedures have to be followed if research or investigation of that drug is contemplated.

Mr. GARFIELD. I might point out, Senator, that even though you have schedule I drugs applicable to those drugs for which there is no recognized medical use, there is a distinct breakdown with the schedule. There are three separate breakdowns.

One concerns the derivatives of opium, the other concerns the opiates and the third the hallucinogens.

Senator HUGHES. I debated the issue on the floor 2 days, so I know what the breakdowns are. I failed to change it, and I still feel the way I did, and you feel the way you do.

So we will go back to Senator Dominick and let him pursue his questions.

Senator DOMINICK. I just wanted to ask one more question on the same point—the marihuana inclusion in category I.

What purpose does the classification have other than law enforcement control?

Mr. INGERSOLL. Well, they are also used for regulation of the pharmaceutical manufacturing and distribution and retail sales. This schedule one has very comprehensive recordkeeping requirements imposed on the flow of these drugs permitted to be manufactured in this country, throughout their distribution network or system.

In addition to enforcement and criminal sanctions, there are also regulatory matters.

Senator DOMINICK. I will move on to another subject for a minute, because we may not agree on this one.

Let me ask you about title V of this bill. It makes certain requirements with regard to drug abuse and dependency of Federal employees. Do you have any figures on incidence among Federal employees?

Research grade marijuana supplied by the National Institute on Drug Abuse is genetically divergent from commercially available *Cannabis*

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Abstract

Public comfort with *Cannabis* (marijuana and hemp) has recently increased, resulting in previously strict *Cannabis* regulations now allowing hemp cultivation, medical use, and in some states, recreational consumption. There is a growing interest in the potential medical benefits of the various chemical constituents produced by the *Cannabis* plant. Currently, the University of Mississippi, funded through the National Institutes of Health/National Institute on Drug Abuse (NIH/NIDA), is the sole Drug Enforcement Agency (DEA) licensed facility to cultivate *Cannabis* for research purposes. Hence, most federally funded research where participants consume *Cannabis* for medicinal purposes relies on NIDA-supplied product. Previous research found that cannabinoid levels in research grade marijuana supplied by NIDA did not align with commercially available *Cannabis* from Colorado, Washington and California. Given NIDA chemotypes were misaligned with commercial *Cannabis,* we sought to investigate where NIDA's research grade marijuana falls on the genetic spectrum of *Cannabis* groups. NIDA research grade marijuana was found to genetically group with Hemp samples along with a small subset of commercial drug-type *Cannabis*. A majority of commercially available drug-type *Cannabis* was genetically very distinct from NIDA samples. These results suggest that subjects consuming NIDA research grade marijuana may experience different effects than average consumers.

Introduction

Humans have a long history with *Cannabis sativa* (marijuana and hemp), with evidence of cultivation dating back as far as 10,000 years ago [1]. The World Health Organization proclaims *Cannabis* as the most widely cultivated, trafficked and abused illicit drug, and reports over half of worldwide drug seizures are of *Cannabis* [2]. Phytochemicals of interest in *Cannabis* are

primarily Δ^9-tetrahydrocannabinolic acid (THCA) and cannabidiolic acid (CBDA), both of which require a decarboxylation conversion to the biologically active forms, THC and CBD, respectively. The United States is currently experiencing drastic changes in patterns of *Cannabis* use associated with widespread relaxation of laws that previously limited both medical and recreational marijuana consumption [3] and hemp cultivation. This has led to a need for extensive research into the basic biology and taxonomy of *Cannabis sativa* [4-8], and the possible benefits and threats from *Cannabis* consumption [3,9].

Although *Cannabis sativa* is the only described species in the genus *Cannabis* (Cannabaceae), there are several commonly described subcategories of *Cannabis* that are widely recognized. There are two primary *Cannabis* usage groups, which are well supported by genetic analyses [7,10-12]: ***Hemp*** is defined by a lack of THC (< 0.3% THC in the U.S.), and ***marijuana*** or ***drug-types*** have moderate to high THC concentrations (> 0.3% THC in the U.S.). Hemp-type *Cannabis* tends to have higher concentrations of CBD than drug-types [13]. Drug-type *Cannabis* usually contains > 12% THC and averages ~ 10-23% THC in commercially available dispensaries [14-16]. Within the two major usage groups, *Cannabis* can be further divided into varietals, which are referred to as strains. The drug-type strains are commonly categorized further: ***Sativa*** strains reportedly have uplifting and more psychedelic effects, ***Indica*** strains reportedly have more relaxing and sedative effects, and ***Hybrid*** strains, which result from breeding Sativa and Indica strains, have a spectrum of intermediate effects. There is extensive debate among experts surrounding the appropriate taxonomic treatment of *Cannabis* groups, which is confounded by colloquial usage of these terms versus what researchers suggest is more appropriate nomenclature [5,17-24]. Commercially available drug-type strains for medical or recreational consumption are labeled with a strain name, as well as the levels of THC and often CBD as a

percent of the dry weight. Genetic analyses have not shown clear and consistent differentiation among the three commonly described drug-type strains [7,10], but both the recreational and medical *Cannabis* communities maintain there are distinct differences in effects between Sativa and Indica strains [25-27].

Cannabis has been federally controlled since 1937, many states now allow regulated medical (33 states and the District of Columbia) and recreational use (10 states and the District of Columbia) [28]. There were > 3.5 million registered medical marijuana patients reported as of May 2018 [29]. However, the United States Drug Enforcement Agency (DEA) lists *Cannabis sativa* as a Schedule 1 substance [30], and as such, research on all aspects of this plant has been limited. U.S. Surgeon General Jerome Adams recently expressed concern that the current scheduling in the most restrictive category is inhibiting research on *Cannabis* as a potentially therapeutic plant [31]. A Schedule 1 substance is described as a drug with no accepted medical use and a high potential for abuse [30]. The University of Mississippi, funded through the National Institutes of Health/National Institute on Drug Abuse (NIH/NIDA), currently holds the single license issued by the DEA for the cultivation of *Cannabis* for research purposes [32]. As such, NIDA serves as the sole legal provider of *Cannabis* for federally funded medical research in the United States. Bulk research grade marijuana supplied by NIDA is characterized by the level of THC and CBD. They offer *Cannabis* for research with four levels of THC: ***low*** (< 1%), ***medium*** (1-5 %), ***high*** (5-10 %) and ***very high*** (>10%), with the additional option of four levels of CBD: ***low*** (< 1%), ***medium*** (1-5%), ***high*** (5-10%) and ***very high*** (> 10%).

The National Institute on Drug Abuse funds a wide range of research on drug-type *Cannabis*, including long and short-term effects on behavior, pain, mental illness, brain development, use

and abuse, and impacts of policy changes related to marijuana [33,34]. Additionally, the NIH provides support for researching cannabinoids as separate constituents. Funding for CBD related research is reported as $36M (2015 - 2017) and projected to be $36M for 2018 - 2019 [35], while cannabinoid related research is reported as $366M from 2015 - 2017 and projected to be $292M for 2018 - 2019 [36].

Recent research has documented that NIDA-provided *Cannabis* has distinctly different cannabinoid profiles than commercially available *Cannabis* [14]. Specifically, Vergara et al. (2017) found that NIDA samples contained only 27% of the amount of THC and 48% of CBD levels of commercially available *Cannabis*. The substantial chemical differences between NIDA and commercially available *Cannabis* raises significant questions about whether research conducted with federal *Cannabis* is indicative of the experience consumers are having.

Medical research on *Cannabis* primarily focuses on THC and CBD [3,9,35-40], but there are hundreds of other chemical constituents in *Cannabis* [41], including cannabinoids and terpenes, which have largely been ignored [9]. There is evidence to suggest that chemical constituents in various combinations and abundances work in concert to create the suite of physiological effects reported [9]. The chemical makeup of each variant of *Cannabis* is influenced by the genetic makeup as well as environmental conditions. Given that previous research has determined the cannabinoid levels of research grade marijuana from NIDA is significantly different from commercially available *Cannabis* [14], genetic investigations are warranted to determine if NIDA *Cannabis* is genetical distinct from other sources. In the current study we investigated the genetic relationship of NIDA provided *Cannabis* to commercially available drug-type strains, as well as feral and cultivated hemp. Ten variable nuclear microsatellite regions were used to examine

genetic differentiation among our samples. Sampling included NIDA (High THC and High THC/CBD), high THC drug-type, low THC/high CBD drug-type, wild growing hemp (presumed escapees from cultivation), and commercial hemp. This study aimed to investigate where research grade marijuana supplied by NIDA falls on the genetic spectrum of *Cannabis* groups.

Results

Our analyses examined the genetic differentiation and structure of samples from six groups (Supplemental Table 1). 1) **NIDA** – research grade marijuana samples obtained from NIDA classified as High THC or High THC/CBD; 2) **Hemp** – *Cannabis* obtained from hemp cultivators and feral collected hemp; 3) **High CBD** – drug-type *Cannabis* with relatively high levels of CBD and low levels of THC; and commercially available drug-type *Cannabis* described as 4) **Sativa**, 5) **Hybrid**, or 6) **Indica** strains. Analyses were also performed on samples at the individual level to control for biases that might arise due to the potential artificial nature of named groups and varying group sample sizes.

Genetic Differentiation

Pairwise genetic differentiation (Fst and Nei's D) calculated in GENALEX ver. 6.4.1 (Peakall & Smouse 2006, Peakall & Smouse 2012) found the highest level of divergence between hemp and high CBD drug-type strains (Fst = 0.215) and between hemp and Sativa drug-type strains (Nei's D = 0.614) (Table 1). The least divergence was observed among the drug-type strains (Fst = 0.023-0.04; Nei's D = 0.066-0.109).

Table 1. Pairwise Fst values (below the diagonal) and Nei's D (above the diagonal) for major *Cannabis* groups.

	NIDA	Hemp	High CBD	Sativa	Hybrid	Indica
NIDA		0.519	0.527	0.553	0.480	0.441
Hemp	0.120		0.489	0.614	0.585	0.459
High CBD	0.166	0.215		0.329	0.310	0.281
Sativa	0.114	0.160	0.137		0.098	0.109
Hybrid	0.117	0.149	0.135	0.040		0.066
Indica	0.078	0.124	0.121	0.035	0.023	

Clustering Analysis

Principal Coordinate Analysis (PCoA) was conducted in GENALEX and plotted in R Studio with the ggplot package [42] with 95% confidence interval ellipses around the major groups (Figure 1). No confidence intervals were drawn for NIDA (n = 2) or High CBD (n = 3) due to small sample size. Coordinate 1 explains 13.26% of the genetic variation and an additional 11.39% of the genetic variation is explained by coordinate 2. The drug-type strains (Indica, Sativa, Hybrid, and High CBD) all occupy the same character space. There is clear separation of hemp samples from the drug-types, with NIDA samples clustering within the hemp confidence interval.

PC-Ord version 6 [43] was used to generate a dendrogram with Ward's method and Euclidean Genetic distance parameters based on pairwise genetic distance values generated in GENALEX (Figure 2). The initial branching split the samples into two clusters, A and B. Cluster A contains all but one hemp sample (88%), as well as the NIDA samples (100%) and two drug-type samples (5%). Cluster B contains the remaining drug-type samples (95%) and one hemp sample (12%).

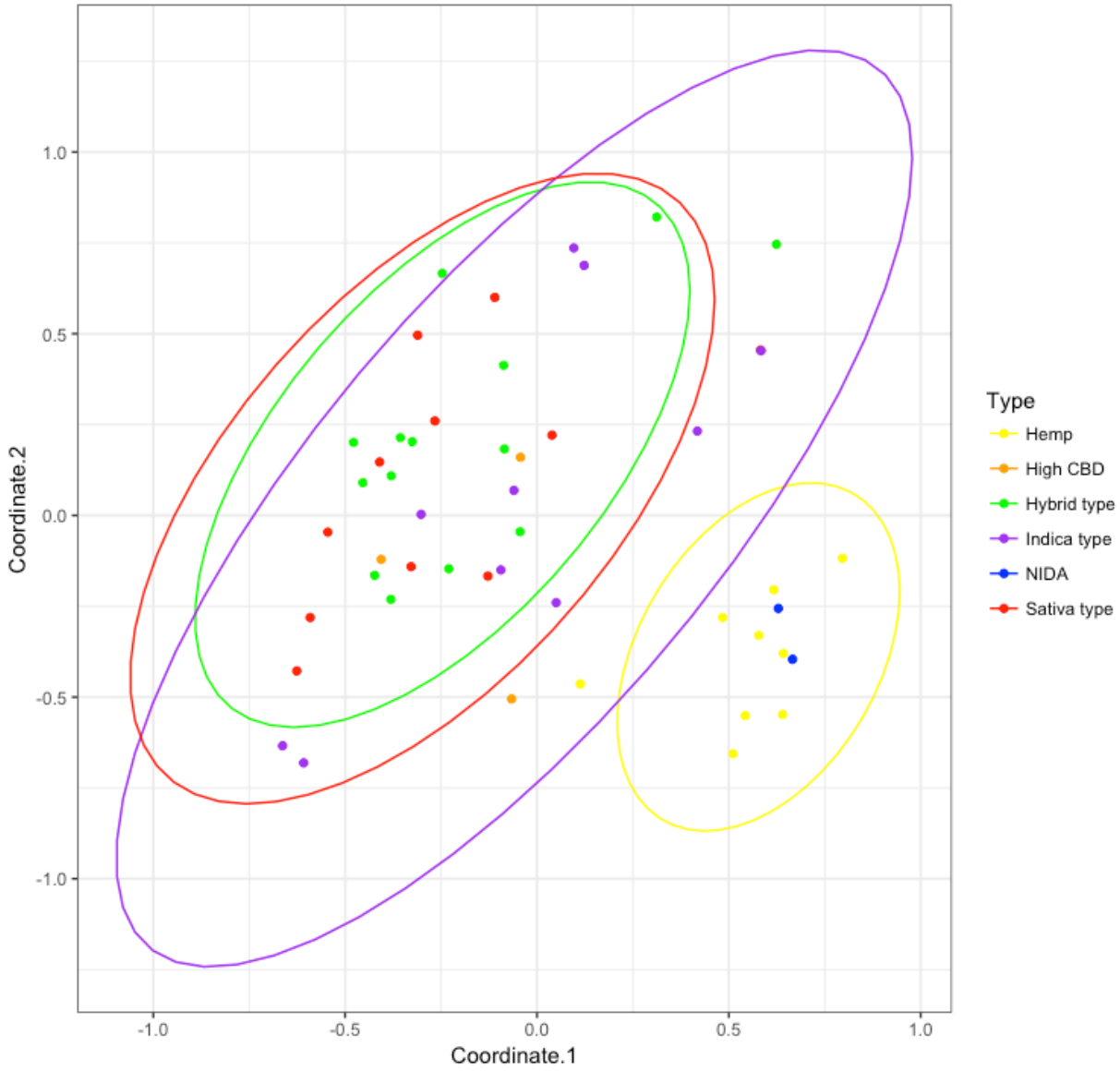

Figure 1: Principal Coordinates Analysis with 95% confidence intervals around the major groups (hemp = yellow, NIDA = blue, High CBD = orange, Sativa = red, Hybrid = green, Indica = purple). Approximately 25% of the genetic variation in these groups is shown (coordinate 1= 13.26% and coordinate 2 = 11.39%). No confidence intervals were drawn for NIDA or High CBD samples due to the small sample size (n = 2 and n = 3, respectively).

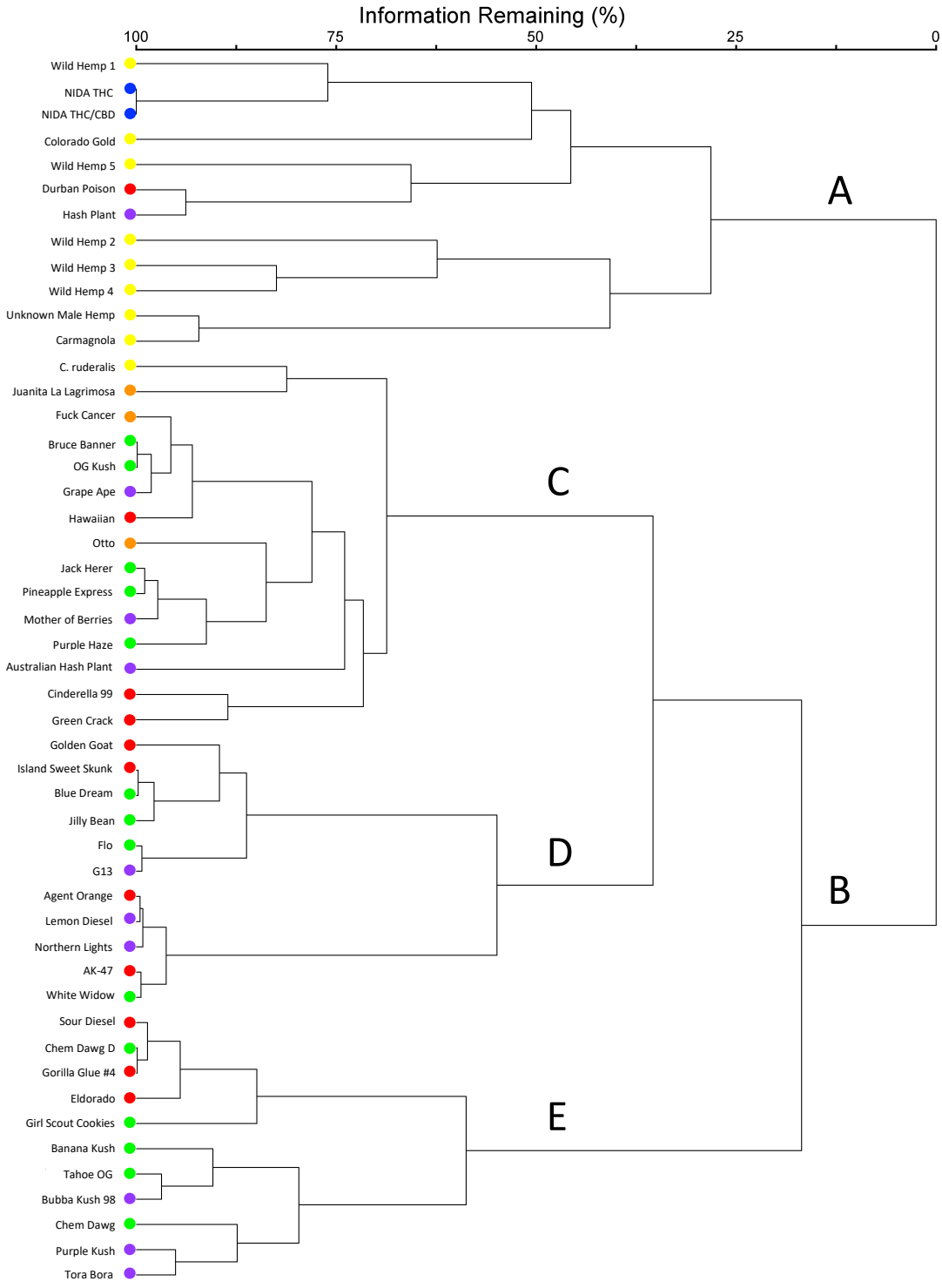

Figure 2: PC-Ord group linkage dendrogram. Samples are color-coded (Hemp = yellow, NIDA = blue, High CBD = orange, Sativa = red, Hybrid = green, Indica = purple). Cluster B further branches into three clusters (C, D, and E), where Sativa, Hybrid and Indica drug type strains are dispersed throughout.

174 STRUCTURE ver. 2.4.2 [44] was used to examine sample assignment to genetic groups while
175 allowing admixture. The appropriate number of STRUCTURE groups was validated using
176 STRUCTURE HARVESTER [45], which had high support for two genetic groups (K = 2, ΔK =
177 67.68) and weak support for three genetic groups (K = 2, ΔK = 4.48) (Supplemental Figure 1).
178 Additionally, MavericK 1.0.5 [46] was used to independently test group assignments, which also
179 had strong support for two genetic groups (K = 2, probability 0.901) and weaker support for
180 three genetic groups (K = 3, probability 0.097) (Supplemental Figure 2), with the sample
181 assignments matching STRUCTURE (Supplemental Figure 3). The two genetic group
182 STRUCTURE analyses (Figure 3) show consistent differentiation between hemp and drug-type
183 strains. All hemp samples were assigned to genetic group 1 (yellow) with a proportion of
184 inferred ancestry (Q) greater than 0.82 (hemp mean group 1, Q = 0.94). Drug-type samples
185 showed some admixture with the majority of the genetic signal of 31 samples (82%) being
186 assigned to genetic group 2 (green; drug-type mean group 2, Q = 0.72). NIDA samples were
187 assigned to genetic group 1 (NIDA mean group 1, Q = 0.97), demonstrating a strong association
188 with hemp. Although not strongly supported, the three genetic group analysis shows some
189 additional genetic structure among drug-type strains.
190

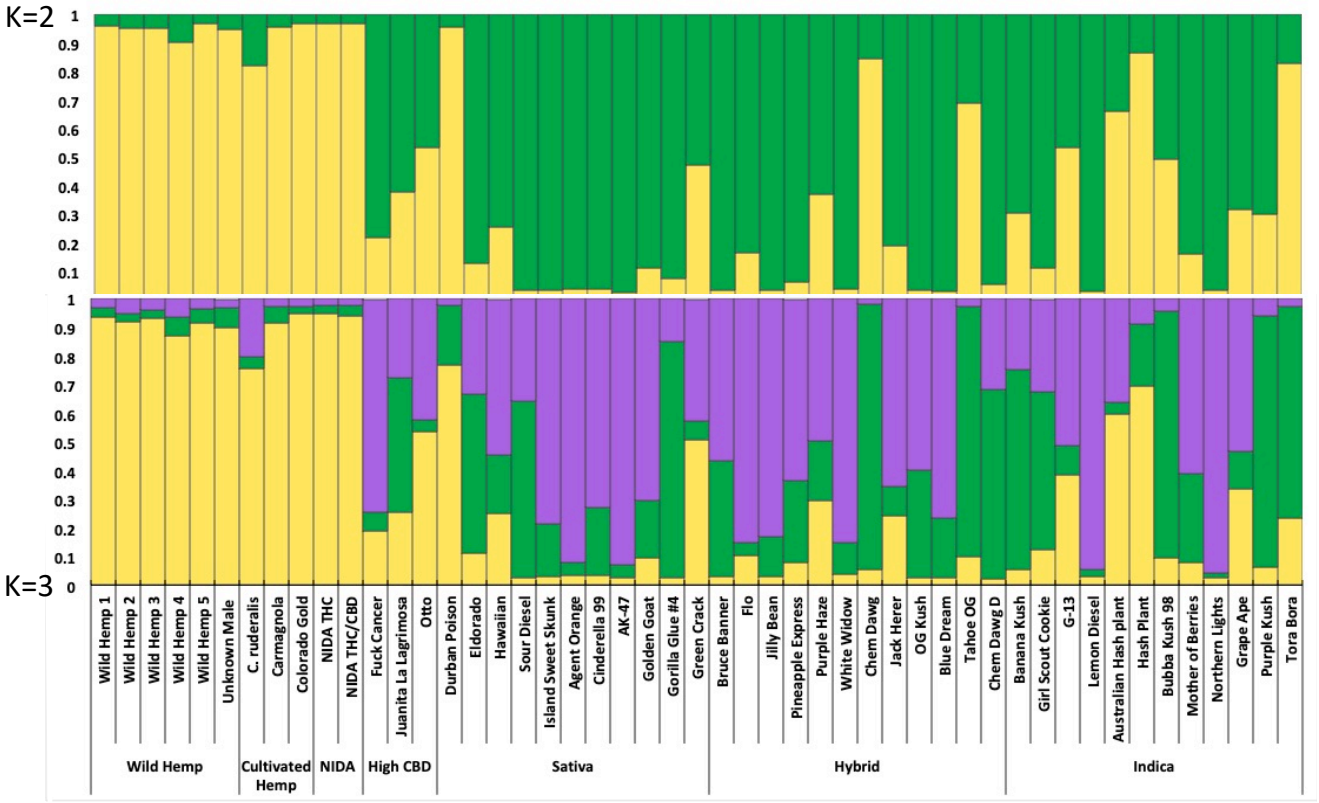

Figure 3: Bayesian clustering analysis from STRUCTURE with the proportion of inferred ancestry for two genetic groups (K = 2, top), and for three genetic groups (K = 3, bottom). Each individual is represented as a single bar in the graph.

EDENetwork ver. 2.18 [47] was used to generate a web of genetic relationship based on pairwise linkages (Figure 4). The automatically selected percolation threshold was 8.1 (Figure 4A), although not all individuals were connected at this level. The threshold was raised iteratively to connect more divergent samples and explore larger patterns of genetic relationships. The two NIDA samples were united at a threshold of 8.5 (Figure 4B). When the threshold was raised to 13.7 (Figure 4C) the NIDA samples became connected to the network via the drug-type sample Eldorado. At a threshold level of 16.9 (Figure 4D) all samples in the dataset are included in the relationship network.

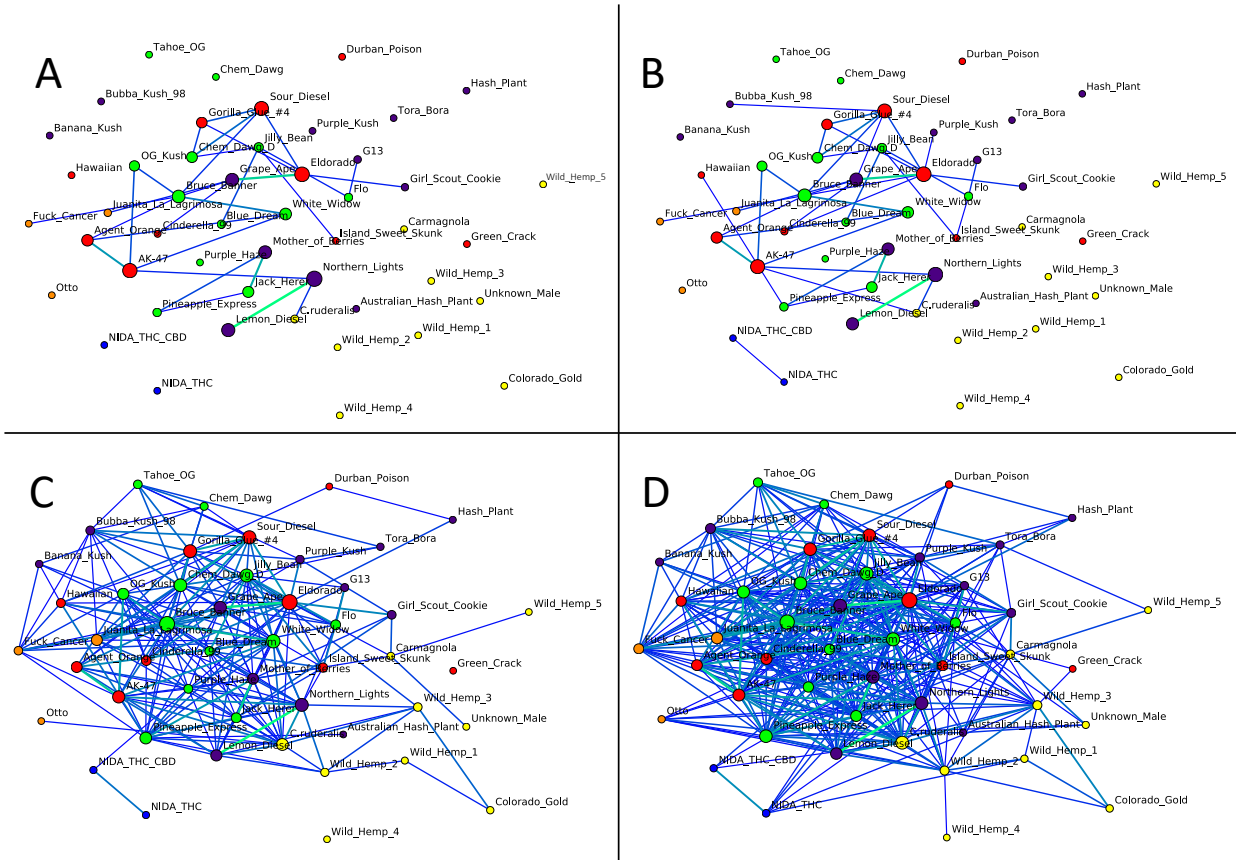

Figure 4: EDENetworks genetic relationship network with incrementally decreasing stringency of required genetic relatedness among samples in the data set. (A) Threshold 8.1: the percolation threshold determined by the analysis. (B) Threshold 8.5: the threshold required to connect NIDA samples to each other, but not to any other samples in the dataset. (C) Threshold 13.7: the threshold necessary to connect the NIDA sample to the larger network with the connection via the drug-type strain Eldorado. (D) Threshold 16.9: the required threshold to connect all samples in the network. Nodes are colored to indicate group designation (Hemp = yellow, NIDA = blue, High CBD = orange, Sativa = red, Hybrid = green, Indica = purple). Node size is proportionate to the number of connections to that individual within the network. Lines thinner and lighter in color indicate weak genetic relationships, while thicker darker lines indicate stronger relationships.

Discussion

The purpose of this study was to examine the genetic relationship of *Cannabis* samples from the National Institute on Drug Abuse (NIDA) to hemp and drug-type samples. Our results clearly demonstrate that NIDA *Cannabis* samples are substantially different from most commercially available drug-type strains, sharing a genetic affinity with hemp samples in most analyses.

Previous research has found that medical and recreational *Cannabis* from California, Colorado,

and Washington differs significantly in cannabinoid levels from the research grade marijuana supplied by NIDA [14]. Our genetic investigation adds to this previous research, indicating that the genetic makeup of NIDA *Cannabis* is also distinctive from commercially available medical and recreational *Cannabis.*

The genetic data collected in this study indicate that two major genetic groups exist within *Cannabis sativa*. The first group contained a majority of hemp (88 - 100%, depending on analysis) and both NIDA samples (100%), while the second group contained a majority of drug-type samples (82 - 95%). These results contribute to the growing consensus that hemp and drug-type *Cannabis* can be consistently differentiated [7,10-12,48-51]. To our knowledge, this is the first genetic study to include research grade marijuana from NIDA, and its placement with hemp samples was unexpected. However, it is important to note that some drug-type samples (e.g. Durban Poison, Figure 2 & 3) are also placed in the hemp group. Although the sample size of NIDA samples could impact their placement in group-based analyses such as genetic distances (Table 1), all other analyses were carried out at an individual level (Figures 1 - 4) to avoid this issue.

According to the University of Mississippi National Center for Natural Products Research (NCNPR), which produces research grade marijuana for NIDA, the first experimental plots of *Cannabis* were planted in 1968 with seeds from "Mexico, Panama, Southeast Asia, Korea, India, Afghanistan, Iran, Pakistan, and Lebanon" [52,53]. Over the next decade, cultivation techniques were standardized, with over 100 varieties planted in 1976 [52]. Between the late 1970's and today, the University of Mississippi has continued to be the sole producer of research grade marijuana for NIDA, and it has refined cultivation techniques and extraction procedures, particularly for

THC and CBD [54]. The program does not provide variety or strain information when filling *Cannabis* orders, so it is unclear what is currently grown by NCNPR for federally funded marijuana research. The NCNPR director recently stated that "The marijuana project currently stocks 27 plant varieties with different cannabinoid profiles, various CBG potencies, and a wide range of THC levels" [53]. However, the NCNPR website states that only three *Cannabis* varieties were grown in 2014 [52]. Our data suggest that the NIDA *Cannabis* analyzed in this study was sourced from a single strain or two very closely related strains within the NCNPR stock. Without additional information about NCNPR *Cannabis* production, it is difficult to know how many strains are being used in research.

This study indicates the need for additional research and refinement of our understanding of *Cannabis* genetic structure and how those differences might impact *Cannabis* consumers. Although medicinal research on *Cannabis* has predominantly focused on THC and CBD [3,9,35-40], it is becoming apparent that other chemical constituents in various combinations and abundances likely have important effects [9]. If researchers are solely interested in the effects of THC and CBD at known concentrations, then NIDA *Cannabis* could serve as a representative source, although in these cases, isolates of these molecules may be more appropriate. However, given the genetic distinction between NIDA and commercially available *Cannabis,* patients in federally funded *Cannabis* research are likely experiencing effects that are specific to the plant material provided by NIDA. As the interest for medical *Cannabis* increases, it is important that research examining the threats and benefits of *Cannabis* use accurately reflect the experiences of the general public.

Given the rapidly changing landscape of *Cannabis* regulations and consumption [28], it is not surprising that commercially available *Cannabis* contains a diversity of genetic types.

Commercially available *Cannabis* has come to market through non-traditional means leading to many inconsistencies. We have previously documented [55] that there is substantial genetic divergence among samples within named strains, which only exacerbates questions about the impacts of *Cannabis* consumption. These results emphasize the need to increase consistency within the *Cannabis* marketplace, and the need for research grade *Cannabis* to accurately represent what is accessible to consumers.

In conclusion, this study highlights the genetic difference between research grade marijuana provided by NIDA and commercial *Cannabis* available to medical and recreational users. This finding reveals that research conducted with NIDA *Cannabis* may not be indicative of the effects that consumers are experiencing. Additionally, research has demonstrated that *Cannabis* distributed by NIDA has lower levels of the principal medicinal cannabinoids (THC and CBD) and higher levels of degradation byproducts of cannabinoids (cannabinol, CBN) [14]. Taken together, these results demonstrate the need for there to be greater diversity of *Cannabis* available for medical research and that the genetic provenance of those samples to be established to fully understand the implications of results.

Methods

A total of 49 *Cannabis* samples were used in this research (Supplemental Table 1), including: wild hemp (5), cultivated hemp (4), NIDA strains (2), high CBD drug-type strains (3), and drug-types strains (35). Drug-type strains were further subdivided into three commonly used categories: Sativa (11), Hybrid (14), and Indica (10) based on information available online [27,56]. The drug-type strains were randomly chosen from a much larger pool of samples. Duplicate accessions within strains were not included.

299

300 DNA was extracted using a modified CTAB extraction protocol [57] with 0.035- 0.100 grams of
301 dried flower tissue per extraction. Ten variable microsatellite loci developed by Schwabe and
302 McGlaughlin [55] were used in this study following their previously described procedures.

303

304 GENALEX ver. 6.4.1 [59,60] was used to calculate pairwise genetic differentiation (F_{ST}) and Nei's
305 genetic distance (D) between each of the six groups. PCoA eigenvalues calculated in GENALEX
306 were used to plot the PCoA in RStudio with the ggplot package [42,61] with 95% confidence
307 interval ellipses. GENALEX was also used to generate a pairwise genetic distance square matrix
308 which was then used to generate a hierarchical cluster analysis dendrogram with Ward's method
309 and Euclidean Genetic distance parameters in PC-ORD [43].

310

311 Genotypes were analyzed using the Bayesian cluster analysis program STRUCTURE ver. 2.4.2
312 [44]. Burn-in and run-lengths of 50,000 generations were used with ten independent replicates for
313 each STRUCTURE analysis. The number of genetic groups for the data set was determined by
314 STRUCTURE HARVESTER [45], which implements the Evanno et al. method [62].

315

316 Maverick v1.0.5 [46] was used as an additional verification of Bayesian clustering analysis using
317 thermodynamic integration to determine the appropriate number of genetic groups. The
318 following parameters were used: admixture parameter (alpha) of 0.03 with a standard deviation
319 (alphaPropSD) of 0.008, 10 replicates (mainRepeats), 1,000 Burn-in iterations (mainBurnin),
320 5,000 sample iterations (mainRepeats), 100 TI rungs (thermodynamicRungs), 500 TI Burn-in
321 iterations (thermodynamicBurnin), and 1,000 TI iterations (thermodynamicSamples).

322

EDENetworks ver. 2.18 [47] was used to construct a web of genetic relationships using the Linear Manhattan distance measure. An auxiliary data file was imported to maintain the spatial coordinates and to color individuals by group assignment. The automatic percolation threshold was first derived as 8.1. Networks were generated for subsequent iterative threshold intervals of 0.5. Increasing the threshold lowers the stringency for genetic relationships, and as the threshold increases, more relationships are formed in the network. EDENetworks diagrams were constructed for the percolation threshold of 8.1, 8.5, 13.7 and 16.9. These are the values that: connect NIDA samples to each other, but not to any other samples in the dataset (8.5), connect a single NIDA sample to the larger network (13.7), and finally connect all samples in the network (16.9). The size of each node is proportionate to the number of relationship connections to other members in the network. The line color and width indicated the strength of the relationship between two individuals- lighter thicker lines indicate stronger genetic relationships, while the darker thinner lines indicate weaker genetic relationships.

Data Availability

The scored microsatellite data set analyzed in this study is provided as supplementary material (Supplemental Table 2).

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Author Contributions

A.S conceived the project, collected samples, conducted DNA extractions, designed and optimized microsatellite primers, compiled and analyzed data, and drafted manuscript content; C.H conducted DNA extractions, compiled and analyzed data, and prepared the first draft of the manuscript; R.M.H provided DNA from NIDA samples; M.E.M directed the project, provided some funding, contributed statistical analysis and manuscript revisions; all authors contributed to manuscript preparation.

Competing Interests

The authors declare they have no competing interests.

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TOGETHER WITH ADDITIONAL VIEWS

TO ACCOMPANY

S. 3246

DECEMBER 16, 1969.—Ordered to be printed

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Calendar No. 609

91ST CONGRESS, 1st Session | SENATE | REPORT No. 91-613

CONTROLLED DANGEROUS SUBSTANCES ACT OF 1969

DECEMBER 16, 1969.—Ordered to be printed

Mr. DODD, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 3246]

The Committee on the Judiciary, having under consideration legislation to protect the public health and safety by amending the narcotic, depressant, stimulant and hallucinogenic drug laws, and for other purposes, reports an original bill and recommends that it do pass.

NEW PROVISIONS ADDED IN COMMITTEE

The original bill generally follows the basic language and structure of both S. 1895 and S. 2637. However, three major provisions were added to the basic bill in committee which were originally contained in S. 1895. One of these provisions is designed to change the penalty structure applicable to drug offenses under title V. The other provision adds certain tranquilizers to the list of "controlled substances" under title II. And the third provision is designed to establish a committee to study marihuana.

The penalty provision was added based on evidence developed through subcommittee investigations and hearings which indicated that the penalties provided in S. 2637 were inconsistent as compared with the harmfulness, abuse characteristics and their social implications of the several classes of drugs. For example, to impose the same high mandatory penalties for marihuana-related offenses as for LSD and heroin offenses is inequitable in the face of a considerable amount of evidence that marihuana is significantly less harmful and dangerous than LSD or heroin.

It had also become apparent that the severity of penalties including the length of sentences does not affect the extent of drug abuse and other drug-related violations. The basic consideration here was that the increasingly longer sentences that had been legislated in the past had not shown the expected overall reduction in drug law violations. The opposite had been true notably in the case of marihuana. Under Federal law and under many State laws marihuana violations carry the same strict penalties that are applicable to hard narcotics, yet marihuana violations have almost doubled in the last 2 years alone.

In addition, the severe drug laws specifically as applied to marihuana have helped create a serious clash between segments of the youth generation and the Government. These youths consider the marihuana laws hypocritical and unjust. Because of these laws the marihuana issue has contributed to the broader problem of alienation of youth from the general society and to a general feeling of disrespect for the laws and the judicial process.

The main thrust of the change in the penalty provisions is to eliminate all mandatory minimum sentences for drug law violations except for a special class of professional criminals. The field of penology has maintained the position that mandatory sentences hamper the process of rehabilitation of offenders. It has equally been maintained that such penalties infringe on the judicial function by not allowing the judge to use his discretion in individual cases.

The second new provision covering the tranquilizers, specifically chlordiazepoxide (librium), diazepam (valium), and meprobamate (mil town) was deemed necessary because these drugs have shown a considerable potential for abuse. There is substantial indication that these drugs, like the others contained in the bill, have been diverted into illegitimate channels. There is further evidence that a considerable number of deaths, attempted suicides and drug-related injuries have been attributed to the ingestion of these drugs. And, there is further evidence that improper use of tranquilizers, particularly in combination with other chemicals, such as alcohol, can have particularly harmful consequences.

Conversely, it was determined that inclusion of these drugs with the other controlled substances would not cause appreciable inconvenience to either the dispensers or consumers of this category of drugs.

The third new provision directs the Attorney General to appoint a committee of experts to study the marihuana problem.

As it will be pointed out below, marihuana offenses make up the bulk of drug arrests throughout the Nation. This drug has created greater controversy than any of the other substances of abuse. And the present marihuana laws have embittered, confused and disillusioned a large segment of this Nation's young people, including those who do not use any drugs at all. The marihuana controversy is baffling to the general public and to the parents as well as the young people.

The span of arguments on this drug ranges from the death penalty to complete legalization of the drug. The gross ignorance and misunderstanding regarding this problem aggravates it and makes it worse than it already is.

It was determined that an authoritative report from a group of experts on this matter is needed to dispel the irrational fears of the public regarding marihuana and to provide better understanding with respect to the substantial dangers associated with this drug.

Purpose of the Bill

The bill was a necessary reaction to the reorganization of drug control agencies carried out under President Johnson's Administration in 1968. Under the reorganization plan the drug enforcement agencies of the Department of Health, Education, and Welfare and of the Treasury Department (except those involved with customs) were transferred to the Department of Justice.

The next step was to collect the diverse drug control and enforcement laws under one piece of legislation to facilitate law enforcement, drug research, educational and related control activities. Equally, the purpose expressed in the bill is to classify the drugs subject to control in specific schedules according to the chemical properties, psychological and physical effects and abuse potential of the different drugs. Based on this classification, the schedules developed were then made to correspond to the penalties applicable to violations involving the different classes of drugs.

The basic elements of the penalty structure are described in subsequent sections of the report.

Furthermore, the overall purpose of the bill is to improve the administration and regulation of the manufacture, importation and exportation of the controlled dangerous substances covered under its provisions, so that the widespread diversion presently occurring can be halted.

Extent of the Problem

Arrests for narcotic drug law violations in 1968 were over 4 times as great as arrests in 1960. Expressed in other terms, narcotic and marihuana arrests have increased 322 percent since the beginning of this decade.

Narcotic arrests in 1968 rose 64 percent over 1967. These increases were primarily the result of marihuana arrests. The most recent Federal Bureau of Investigation report shows that on a national basis, instances of marihuana violations have almost doubled in the last 2 years.

A National Institute of Mental Health survey indicates that as many as 50 percent of high school students in certain areas have had some experience with marihuana.

A further study of a student sample in a university showed that in 1967, 21 percent of these students had previous experience with marihuana. The same sample in 1968 revealed that 57 percent had now tried marihuana.

With respect to sedatives, stimulants and tranquilizers, another Institute survey in 1967 revealed that 51 percent of 1,028 persons interviewed had used one or more of these drugs.

Another trend that has been established over recent years is that the drug problem involves an increasingly younger age group.

Equally, there is some indication that while marihuana is the most popular drug of abuse, some young people will indiscriminately experiment with any drug or with any combination of drugs that they can obtain. The range of drugs or chemical compounds used may include heroin and LSD on the one end of the spectrum and such other products as lacquer thinner or even gasoline on the other.

The other side of the drug abuse problem is the illicit traffic in drugs which is both international and interstate in scope. There is an un-

known quantity of the nonmedical and nonprescription drugs (heroin, cocaine, marihuana) being continuously smuggled into this country. At the same time, there are substantial amount of prescription drugs, such as the stimulants, depressants and tranquilizers being diverted into illegitimate channels. For example, according to estimates of the National Institute of Mental Health, 50 percent of the over 8 billion annually produced amphetamine pills find their way into nonmedical channels. This diversion is in addition to drugs produced illegally in clandestine laboratories.

The control of drug abuse and of both the legitimate and illegitimate traffic in drugs is the main objective of the bill S. 3246.

What must be considered with respect to drug offenses and drug abuse is that the problem has the shape of the proverbial iceberg, only the smallest part of which sticks out of the water while the bulk is hidden from view.

The estimated 100 to 125 thousand narcotic abusers or the estimated 12 million people in the United States who have tried marihuana may represent only that visable part of the iceberg. There is an untold number of other users of these drugs that simply cannot be determined at the present. There is another unknown number of users of amphetamines, barbiturates and related drugs. Whatever the numbers involved they are obviously substantial. In any case there appear to be more than enough customers for the 4 billion amphetamine pills annually diverted to the illegal traffic.

Regarding particularly the narcotic addicts it is known that the daily dose for an addict may cost from 15 to 50 dollars.

When the supply is obtained by criminal means the value of property stolen is usually from two to three times greater than the return it brings on the black market. Thus the annual cost of narcotic addiction in terms of stolen property alone may well be over a billion dollars.

These are factors that make more effective controls of the entire drug problem imperative.

Scope of Coverage

TITLE I—FINDINGS AND DECLARATION, AND DEFINITIONS

Under the first part of this title the bill reaffirms the need for Federal regulation and control over what are subsequently defined as "controlled dangerous substances." Such regulation and control is required to help manage the drug abuse problem and the criminal traffic in drugs on the international, national, and State levels.

The United States has international commitments to help control the worldwide drug traffic. To honor these commitments, principally those established by the Single Convention on Narcotic Drugs of 1961, is clearly a Federal responsibility.

Equally, however, the Federal Government must participate in drug control on the State and local level because even purely local drug traffic affects the interstate traffic and most often it is impossible to distinguish the one from the other.

It should be pointed out that the Federal role in these areas has never been seriously challenged. Indeed, a number of States would like to receive more Federal help in these matters than is presently forthcoming.

The findings and declaration part of this title also sets forth the conclusion that while many of the drugs covered are necessary to maintain the health of the American people, when misdirected and abused, they as well as the nonmedical drugs present a serious danger to the population.

The definitions part of the title establishes the legal definition of the major terms used throughout the bill.

1. The bill defines the types or classes of individuals whose activities or involvement with drugs are regulated under its provisions. These include "addict," "agent," "distributor," "manufacturer," "dispenser," "practitioner" and "ultimate user."

2. The bill defines the processes of drug transactions that are regulated under its provisions. These include "administer," "control," "deliver," or "delivery," "dispense," "distribute," "manufacture" and "production."

3. The bill defines the classes, categories, or basic substances covered under its provision. These include "controlled dangerous substances," "counterfeit substance," "depressant or stimulant drug," "drug," "marihuana," "narcotic drug," "net disposal," "opiate," "opium poppy," "poppy straw" and "immediate precursor."

4. The bill also defines such other terms as "Bureau of Narcotics and Dangerous Drugs," "Department," "State" and "United States."

TITLE II—STANDARDS AND SCHEDULES

This title vests the authority for control of the substances enumerated under its provisions with the Attorney General.

There has been a point of controversy evident among the professions involved in drug control and drug research on whether or not the Justice Department has the expertise to schedule or reschedule drugs since such decisions require special medical knowledge and training.

This difficulty is resolved by the provision contained in this title which requires the Attorney General to seek advice from the Secretary of Health, Education, and Welfare and from the Scientific Advisory Committee on whether or not a substance should be added, deleted or rescheduled with respect to the provisions of the bill.

Schedule I substances cannot be administratively moved to schedules III or IV without congressional authority. However, these substances can be administratively removed to schedule II and then, in a second step, administratively removed to schedule III or IV. However, it should be noted that before any substance can be rescheduled, it must be found to fit the criteria demanded of the particular schedule to which it is to be moved.

The title further establishes the criteria to be considered for the control and classification of drugs into several schedules, based largely on the degree of their abuse potential, known effect, harmfulness and level of accepted medical use. All controlled substances are contained in either schedule I, II, III, or IV.

Such classification of drugs achieves one of the main objectives of the bill which is to create a coordinated, codified system of drug control and regulation.

In the past the lack of such a comprehensive system led to considerable confusion and duplication of effort in the enforcement and administration of drug laws.

TITLE III—REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES

Title III provides rules, regulations and other requirements for the registration of persons involved in the manufacture, distribution, and dispensing of controlled drugs.

Every person engaged in these activities is required to register according to the rules and regulations set forth by the Attorney General.

Such persons as agents, common carriers and warehousemen whose possession of controlled drugs is in the usual course of business are specifically exempted from the registration requirements. In certain other cases the Attorney General can waive the registration requirements if such action is consistent with the public health and safety.

The Attorney General is directed to register applicants based on criteria involving consideration of public interest, nature and efficiency of the establishment engaged in manufacture and other operations covered under the bill, adequacy of controls against diversion, compliance of the activities with other relevant laws, the record of the applicant, and other considerations relevant to the public health and safety.

The title provides special registration requirements for applicants interested in conducting research with schedule I substances.

A special registration application to conduct research in schedule I substances must be referred to the Secretary of Health, Education, and Welfare who will advise the Attorney General as to the applicant's qualifications. Should an applicant be deemed qualified by the Secretary, the Attorney General must register him unless he finds that the applicant has been convicted of a felony, his State license or registration has been revoked, he has falsified his application, or there are grounds to believe that the applicant will abuse the substances or fail to adequately safeguard his supply.

This title further requires that persons be registered who are legitimately engaged in the activities covered by the title prior to the effective date of the act. It provides for revocation or suspension of registration in cases of certain violations. It provides for marking of containers of controlled dangerous substances.

It authorizes the Attorney General to establish production quotas for schedule I and II drugs consistent with the medical, scientific, and industrial needs of the United States. It also provides for records and reports, for order forms and for prescriptions as required by the Attorney General to help regulate the manufacture, distribution, and dispensing of controlled dangerous substances.

TITLE IV—IMPORTATION AND EXPORTATION

This title controls and restricts the importation and exportation of the controlled dangerous substances covered under this act, subject to regulations promulgated by the Attorney General.

The rationale of this title is to allow for the importation of such amounts of controlled dangerous substances as are necessary for medical, scientific, and other legitimate purposes. Importation of narcotic drugs is allowed for the first time, but only if the Attorney General finds such importation necessary for medical, scientific, or other legitimate purposes either during an emergency where the sup-

plies of these substances are in danger of being depleted or where it is found that competition among domestic manufacturers is inadequate and cannot be remedied by registration of additional domestic manufacturers.

It is expressly prohibited to import crude opium to manufacture heroin or smoking opium. It is also stipulated that all contents of imported coca leaves, which are not used for legitimate purposes and which can be used to produce cocaine or ecgonine shall be destroyed after entry into the United States.

Exportation of narcotic drugs listed in schedules I, II, and III is restricted to countries that are parties to international treaties on drug control. Such exportation is further subject to the criteria of need for medical, scientific or other legitimate purposes and of the controls and safeguards against diversion and misuse in such countries. These conditions must be considered adequate by the Attorney General.

Exportation of controlled nonnarcotic drugs in schedules I and II requires advance notification to the Attorney General, and is subject to the further stipulation that substantial evidence is given the Attorney General that such drugs will not be exported from the countries permitted to import them under this bill.

The title also provides similar regulations for transshipment of controlled dangerous substances to other countries through the United States.

Some concern has been expressed in subcommittee hearings that parts of this title (sec. 401) and of title III (sec. 303) may tend to expand the commerce in controlled dangerous substances, particularly narcotics, possibly adding to the danger of diversion and leading to unfavorable changes in the price structures of these substances.

The Attorney General may only allow importation of narcotics upon the happening of specific enumerated events, which may or may not ever occur. He is not authorized to open the door to foreign imports. Second, the Attorney General must limit the importation and manufacture of schedules I and II substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate purposes. In effect, the Attorney General must seek out a balance between safeguarding against diversion and allowing for sufficient competition among manufacturers to insure for reasonable prices for consumer protection.

TITLE V—OFFENSES AND PENALTIES

As amended in committee, this title designates the offenses and penalties for unlawful manufacture; distribution; dispensing; possession with intent to manufacture, distribute, or dispense; importation; exportation; and simple possession of controlled dangerous substances. The privisions of this title differ from existing Federal laws regulating narcotics and marihuana by eliminating mandatory minimum penalties for all violations, except for a newly created class of professional criminals involved mainly in major distribution, sale, and importation of controlled dangerous substances.

The title specifically defines a professional criminal as a person over 21 years of age who has played a substantial role in a continuing criminal enterprise in concert with at least five other persons and occupied a position of organizer, a supervisory position or other position of management.

Such a person can also be considered a professional criminal if he has played a substantial role in a continuing criminal enterprise and has or has had in his own name or under his control substantial income or resources not demonstrated to have been derived from lawful activities or interests.

The professional criminal engaged in these violations is subject to a mandatory 5 to life sentence, a fine of $50,000 and forfeiture of enumerated property. For a second such offense, the professional criminal is subject to a mandatory 10 to life sentence, a fine of $100,000 and forfeiture of enumerated property. In any case where an individual is adjudged a professional criminal, imposition or execution of sentence cannot be suspended, probation cannot be granted, and parole is denied.

All other classes of drug offenders, however, are penalized without minimum mandatory sentences. Traffickers violating provisions of this title relating to schedules I and II narcotic drugs are subject to a sentence of up to 12 years, a fine of not more than $25,000, or both. A special parole term of at least 3 years is required. These offenders are eligible for probation and any sentence imposed may be suspended. Those individuals trafficking in schedules I and II nonnarcotics, which would include marihuana, and in schedule III substances are subject to a sentence of up to 5 years imprisonment, a fine not exceeding $15,000, or both. A special parole term of at least 2 years is required. These offenders are also eligible for probation and their sentences can be suspended. Offenses relating to schedule IV substances could draw a fine of up to $5,000, a sentence of up to 1 year, or both. Offenders in this category would also be eligible for probation, suspended sentences, and parole.

Second offenders in any of these categories could receive up to twice the penalty provided for the first offense.

The language "distributes a small amount of marihuana for no remuneration or insignificant remuneration not involving a profit" as contained in section 501(c)(4) is intended to cover the type of situation where a college student makes a quasi-donative transfer of one or two marihuana cigarettes and receives 50 cents or a dollar in exchange to cover the cost of the marihuana. Transfers of larger quantities in exchange for larger amounts of money, or transfers for profit, are not intended to be covered by this section, but rather are to be covered by section 501(c)(2) which deals with unlawful distribution.

Possession for one's own use of any controlled dangerous substance under this title would be treated as a misdemeanor punishable by imprisonment for up to 1 year, a fine of not more than $5,000, or both. A second offense of possession for one's own use would draw a penalty of up to twice that applicable to first offenders.

First offenders convicted of simple possession may receive a conditional discharge of the proceedings against them, and upon fulfillment of any terms and conditions the court might impose, their record will be expunged.

Additional penalties are provided for those involved in the legitimate drug trade for illegal importation, counterfeiting, failure to keep records, and for related offenses. Such persons can be punished by a civil fine of not more than $25,000, or if proven that the violation was committed knowingly and intentionally, by imprisonment of up to 1 year, by a criminal fine up to $25,000, or both.

Further penalties are provided for registrants for illegal distribution of schedule I and II drugs for falsification of records, for misrepresentation, counterfeiting, and for use of any communications facility in facilitating the commission of any of these violations. Such persons can be punished by imprisonment up to 3 years and a fine of not more than $30,000, or both.

Endeavors or conspiracy to commit any of the offenses in this title can be punished by imprisonment or fine or both not exceeding maximum punishment applicable to the offense itself.

Criminal penalties provided by this title would be in addition, and not in lieu of civil or administrative penalties.

Doubling of the penalties that would otherwise be imposed is provided for persons who are at least 18 years of age and who distribute any controlled dangerous substance to persons under 18 years of age who are at least 3 years their junior.

TITLE VI—ADMINISTRATIVE PROVISIONS

Title VI vests the Attorney General with authority to establish and enforce any rules, regulations, and other procedures to help him carry out the provisions of this bill.

He is authorized and directed to provide educational and research programs.

He is authorized to cooperate with local, State, and other Federal agencies in carrying out his responsibilities.

He is directed to appoint an advisory committee of experts to advise him on scheduling and rescheduling of drugs and on other matters.

The Attorney General is also authorized to hold hearings and issue subpenas as part of his enforcement activities.

The title also provides for judicial review of the Attorney General's decisions under the bill. This is notable particularly because concern has been expressed before Congress with respect to the authority vested in the Attorney General regarding the scheduling and rescheduling of controlled dangerous substances and regarding other aspects pertaining to the administration of this legislation.

TITLE VII—ENFORCEMENT PROVISIONS

Under this title, enforcement personnel of the Bureau of Narcotics and Dangerous Drugs are vested with broader enforcement powers required for the effective enforcement of this act.

The title provides for search warrants which allow entry without notice into premises for the purpose of seizing property that might otherwise be destroyed or to protect human life. This is a vital provision to help law enforcement officers obtain evidence for criminal proceedings against traffickers in controlled dangerous substances. The ability to prosecute these offenders often depends on the amount of drugs

found on the premises. At the same time these substances can be easily destroyed in a relatively short period of time.

Apprehension of the serious traffickers and illicit manufacturers of drugs is probably the most effective way to control the drug problem. The so-called no-knock provision established by this title is an invaluable legal device to help achieve this objective.

It also provides administrative inspections and warrants and criteria for forfeiture of certain property which is substantially involved in drug violations.

It further provides for notification to be given in certain cases to individuals against whom criminal proceedings are to be instituted under this act and for privilege and immunity against self-incrumination for witnesses compelled to testify in proceedings initiated under this act. In addition, it places the burden of proof on a person involved in litigation under the act to rebut the presumption by the Government that such person has violated any registration or recordkeeping requirements. Equally, the title protects Federal enforcement officers from liability for law enforcement activities relating to controlled dangerous substances and provides for the expenditure of certain Federal funds in payment to persons giving information concerning violations of the act.

TITLE VIII—COMMITTEE ON MARIHUANA

This title authorizes the Attorney General and the Secretary of Health, Education, and Welfare to appoint a committee of experts to carry out a study covering all aspects of marihuana use.

The study shall include, but need not be limited to, the following matters:

1. Identification of existing gaps in our knowledge of marihuana.
2. An intensive examination of the important medical and social aspects of marihuana use.
3. Surveys of the extent and nature of marihuana use.
4. Studies of the pharmacology and effects of marihuana.
5. Studies of the relation of marihuana use to crime and juvenile delinquency.
6. Studies of the relation between marihuana and the use of other drugs.

The study is to be completed within 2 years at which time the committee will submit a report of its findings and recommendations to the President and the Congress.

TITLE IX—MISCELLANEOUS

This title repeals essentially all of the existing narcotic and dangerous drug laws and sets forth changes in the United States Code required to conform its terminology to that contained in this legislation.

The title also provides that it does not affect proceedings pending under previous laws. It also establishes severability of the provisions of the act, provides appropriations, and sets forth the effective date of the act.

SECTION-BY-SECTION ANALYSIS

TITLE I—FINDINGS AND DECLARATION AND DEFINITIONS

Section 101

This section of the title contains findings and declarations as to the existence of the conditions with which the act is designed to deal and of the action necessary to cope with those conditions.

Section 102. Definitions

Paragraph (a) defines "addict" to mean any individual who habitually uses any narcotic drug as defined by this act so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

Paragraph (b) defines "administer" to mean to deliver, by a practitioner, in his presence, a controlled dangerous substance to the ultimate user or human research subject by injection, or for inhalation, or ingestion, or by any other means.

Paragraph (c) defines "agent" to mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee thereof.

Paragraph (d) defines "Bureau of Narcotics and Dangerous Drugs" to mean the Bureau of Narcotics and Dangerous Drugs, Department of Justice.

Paragraph (e) defines "control" to mean to add, remove, or change the placement of a drug, substance, or immediate precursor under title II of this act.

Paragraph (f) defines "controlled dangerous substance" to mean a drug, substance, or immediate precursor in schedules I through IV of title II of this act. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in section 26 of the United States Code, subtitle E.

Paragraph (g) defines "counterfeit substance" to mean a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact, manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

Paragraph (h) defines "deliver" or "delivery" to mean the actual, constructive, or attempted transfer of a controlled dangerous substance, whether or not there exists and agency relationship.

Paragraph (i) defines "Department" to mean the U.S. Department of Justice.

Paragraph (j) defines "depressant or stimulant drug" to mean (1) a drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative of barbituric acid which has been designated by the Secretary of Health, Education, and Welfare as habit forming under section 502(d) of the "Federal Food, Drug, and Cosmetic Act" (52 Stat. 1050; 21 U.S.C. 352 (d));

(2) a drug which contains any quantity of (A) amphetamine or any of its optical isomers; (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; (C) any substance which the Attorney General, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or (3) lysergic acid diethylamide or any other drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

Paragraph (k) defines "dispense" to mean to deliver a controlled dangerous substance to the ultimate user or human research subject by or pursuant of the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" is a practitioner who delivers a controlled dangerous substance to the ultimate user or human research subject.

Paragraph (l) defines "distribute" to mean to deliver a controlled dangerous substance. "Distributor" means a person who delivers a controlled dangerous substance.

Paragraph (m) defines "drug" to mean (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

Paragraph (n) defines "marihuana" to mean all parts of the plant *Cannabis sativa L.*, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Paragraph (o) defines "manufacture" to mean the production, preparation, propagation, compounding, or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" also includes any person who packages, repackages, or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

Paragraph (p) defines "narcotic drug" to mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (1) opium, coca leaves, and opiates; (2) a compound, manufacture, salt, deriva-

tive, or preparation of opium, coca leaves, or opiates; (3) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

Paragraph (q) defines "net disposal" to mean the quantity of a controlled dangerous substance in schedule I or II or any narcotic drug distributed, dispensed, used in the production of another narcotic drug for which the manufacturer is registered, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer or such narcotic drug) by the manufacturer during a stated period, less the quantity of any controlled dangerous substance in schedules I and II or other narcotic drug returned to the manufacturer by a customer and any quantity distributed or dispensed to another registered manufacturer of the same narcotic drug.

Paragraph (r) defines "opiate" to mean any controlled dangerous substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having such addiction forming or addiction sustaining liability.

Paragraph (s) defines "opium poppy" to mean the plant of the species *Papaver somniferum L.*, except the seeds thereof.

Paragraph (t) defines "poppy straw" to mean all parts, except the seeds, of the opium poppy, after mowing.

Paragraph (u) defines "practitioner" to mean a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research by the United States or the jurisdiction in which he practices or does research.

Paragraph (v) defines "production" to include the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

Paragraph (w) defines "immediate precursor" to mean a substance which the Attorney General has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

Paragraph (x) defines "State" to mean any State, territory, possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico), the Trust Territory of the Pacific Islands, and the Canal Zone.

Paragraph (y) defines "ultimate user" to mean a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

Paragraph (z) defines "United States" to mean all places and waters, continental or insular, subject to the jurisdiction of the United States.

TITLE II—STANDARDS AND SCHEDULES

Section 201

Subsection (a) of this section provides that the Attorney General shall control all substances enumerated in section 202 of the act. He may in accordance with the Administrative Procedures Act in chapter 5, title 5 of the United States Code, add to, delete, or reschedule any substance as a "controlled dangerous substance." As amended by the committee, an interested party may petition to initiate such action. The Attorney General shall seek in writing the advice of the Secretary of the Department of Health, Education, and Welfare and of the Scientific Advisory Committee that is established in title VI of the act before making any scheduling change.

This subsection provides further that the Attorney General, in reaching his decision, shall consider each of the nine separate criteria contained in the subsection. His determination to control a substance must be made on the basis of the applicable criteria after receipt of the written advice of the Scientific Advisory Committee and the Secretary of the Department of Health, Education, and Welfare. The criteria which the Attorney General must consider in making his determination are as follows:

(1) *Its actual or relative potential for abuse.*—These are the criteria which will be used most often to control drugs and will provide the basis for the greatest controversy. The term "potential for abuse" is found in the definition of a "depressant or stimulant drug" in the Drug Abuse Control Amendments of 1965 (21 U.S.C. 201(v)) and as characterized further in the regulations (21 CFR 166.2(e)) promulgated under those regulations as follows:

> The Director may determine that a substance has a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect if:
>
> (1) There is evidence that individuals are taking the drug or drugs containing such a substance in amounts sufficient to create a hazard to their health or to the safety of other individuals or of the community; or
>
> (2) There is significant diversion of the drug or drugs containing such a substance from legitimate drug channels; or
>
> (3) Individuals are taking the drug or drugs containing such a substance on their own initiative rather than on the basis of medical advice from a practitioner licensed by law to administer such drugs in the course of his professional practice; or
>
> (4) The drug or drugs containing such a substance are new drugs so related in their action to a drug or drugs already listed as having a potential for abuse to make it likely that the drug will have the same potentiality for abuse as such drugs, thus making it reasonable to assume that there may be significant diversions from legitimate channels, significant use contrary to or without medical advice, or that it has a substantial capability of creating hazards to the health of the user or to the safety of the community.

These regulations follow and extend the suggestions contained in House Report No. 130, 89th Congress, first session, page 7 (1965).

The report went further in its discussion of the "potential" aspect of the term. It stated that it did not intend that potential for abuse be determined on the basis of "isolated or occasional nontherapeutic purposes." The committee felt that there must exist "a substantial potential for the occurrence of significant diversions from legitimate channels, significant use by individuals contrary to professional advice, or substantial capability of creating hazards to the health of the user or the safety of the community" (at page 7).

There are two points that should be emphasized in this definition. First, the committee was speaking of "potential" rather than "actual" abuse. In considering a drug for control, it would not be necessary to show that abuse presently exists but only that there are indications of a potential for abuse. This is borne out by the committee's statement that "the Secretary of Health, Education, and Welfare should not be required to wait until a number of lives have been destroyed or substantial problems have already arisen before designating a drug as subject to controls of the bill" (at page 7). Thus, the incidence of present abuse is not the test which the Attorney General must apply. The test is a determination of future or potential abuse. The second point of emphasis is that in speaking of "substantial" potential the term "substantial" means more than a mere scintilla of isolated abuse, but less than a preponderance. Therefore, documentation that, say, several hundred thousand dosage units of a drug have been diverted would be "substantial" evidence of abuse despite the fact that tens of millions of dosage units of that drug are legitimately used in the same time period. The normal way in which such diversion is shown is by accountability audits of the legitimate sources of distribution, such as manufacturers, wholesalers, pharmacies and doctors.

Misuse of a drug in suicides and attempted suicides, as well as injuries resulting from unsupervised use are regarded as indicative of a drug's potential for abuse.

(2) *Scientific evidence of its pharmacological effects.*—The state of knowledge with respect to the uses of a specific drug are, of course, major considerations, e.g., it is vital to know whether or not a drug has an hallucinogenic effect if it is to be controlled because of that effect.

(3) *The state of current scientific knowledge regarding the substance.*—Criteria (2) and (3) are closely related. However, (2) is primarily interested in pharmacological effects and (3) deals with all scientific knowledge with respect to the substance.

(4) *Its history and current pattern of abuse.*—To determine whether or not a drug should be controlled, the Attorney General must know the pattern of abuse of that substance, including the social, economic and ecological characteristics of the segemnts of the population involved in such abuse.

(5) *The scope, duration, and significance of abuse.*—Not only must the Attorney General know the pattern of abuse, but he must know whether the abuse is widespread. He must also know whether it is a passing fad, like smoking banana peels, or whether it is a significant chronic abuse problem like heroin addiction. In reaching his decision, the Attorney General should consider the economics of regualtion and enforcement attendant to such a decision. In additon, he should

be aware of the social significance and impact of such a decision upon those people, expecially the young, that would be affected by it.

(6) *What, if any, risk there is to the public health.*—The Attoreny General must have the best available knowledge of the pharmacological properties of any drug under consideration. If a drug creates no danger to the public health, it would be inappropriate to control the drug under this act.

(7) *Its psychic or physiological dependence liability.*—There must be an assessment of the extent to which a drug is physically addictive or psychologically habit forming, if such information is known.

(8) *Controls required based on U.S. obligations under international treaties, conventions, or protocols.*—The Attorney General must give appropriate consideration to the findings and declarations of certain international bodies and generally abide by both the letter and spirit of our treaty agreements regarding the control of drugs.

(9) *Whether the substance is an immediate precursor of a substance already controlled.*—This criterion allows inclusion of immediate precursors on this basis alone into the appropriate schedule and thus safeguards against possibilities of clandestine manufacture.

Subsection (b) of this section provides that if the Attorney General designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

Subsection (c) of this section provides that when, for the purpose of greater protection of the public, at the time a new drug application is submitted to the Department of Health, Education, and Welfare for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Department of Health, Education, and Welfare to the Bureau of Narcotics and Dangerous Drugs for the review by the Scientific Advisory Committee prior to their advising the Attorney General whether or not to control such drug under this act.

Subsection (d) of this section provides that the Attorney General shall not remove any schedule I substance to schedules III or IV, nor delete such substances from the control of the act without specific authorization from Congress to do so.

Section 202

This section provides the schedules of controlled dangerous substances listed or to be listed under the control provisions of the act. Each schedule contains criteria to be met for scheduling a controlled dangerous substance within that schedule.

Subsection (a) of this section provides standards for the Attorney General to determine substances for classification within schedule I. In order to schedule a substance in schedule I, the Attorney General must find: (1) a high potential for abuse, and (2) no accepted medical use in the United States, and (3) a lack of accepted safety for use under medical supervision.

Classes of substances and specific drugs are listed for control purposes within the schedule, including certain narcotic drugs, certain opiates and the hallucinogenic drugs.

Subsection (b) of this section provides standards for the Attorney General to determine substances for classification within schedule II.

In order to schedule a substance in schedule II, the Attorney General must find: (1) a high potential for abuse, and (2) currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and (3) abuse may lead to severe psychic or physical dependence. In addition the subsection contains a listing of those substances included within schedule II.

Subsection (c) of this section provides standards for the Attorney General to determine substances for classification within schedule III. In order to schedule a substance in schedule III, the Attorney General must find (1) a potential for abuse less than the substances listed in schedules I and II; and, (2) well-documented and approved medical use in the United States; and (3) abuse may lead to moderate or low physical dependence or psychological dependence. In addition, paragraphs (a) through (d) of the subsection lists those dangerous substances to be controlled. Included are depressant and stimulant drugs including the amphetamines, barbiturates, and tranquilizers.

Paragraph (e) of this subsection authorizes the Attorney General to except any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (a) and (b) of the schedule from the application of all or any part of the act, if the substance contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, provided that such admixtures shall not be included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

Paragraph (f) of this subsection, as amended by the committee, provides that the Attorney General shall exempt from the control of the act, any nonnarcotic, which is a nonprescription substance, so classified under the Federal Food, Drug, and Cosmetic Act.

Subsection (d) of this section provides standards for the Attorney General to determine substances for classification with schedule IV of the act. In order to schedule a substance in schedule IV, the Attorney General must find: (1) a low potential for abuse relative to the substances listed in schedule III; and (2) currently accepted medical use in the United States; and (3) limited physical dependence and/or psychological dependence liability relative to the substance listed in schedule III. In addition, subparagraph (1) through (4) of paragraph (a) of the subsection lists those substances included in the schedule.

Title III—Regulation of Manufacture, Distribution, and Dispensing of Controlled Dangerous Substances

Section 301

Section 301 authorizes the Attorney General to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of substances covered by the act.

Section 302. Registration Requirements

Subsection (a) of section 302 requires every person who engages in the manufacture, distribution, or dispensing of controlled dangerous substances or who proposes to engage therein to register annually with the Attorney General.

Subsection (b) of this section, as amended by the committee, exempts from registration, an agent or employee of a manufacturer, distributor or dispenser of controlled substances when he is acting in the course of his business or employment; a common or contract carrier or warehouseman, or employee, whose possession of controlled substances is in the usual course of business or employment; and, a person in possession of any controlled substances pursuant to a lawful order of a practitioner.

Subsection (c), as redesignated by the committee, of this section authorizes the Attorney General to waive the registration requirement of subsection (a) if he finds that it is consistent with the public health and safety.

Subsection (d), as redesignated by the committee, of this section requires a separate registration at each principal place of business of the person required to register.

Subsection (e), as redesignated by the committee, of this section authorizes the Attorney General to inspect the establishment of a registrant or an applicant for registration in accordance with the rules and regulations promulgated by him.

Section 303. Registration

Subsection (a) of section 303 requires the Attorney General to register an applicant to manufacture controlled dangerous substances included in schedule I or II of title II of the act if he determines that such registration is consistent with the public interest and with treaty or other international obligations of the United States. In determining what constitutes the public interest, the Attorney General must consider the following factors: (1) maintenance of effective controls against diversion of particular controlled dangerous substances and any schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels, by limiting the importation and bulk manufacture of such controlled dangerous substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances at reasonable prices for legitimate medical, scientific, and industrial purposes; (2) compliance with applicable State and local law; (3) promotion of technical advances in the art of manufacturing these substances and the development of new substances; (4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of such substances; (5) past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and (6) such other factors as may be relevant to and consistent with the public health and safety.

Subsection (b) of section 303 requires the Attorney General to register an applicant to distribute a controlled dangerous substance, included in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest the Attorney General shall consider the following factors: (1) maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, and industrial channels; (2) compliance with applicable State and local law; (3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances; (4) past experience in

the distribution of controlled dangerous substances; and (5) such other factors as may be relevant to and consistent with the public health and safety.

Subsection (c) of this section provides that a registration granted under subsections (a) and (b) of the section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in schedule I and II other than those specified in the registration, or any quantity of those controlled dangerous substances in excess of the quota assigned pursuant to section 306.

Subsection (d) of this section requires the Attorney General to register an applicant to manufacture controlled dangerous substances in schedules III and IV unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest the Attorney General shall consider the following factors: (1) maintenance of effective controls against diversion of particular controlled dangerous substances and any schedule III or IV substance compounded therefrom into other than legitimate medical, scientific, or industrial channels; (2) compliance with applicable State and local law; (3) promotion of technical advances in the art of manufacturing these substances and the development of new substances; (4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances; (5) past experience in the manufacture, distribution, and dispensing of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and (6) such other factors as may be relevant to and consistent with the public health and safety.

Subsection (e) of this section requires the Attorney General to register an applicant to distribute controlled dangerous substances included in schedules III and IV unless he determines that the issuance of the registration is inconsistent with the public interest. In determining the public interest the Attorney General must consider the following factors: (1) maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, and industrial channels; (2) compliance with applicable State and local law; (3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances; (4) past experience in the distribution of controlled dangerous substances; and (5) such other factors as may be relevant to and consistent with the public health and safety.

Subsection (f) of this section provides that practitioners shall be registered to dispense controlled substances in schedules II through IV, if they are authorized to dispense under the law of the State in which they practice. A registration application by a practitioner who wishes to conduct research with schedule I substances shall be referred to the Secretary of Health, Education, and Welfare who shall promptly advise the Attorney General concerning the qualifications of the practitioner requesting to do the research. An applicant deemed qualified by the Secretary may only be denied his registration by the Attorney General upon a specific standard set forth in section 304 of this act or on the ground that the applicant's past practice or proposed procedures establish that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his supply of such substances against diversion from legitimate medical or scientific use.

Subsection (g) of section 303 authorizes the Attorney General to permit persons to initially register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled dangerous substances prior to the effective date of this act and who are registered or licensed under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), section 8 of the "Narcotics Manufacturing Act of 1960" (74 Stat. 62; 21 U.S.C. 506), and sections 4721, 4722, 4751, 4752, and 4753 of the "Internal Revenue Code of 1954" (68 Stat. 31; 26 U.S.C. 4721, 4722, 4751, 4752, and 4753).

Section 304. Denial, Revocation, or Suspension of Registration

Subsection (a) of this section empowers the Attorney General to revoke or suspend any registration issued under this title if it is found that the holder has falsified his application, lost his State license, or has been convicted of a felony violation relating to any controlled dangerous substance.

Subsection (b) of this section authorizes the Attorney General to limit the revocation or suspension to the particular controlled dangerous substance with which the action is concerned.

Subsection (c) of this section requires that the Attorney General serve notice upon the applicant or registrant of the intended action prior thereto and give him an opportunity to show cause why the proceeding should not commence. Proceedings under this subsection shall be in accordance with subchapter II of chapter 5, of title 5, of the United States Code, and they shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this act or any law of the United States.

Subsection (d) of this section permits the Attorney General, at his discretion, to suspend a registration simultaneously with the institution of the proceedings under this section, where he finds that there is an imminent danger to the public health or safety.

Subsection (e) of this section provides that a suspension or revocation under this section of the act shall operate to suspend or revoke any quota applicable under section 306 of the act.

Subsection (f) of this section empowers the Attorney General to place under seal substances within the control of the person whose registration is suspended or revoked until court action has been completed thereon. Upon a revocation order becoming final, all controlled dangerous substances subject to the order shall be forfeited to the Federal Government.

Section 305. Marking of Containers

This section provides for the marking of commercial containers of controlled substances when deemed appropriate by the Attorney General.

Section 306. Quotas Applicable to Certain Substances

Subsection (a) of this section requires the Attorney General to determine total quantity and to establish quotas for the production of substances included in schedules I and II for every calendar year in order to provide for the estimated medical, scientific, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks.

Subsection (b) of this section requires the Attorney General to limit or reduce individual production quotas from exceeding the acount determined necessary each year under subsection (a). The quota of each registered manufacturer for each controlled dangerous substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. Provision is also made to subtract from following year's quota that produced in excess of quota revision.

Subsection (c) of this section provides that on or before July 1 of each year, upon application by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the controlled dangerous substances in schedules I and II that the manufacturer seeks to produce. The Attorney General, in fixing quotas, determines the manufacturer's estimated disposal, inventory, and other requirements for the calendar year, and in making the determination, the Attorney General considers the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

Subsection (d) of this section provides for the fixing of quotas for schedule I and II substances for those registrants who have not manufactured that substance during one or more previous years. In fixing these quotas the Attorney General is to consider generally those factors applicable in subsection (c) of this section.

Subsection (e) of this section provides for application for increased quotas by registered manufacturers to meet his needs during the year. In processing such an application, the Attorney General is to consider those factors which may have a bearing on the need for such an increase.

Subsection (f) of this section provides that no quota be required for incidentally produced substances resulting from the manufacturing process used in the manufacture of quota controlled substances.

Section 307. Records and Reports of Registrants

Subsection (a) of section 307 sets forth the recordkeeping requirements of registrants. An initial inventory of controlled dangerous substances in schedules I through IV must be made, and every 2 years thereafter at the time of his fiscal inventory, the registrant shall again inventory his controlled dangerous substances. The registrant is required to maintain complete and accurate records for 2 years. An exception to this requirement is made for those practitioners who lawfully prescribe or administer, but not otherwise dispense, controlled dangerous substances.

Subsection (b) of this section provides that the Attorney General may by regulation require the submission of reports necessary to conform to the international obligations of the United States.

Section 308. Order Forms

Subsection (a) provides that substances in schedules I and II shall only be distributed by a registrant pursuant to an order form precribed by the Attorney General.

Subsection (b) of this section provides exceptions to the requirements of subsection (a) in that the administering or dispensing of substances to a patient by a practitioner in the course of his pro-

fessional practice are excepted as is the distribution or dispensing by a pharmacist to the ultimate user pursuant to a prescription. Both exceptions, however, do require compliance with section 307 of the act.

Section 309. Prescriptions

Subsection (a) of this section requires written prescriptions for those schedule II substances which are prescription drugs under the Federal Food, Drug, and Cosmetic Act, except when dispensed directly by a practitioner. However, provision is made for an oral prescription in emergency situations. Further, no prescription for a schedule II substance may be refilled.

Subsection (b) of this section requires that schedule III substances which are prescription drugs under the Federal Food, Drug, and Cosmetic Act be dispensed by prescription either written or oral, except when dispensed directly by a practitioner, other than a pharmacist, to the ultimate user. Limitations of 6 months' duration and of five refills are placed upon refilling prescriptions.

Subsection (c) of this section provides that no schedule IV substance may be dispensed or distributed other than for a medical purpose.

Subsection (d) of this section provides that the Attorney General may advise the Secretary of Health, Education, and Welfare of the fact that a nonprescription drug under the Federal Food, Drug, and Cosmetic Act, should be made a prescription item because of its abuse potential.

Title IV—Importation and Exportation

Section 401. Importation of Controlled Dangerous Substances—Prohibiting Crude Opium for the Manufacture of Heroin

Subsection (a) of this section provides that no controlled dangerous substances in schedules I and II and no narcotic drug in schedules III and IV may be imported, except pursuant to those exceptions that the Attorney General provides by regulation as necessary for medical, scientific, or other legitimate purposes. Narcotic drugs may be imported upon a finding by the Attorney General that either domestic supplies of these substances are found to be inadequate, or that competition among domestic manufacturers is inadequate and cannot be remedied by registration of additional manufacturers under section 303. Further, no crude opium may be imported for the purpose of manufacturing heroin or smoking opuim.

Subsection (b) of this section provides that nonnarcotic substances in schedule III may be imported for medical and other legitimate uses only, pursuant to such notice as the Attorney General prescribes by regulation.

Section 402. Importation of Coca Leaves

This section authorizes importation of coca leaves in addition to that authorized by section 401(a) with the proviso that, after entry into the United States, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Attorney General.

Section 403. Exporation of Controlled Dangerous Substances

Subsection (a) of this section prohibits the export of narcotic drugs in schedules I through III, except under the exceptions set forth in paragraphs (1) through (3) of the subsection.

Paragraph (1) permits export to a country which is a party to the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925.

Paragraph (2) permits export to a country which is a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris, November 19, 1948.

Paragraph (3) permits export to a country which is a party to the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961; and with respect to any such country in subsection (1), (2), or (3) only if (a) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate; (b) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import; (c) substantial evidence is furnished to the Attorney General by the exporter that the narcotic drug is to be applied exclusively to medical and scientific uses within the country of import, and that there is an actual need for the narcotic drugs for medical and scientific uses within such country; and (d) a permit to export the narcotic drug in each instance shall have been issued by the Attorney General.

Subsection (b) of this section authorizes, the provisions of subsection (a) notwithstanding, the export of narcotic drugs for special scientific purposes in the country of destination, if the officials of such country permit the importation for the intended purpose.

Subsection (c) of section 403 prohibits any person from exporting any nonnarcotic controlled dangerous substance listed in schedule I and II, unless specific conditions set forth in paragraphs (1), (2), (3), and (4) are met.

Paragraph (1) requires that such country has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances.

Paragraph (2) requires that the controlled dangerous substance is consigned to a holder of such permits or licenses as may be required under the laws of the country of import.

Paragraph (3) requires that substantial evidence is furnished to the Attorney General that the dangerous substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, that it will not be exported from such country, and that there is an actual need for the dangerous substance for medical, scientific, or other legitimate uses within the country.

Paragraph (4) requires that a permit to export the controlled dangerous substance in each instance shall have been issued by the Attorney General.

Subsection (d) of this section contains a special exemption for non-narcotic dangerous substances similar to that set forth in subsection (b) of this section.

Subsection (e) of section 403 prohibits any person from exporting any controlled dangerous substance that is not subject to an export permit, unless the laws of the country of destination permit such importation into that country and then only if the condltions set forth in paragraphs (1) and (2) are complied with.

Paragraph (1) requires that there be furnished to the Attorney General prior to export documentary proof that importation is not contrary to the laws or regulations of the country of destination.

Paragraph (2) requires that a special controlled dangerous substance invoice, in triplicate, accompany the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping. Two copies of the invoice shall be forwarded to the Attorney General before the controlled dangerous substances are exported from the United States.

Section 404. Transshipment and Intransit Shipment of Controlled Dangerous Substances

Section 404 provides that no controlled dangerous substance listed in schedule I shall be admitted into the United States for transportation to another country, or be transferred or transshipped from one vessel, vehicle, or aircraft, to another vessel, vehicle, or aircraft, within the United States for immediate exportation or for any other purpose except for scientific, medical, or other legitimate purposes in the country of destination, and then only with the prior written approval of the Attorney General, which shall be granted or denied within 21 days of the request. No dangerous substances listed in schedules II and III may be so admitted, transferred, or transshipped except upon advance notice to the Attorney General.

Title V—Offenses and Penalties

Section 501. Prohibited Acts A—Penalties

Section 501(a) enumerates unlawful acts established under this legislation: (1) Prohibits manufacture, distribution, dispensing or possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; (2) prohibits importation of schedule I and II substances and of schedule III and IV narcotic substances; (3) prohibits exportation of schedule I and II substances and schedule III narcotic substances; (4) prohibits bringing or possessing, except as part of official cargo or supplies, schedule I and II substances and schedule III narcotic substances on board vessels, vehicles, and aircraft under special maritime and territorial jurisdiction of the United States; and (5) prohibits creation, distribution, or possession with intent to distribute of counterfeit controlled dangerous substances.

Section 501(b) prohibits manufacture or distribution of a schedule I or II controlled dangerous substance (1) intended for unlawful importation into the United States; or (2) with knowledge that such substance will be unlawfully imported.

This subsection further provides that any person who violates this section will be fined in the U.S. district court at the point of entry or in the district court for the District of Columbia.

Section 501(c) establishes penalties for violations of subsections (a) or (b): (1) Provides up to 12 years imprisonment and/or up to a $25,000 fine for violations with respect to schedule I or II narcotic substances and provides a special parole term of at least 3 years; (2) provides imprisonment up to 5 years and/or a fine up to $15,000 for violations with respect to schedule I, II, or III substances not covered above and provides a required special parole term of at least 2 years; (3) provides imprisonment up to 1 year and/or a fine up to $5,000 for violations with respect to schedule IV substances; (4) provides imprisonment up to 1 year and/or a fine up to $5,000 with respect to the distribution of a small amount of marihuana not for profit.

Section 501(d) provides that the special parole term required under subsections 501(c) (1) and (2) may be added to the original term of imprisonment in cases of violation, and that the special parole term is in addition to, not in lieu of, any other parole provided by law.

Section 501(e) provides up to 1 year imprisonment and/or up to a $5,000 fine for possession of controlled dangerous substances without a valid order or prescription from a practitioner.

Section 502. Prohibited Acts B—Penalties

Section 502(a) makes it unlawful to: (1) dispense or distribute controlled dangerous substances without a written or (in emergencies) oral prescription; (2) manufacture, distribute, or dispense a controlled dangerous substance contrary to the terms of registration requirements; (3) bring schedule I, II, or III controlled dangerous substances into the United States or into territories under its jurisdiction for purposes of transshipment or exportation contrary to the transshipment regulations requiring approval of or notification of the Attorney General (sec. 404); (4) omit marking containers of controlled dangerous substances with an identifying symbol as required by the registration provisions of this act and by regulations established by the Attorney General; (5) remove, alter or obliterate an identifying symbol; (6) fail to make, keep or furnish any report, record, notification, order form or other information required under this act; or (7) refuse entry into any premises or inspection authorized by this act.

Section 502(b) prohibits registrants to manufacture controlled dangerous substances which are (1) not authorized by the registration provisions and by the quota established by the Attorney General; or (2) in excess of the quota established by the Attorney General.

Section 502(c) provides a civil fine up to $25,000 for violation of this section, and imprisonment up to 1 year and/or a fine up to $25,000 if such violation is committed knowingly or intentionally.

Section 503. Prohibited Acts C—Penalties

Section 503(a) makes it unlawful to: (1) distribute controlled dangerous substances contrary to registration requirements and contrary to order forms established by the Attorney General; (2) use fictitious, revoked or suspended registration numbers in connection with manufacture or distribution of controlled dangerous substances; (3) acquire a controlled dangerous substance by misrepresentation, fraud, forgery, deception or subterfuge; (4) furnish false, fraudulent, or incomplete material information in any application, report, record or other

document required under this law; (5) use any communication facility in committing or in facilitating the commission of an offense under this act. Each separate use of a communication facility is deemed a separate offense. A communications facility is defined as any instrumentality for the transmission of writing, signs, signals, pictures or sounds; or (6) make, distribute or possess an instrument designed to print or reproduce the trademark or other identifying mark upon any drug or container so as to render such drug a counterfeit controlled dangerous substance.

Subsection (b) of this section provides penalties of not more than 3 years and/or a fine of $30,000 for violations of this section.

Section 504. Endeavor and Conspiracy

Section 504 provides that any person who endeavors or conspires to commit any offense defined in this title may be punished by imprisonment and/or a fine, which may not exceed the maximum punishment prescribed for the offense. The committee has utilized the word "endeavor" in section 504 to avoid the maze of hypertechnical defenses which have arisen over the years with respect to criminal attempts, and to make clear that the section is interested to reach any effort or essay to accomplish the evil purposes that the act is designed to prevent. *U.S.* v. *Russell*, 255 U.S. 138, 143; *Osborn* v. *U.S.*, 385 U.S. 323, 332–333.

Section 505. Additional Penalties

Section 505 provides that any penalty imposed for violation of this title shall be in addition to any civil or administrative penalty or sanctions authorized by law.

Section 506. Distribution to Persons Under Age 18

Section 506 provides that any person over 18 who knowingly and intentionally violates subsection 501(a)(1) by distributing a controlled dangerous substance to a person under 18 years of age who is at least 3 years his junior is punishable by a term of imprisonment of twice that authorized by subsection 501(c)(1), by a fine of $25,000 or both. If the offense is one that would be prosecuted under subsection 501(c) (2) and (3), the term of imprisonment would be up to twice that authorized by such subsection, by such fines enumerated therein or by both. The imposition or execution of such substance shall not be suspended nor shall probation be granted.

Section 507. Conditional Discharge for Possession as First Offense

Subsection 507(a) provides that a court may, upon finding any person guilty of possessing a controlled dangerous substance without intent to distribute, and who has not previously been convicted under this act or any Federal or State law relating to narcotic drugs, marihuana, stimulant, depressant, or hallucinogenic drugs, defer further proceedings and place the person on probation upon such reasonable terms and conditions as it may require. Upon violation of the terms of probation, the court may enter an adjudication of guilt and proceed as provided by the act. Upon fulfillment of the terms of probation the court shall discharge the person and dismiss the proceedings. Such discharge shall not be deemed a conviction for the purposes of the disabilities imposed by law upon persons convicted of crimes. However, such discharge and dismissal under this section is available only once with respect to any person.

Subsection (b) provides that upon fulfillment of the terms and obligations imposed by the court on a person who was 21 years old or younger at the time the offense was committed, all record of his conviction is to be expunged. In addition, such person may acknowledge, without fear of penalty for giving a false statement, that he has not been arrested or convicted of an offense.

Section 508. Second or Subsequent Offenses

Section 508(a) provides for imposition of sentences and fines twice that otherwise provided for in violations of the act for a second or subsequent offense. Special provision is made if the offense is punishable under sections 501(c)(1) or 501(c)(2), in that in addition to imposing any sentence or fine, the court shall impose twice the special parole terms otherwise authorized.

Subsection (b) of this section provides that for the purposes of this section an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender had been convicted of a previous offense under this act or of any Federal or State statute relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs, the penalty provided for which was more than 1 year.

Subsection (c) of this section provides that after conviction of any offense under the act, the U.S. attorney shall advise the court whether the conviction is the offender's first or subsequent offense. If it is not the first offense, the U.S. attorney shall file an information setting forth the offender's prior convictions which he shall affirm or deny. If he denies he has been convicted of a prior offense, a jury shall be empaneled to determine the offender's identity with the person previously convicted.

Section 509. Continuing Criminal Enterprises

Section 509(a) provides that an attorney charged with the prosecution for a violation of the act shall notify the court of his reason to believe that an indicated adult is involved in a continuing criminal enterprise involving violations of the act and upon conviction should be subject to the penalty provisions of section 509. Additional provision is made that the continuing criminal enterprise appendage not be an issue at trial nor disclosed to the jury.

Subsection (b) of this section provides that upon a finding of guilty and before imposition of sentence, the court shall set a hearing date to determine whether the person has been involved in the continuing criminal enterprise charged in the appendage. Prior to that hearing the court shall inform the defendant and the United States as to the substance of the presentence report on which it intends to rely. The right to counsel, to present evidence, to confront and cross-examine witnesses shall be afforded the offender. If the court in fact finds that the convicted person has been involved substantially in a continuing criminal enterprise, then the court shall sentence him to a term of imprisonment for life, or for not less than 5 years, a fine of $50,000, and forefeiture of any profits and interests acquired or maintained in violation of the act.

Subsection (c) of this section provides that upon a second or subsequent offense under this section, a term of imprisonment for life, or for not less than 10 years, a fine of $100,000, and forfeiture of any profits and interests acquired or maintained in violation of the act.

Subsection (d) provides further that sentence shall not be suspended nor probation granted. Parole provisions of the Federal law shall not apply.

Subsection (e) of this section confers jurisdiction on the district courts of the United States to take such actions as may be necessary and appropriate in connection with any property or other interest subject to forfeiture under this section.

Subsection (f) of this section sets out the criteria which must be met before a defendant can be deemed involved in a continuing criminal enterprise. The court must find by a preponderance of evidence that the defendant acted in concert with or conspired with at least five other persons engaged in a continuing criminal enterprise involving violations of the act. The defendant must also have occupied a position of organizer or assumed a management role such as a hit man. In the alternative, a court can find that a person was engaged in a continuing criminal enterprise if it finds he played a substantial role in a continuing criminal enterprise involving violations of the act and has in his own name or under his control, substantial amounts of income or resources which he cannot account for through lawful activities.

Subsection (g) of this section provides that for purposes of sentences imposed under this section, the time for taking an appeal from a conviction is to be measured from the time of imposition of the original sentence.

Subsection (h) of this section permits review to be taken by either the defendant or the United States of any sentence imposed under this section to a court of appeals.

Subsection (i) of this section provides that no limitation may be placed on information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

These subsections are modeled on title X of the "Organized Crime Control Act of 1969," S. 90, 91st Congress, first session, as amended by the Subcommittee on Criminal Laws and Procedures. For legislative histories of these provisions, reference should be made to "Measures Relating to Organized Crime," hearing before the Special Subcommittee on Criminal Laws and Procedures, Committee on the Judiciary, U.S. Senate, 91st Congress, first session (1969) and the Senate report accompanying the reporting of S. 30 by the Judiciary Committee to the Senate.

Title VI—Administrative Provisions

Section 601. Delegations of Authority—Rules, Regulations, and Procedures—Bequests and Gifts

Section 601 serves three purposes. First, it authorizes the Attorney General to delegate his functions under the act to other officials in the Department of Justice. Second, it authorizes him to promulgate rules and regulations for the efficient execution of his functions under the act. Third, it allows him to accept gifts and bequests on behalf of the Department where the donor intends that such items are to be used to control the abuse of dangerous substances.

Section 602. Education and Research

Section 602(a) authorizes the Attorney General to carry out educational and research programs designed to prevent and deter misuse and abuse of controlled dangerous substances. Paragraphs (1) and (2) specify that such programs include establishing methods to assess accurately the effects of controlled dangerous substances and to identify and characterize those with abuse potential; and entering into contract with public or private agencies, educational institutions, and individuals to conduct research on the problem of misuse and abuse of these substances.

Subsection (b) of this section authorizes the Attorney General to enter into contracts for educational and research activities without performance bonds.

Subsection (c) of this section permits the Attorney General to authorize researchers to withhold the names of persons who are subjects of research. A person so authorized cannot be compelled to identify his research subjects in any civil, criminal, legislative, or administrative proceeding either State or Federal.

Subsection (d) of this section permits the Attorney General to authorize researchers to possess and distribute controlled dangerous substances. Appropriate exemptions from prosecutions are additionally provided for.

Section 603. Cooperative Arrangements

Section 603(a) provides for cooperation between all of the Federal enforcement authorities and the State and local enforcement authorities. The Attorney General is authorized to exchange information, cooperate in prosecution, conduct training, maintain files on addicts and other controlled dangerous substance offenders, maintain statistics on violations, and conduct programs to eradicate the growth of the plant species from which controlled dangerous substances may be extracted.

Subsection (b) of this section provides for the furnishing of technical and other assistance to the Attorney General by other agencies of the Federal Government.

Section 604. Scientific Advisory Committee

Section 604(a) requires the Attorney General to appoint a scientific advisory committee, after consulting with the Secretary of Health, Education, and Welfare, to determine whether a substance has a potential for abuse and should therefore be controlled. The committee is to be appointed from a list of qualified persons drawn up by the National Academy of Sciences. Section 604(a) contains provisions for committee size, terms of members, compensation, and reports.

Subsection (b) of this section also authorizes the Attorney General to appoint such other advisory committees as he may find useful.

Section 605. Administrative Hearings

Section 605 authorizes the Attorney General to conduct administrative hearings in carrying out his functions under the act. Such hearings will be conducted in accordance with the Administrative Procedures Act.

Section 606. Subpenas

Section 606(a) authorizes the Attorney General to subpena witnesses and compel their attendance and testimony in hearings relating to the control of controlled dangerous substances.

Subsection (b) of this section provides that the Attorney General may designate the person to serve the subpena, that service is by personal delivery, that service may be made upon a corporation by delivery to an officer of that corporation and that the affidavit of the person serving the subpena on a copy thereof constitutes proof of delivery of the subpena.

Subsection (c) of this section provides that refusal to respond to a subpena allows the Attorney General to invoke court aid, and refusal to obey a court order compelling participation in an administrative hearing is punishable as contempt.

Section 607. Judicial Review

Section 607 makes all determinations of the Attorney General final and conclusive, except that a person aggrieved by a decision may have this decision reviewed by the U.S. Court of Appeals for the District of Columbia or by the circuit in which his principal place of business is located.

Title VII—Enforcement Provisions

Section 701. Powers of Enforcement Personnel

Section 701(a) incorporates and expands upon 21 U.S.C. 372(e) and 26 U.S.C. 7607. Section 372(e) contains the authority granted to agents of the former Bureau of Drug Abuse Control by the Drug Abuse Control Amendment of 1965. Section 7607 contains the authority granted to agents of the former Bureau of Narcotics.

The authorities in each of the above sections have been carried over by proposed section 701(a) of this act. These authorities have the right to carry firearms, execute and serve search-and-arrest warrants, subpenas, and summonses. This authority is expanded to include the execution and service of administrative inspection warrants. This additional authority is necessary to conform to the Supreme Court decisions in the *Camara* and *See* cases which require the Government to obtain warrants to make inspections—that is, accountability investigations.

Both 21 U.S.C. 372(e)(4) and 26 U.S.C. 7607(2) granted agents the authority to make arrests for dangerous drug and narcotic drug or marihuana offenses, respectively, committed in the agent's presence or, in the case of felonies, when the agent has probable cause. Section 701(a)(3) broadens this arrest authority to include any offenses against the United States.

Section 701(a)(4) contains the authority to seize property which is in violation of the narcotic and dangerous drug laws.

Section 701(a)(5) grants the agents authority to perform other law enforcement duties as the Attorney General may designate. This section is not aimed at any particular function, but provides the Attorney General with flexibility in the utilization of enforcement personnel.

Subsection (b) of this section provides that nothing shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

Section 702. Search Warrants

Section 702(a) incorporates 18 U.S.C. 1405 and authorizes service of a search warrant at any time of the day or night if probable cause

has been established to the satisfaction of the judge or U.S. magistrate issuing the warrant

Section 702(b) authorizes an agent, in cases where the violation carries a penalty of more than 1 year, to execute a search warrant without announcing his authority or purpose and, in the process, break into the premises to be searched, if the judge or U.S. magistrate issuing the warrant is satisfied that there is probable cause to believe that the property sought may be quickly and easily destroyed or disposed of, or that danger to the agent may result if notice is given. A statement that notice is not required must be included in the warrant. Officers acting under such warrants are required to give identification, reasons, and authority for their entrance as soon as it is practicable after entrance. This section incorporates current case law and procedures adopted by many States. While this section permits officers to execute search warrants under certain circumstances without knocking and announcing their authority and purpose, it is in no way intended to limit the officer's authority under other Federal statutes or in cases of emergency or exigency or other recognized circumstances where announcement of authority and purpose is not required.

Section 703. Administrative Inspections and Warrants

Section 703(a)(1) authorizes the issuance and execution of administrative inspection warrants by Federal judges, judges of a State court of record, and U.S. magistrates. These warrants may be issued only within the jurisdiction of these officials and upon a sworn application showing probable cause and only for the purpose of conducting inspections of controlled premises authorized by this act or regulations promulgated under it and for seizing property appropriate to such inspection. The section defines probable cause as "a valid public interest in the enforcement of the act or regulations sufficient to justify inspection * * * in the circumstances specified in the application."

Section 703(a)(2) requires that the warrant be issued only upon a sworn affidavit drawn by an agent having knowledge of the facts alleged. This section incorporates rule 41 (c) and (d) of the Federal rules of Criminal Procedure by requiring that the warrant identify the place to be inspected and state the purpose of the inspection. The warrant must also identify the property to be seized. The warrant must further state the grounds for its issuance, that it be served during normal business hours and that a return be made to the judge or magistrate designated.

Section 703(a)(3) requires that a warrant, once issued, be executed and returned within 10 days of the date of issuance. When property is seized pursuant to the warrant, the agent must leave a copy of the warrant and a copy of a receipt for the property taken with the person from whom it was taken or at the premises from which it was taken. Return of the warrant must be made promptly and be accompanied by a written inventory of the property seized.

Section 703(a)(4) requires that the judge or U.S. magistrate who issued the warrant file a copy of the warrant and the return with the clerk of the appropriate district court.

Section 703(b) authorizes the Attorney General to make administrative inspections of controlled premises. Controlled premises are defined under section 703(b)(1) as places where persons registered, or exempted from registration, are required to keep records or are

permitted to handle controlled dangerous substances. An agent, when authorized by an administrative inspection warrant under section 703(b) (2) and (3), has the right to enter a controlled premises to inspect and copy required records and to inspect equipment, raw materials, containers, labeling, etc., and to inventory controlled dangerous substances and take samples thereof.

Section 703(b)(4) provides that section 703(b) shall not preclude inspection without a warrant of books and records pursuant to an administrative subpena or inspections without a warrant which are conducted under the following circumstances: (1) with the consent of the owner of the premises; (2) in situations presenting imminent danger to health or safety; (3) where mobility of a conveyance to be inspected makes it impractical to obtain a warrant; (4) in emergency situations where time or opportunity to apply for a warrant is lacking; (5) where a warrant is not constitutionally required.

Section 703(b)(5) states that unless consent in writing is obtained, no inspection is extended to financial data, sales data, or pricing data.

Section 704. Forfeitures

Section 704(a) sets forth the conditions for forfeiture and the property to be forfeited. These include all controlled dangerous substances produced or obtained in violation of the act, all raw materials, products, and equipment used, or intended for use, in manufacturing, handling, or conveying controlled dangerous substances in violation of the act and any container for property previously described. Also subject to forfeiture are all conveyances used, or intended for use, to transport or conceal such violative property. Exempted from this last provision are conveyances belonging to common carriers who did not have knowledge of activities in which the conveyance was used or where the conveyance was unlawfully in possession of the person who so used it. Also subject to forfeiture are books, records, formulas, and other documents or instruments which are used or intended for use in violation of the act.

Section 704(b) states that any property subject for forfeiture under the act may be seized by process issued pursuant to the supplemental rules for certain admiralty and maritime claims. Further, seizure may be made without such process when: incident to an arrest or under the authority of a search warrant or administrative warrant, the property seized has been the basis of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under the act; or the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or the Attorney General has probable cause to believe that the property is in violation of this act or has been used or is intended to be used in violation of this act.

Section 704 (c) and (e) state, respectively, various means by which the Attorney General may store or dispose of the seized property.

Section 704(d) provides that forfeiture proceedings shall be in accord with the provisions of existing U.S. customs law.

Section 704(f) provides that all substances listed in schedule I which are illegally possessed or sold or the owner of which is unknown are contraband and subject to seizure and forfeiture.

Section 704(g) provides for the seizure and forfeiture of all plants from which substances in schedules I and II may be derived where such plants have unknown owners, are wild or are grown in violation

of this act. The failure to produce appropriate license to grow the subject plants constitutes authority for their seizure and forfeiture. Additionally, authority is granted to enter upon lands, or into dwellings pursuant to a search warrant to seize such plants.

Section 705. Injunctions

Section 705(a) authorizes U.S. courts to issue injunctions against violators of this act in accordance with the Federal rules of civil procedure. Subsection (b) of this section provides for jury trial of violators of injunctions in accordance with the Federal rules of civil procedure.

Section 706. Enforcement Proceedings

Section 706 incorporates 21 U.S.C. 335 and authorizes the Director of the Bureau of Narcotics and Dangerous Drugs to hold hearings prior to the institution of criminal proceedings. These hearings will allow a person against whom criminal action is contemplated an opportunity to present his views or show cause as to why he should not be prosecuted.

Section 707. Immunity and Privilege

Section 707 authorizes the U.S. attorney, with the approval of the Attorney General, to make application to the court to order any witnesses in a case brought under the provisions of this act, to testify or produce evidence within his possession. No such witness shall be prosecuted or subjected to any penalty or forfeiture because of this compelled testimony or production of evidence, if such witness has claimed his privilege against self-incrimination. This exemption does not preclude prosecution for perjury or contempt committed during the trial at hand.

Section 708. Burden of Proof; Liabilities

Section 708(a) provides that there shall be no burden upon the government to negate any exemption or exception set forth in the act, but that the task shall fall upon the person claiming the benefits.

Subsection (b) of this section provides that in the absence of proof that a person is a registrant or holder of an order form issued under the act, the presumption shall be that he is not and the burden of proof to rebut this presumption is upon him.

Subsection (c) of this section provides that the burden of establishing that a vehicle, vessel, or aircraft used in connection with the substances listed in schedule I of the act was used lawfully is upon the person engaged in that use.

Subsection (d) of this section exempts Federal officers from liability when engaged in enforcing the act and further exempts State and local officers when engaged in enforcing any law relating to controlled dangerous substances.

Section 709. Payments and Advances

Section 709 (a) authorizes the payments of moneys from appropriated funds to persons who furnish information concerning violations of the act.

Subsection (b) of this section provides that moneys expended and subsequently recovered shall be reimbursed to the current appropriation of the Bureau.

Subsection (c) of this section authorizes the Attorney General to direct the advancement of funds by the Treasury Department in connection with enforcement of the act.

Title VIII—Committee on Marihuana

Section 801

This section provides for the appointment of a committee of experts by the Attorney General and the Secretary of Health, Education, and Welfare to advise them with respect to all aspects of marihuana use.

Subsection (a) of this section authorizes and directs the committee to review all existing information on marihuana and to execute a study covering all aspects of marihuana use.

Section 801 (a)(1) sets forth the scope of the study to include but not limit it to (*a*) an identification of existing gaps in our knowledge of marihuana; (*b*) an intensive examination of the important medical and social aspects of marihuana use; (*c*) surveys of the extent and nature of marihuana use; (*d*) studies of the pharmacology and effects of marihuana; (*e*) studies of the relation of marihuana use to crime and juvenile delinquency; and (*f*) studies of the relation between marihuana and the use of other drugs.

Subsection (b) of this section provides for the completion of the study within 24 months of the effective date of the act and for the submission of a report to the Congress and to the President with recommendations as to the control of marihuana.

Subsection (*c*) of this section provides for the composition of the committee selected by the Attorney General and the Secretary of Health, Education, and Welfare and sets a minimum of five members therefor.

Subsection (d) of this section provides for the compensation of committee members, for the furnishing of clerical and other assistance to the committee by the Attorney General and the Secretary and for the procedures to be followed by the committee.

Subsection (e) provides for the retention of consultants on a temporary or intermittent basis, and for their compensation while so retained.

Title IX—Miscellaneous

Title IX contains the miscellaneous provisions of the act including: repealers, conforming amendments, pending proceedings, continuation of regulations, severability, authorization of appropriations, saving provisions, and effective date.

Section 901. Repealers

Section 901 repeals essentially all of the existing legislation regulating dealings in narcotics and dangerous drugs, including all or portions of the following: Harrison Narcotic Act of 1914, Opium Smoking Tax Act, Narcotic Drugs Import and Export Acts, Marihuana Tax Act of 1937, Contraband Seizure Act of 1939, Opium Poppy Control Act of 1942, Narcotic Control Act of 1956, Narcotics Manufacturing Act of 1960, Drug Abuse Control Amendments of 1965, and title 18, sections 1401–1407 and 3616.

Section 902. Conforming Amendments

Section 902 amends numerous sections of the United States Code to accommodate the proposed act. Such amendments are necessary to update the existing statutory language, to insure uniformity and generally to permit the act to conform to existing statutes. Some of these changes were brought about by the formation of the Bureau of Narcotics and Dangerous Drugs, while others were the result of using the expression "controlled dangerous substances" to include narcotics, marihuana, and other dangerous drugs.

Section 903. Pending Proceedings

Section 903 provides that all administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on the date of enactment will be completed under the former laws. However, drugs placed under control prior to enactment of this act which are not listed within the schedules are automatically controlled by the Attorney General and listed in the appropriate schedule.

Section 904. Continuation of Regulations

Section 904 provides for the continuation of existing administrative regulations which are in effect on the day preceding enactment of this title unless modified, superseded, or repealed by the Attorney General.

Section 905. Severability

Section 905 provides that if a provision of this act is held invalid, all valid provisions that are severable shall remain in effect.

Section 906. Authorization of Appropriations

Section 906 provides for the authorization for appropriations to carry out the act.

Section 907. Saving Provision

Section 907 provides for the retention of those portions of the Federal Food, Drug, and Cosmetic Act not covered by this act.

Section 908. Effective Date

Section 908 provides that this act shall take effect on the 180th day following the date of its enactment.

Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

24 Stat. 409

[An act to provide for the execution of the provisions of article two of the treaty concluded between the United States of America and the Emperor of China on the seventeenth day of November, eighteen hundred and eighty, and proclaimed by the President of the United States on the fifth day of October, eighteen hundred and eighty-one.

[That the importation of opium into any of the ports of the United States by any subject of the Emperor of China is hereby prohibited.

Every person guilty of a violation of the preceding provision shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars nor less than fifty dollars, or by imprisonment for a period of not more than six months nor less than thirty days, or by both such fine and imprisonment, in the discretion of the court.

[SEC. 2. That every package containing opium, either in whole or in part, imported into the United States by any subject of the Emperor of China, shall be deemed forfeited to the United States; and proceedings for the declaration and consequences of such forfeiture may be instituted in the courts of the United States as in other cases of the violation of the laws relating to other illegal importations.

[SEC. 3. That no citizen of the United States shall import opium into any of the open ports of China, nor transport the same from one open port to any other open port, or buy or sell opium in any of such open ports of China, nor shall any vessel owned by citizens of the United States, or any vessel, whether foreign or otherwise, employed by any citizen of the United States, or owned by any citizen of the United States, either in whole or in part, and employed by persons not citizens of the United States, take or carry opium into any of such open ports of China, or transport the same from one open port to any other open port, or be engaged in any traffic therein between or in such open ports or any of them. Citizens of the United States offending against the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars nor less than fifty dollars, or by both such punishments, in the discretion of the court.

Every package of opium or package containing opium, either in whole or in part, brought, taken, or transported, trafficked, or dealt in contrary to the provisions of this section, shall be forfeited to the United States, for the benefit of the Emperor of China; and such forfeiture, and the declaration and consequences thereof, shall be made, had, determined, and executed by the proper authorities of the United States exercising judicial powers within the Empire of China.]

[NARCOTIC DRUGS IMPORT AND EXPORT ACT

35 Stat. 614

[That as used in this Act.

[(a) The term "narcotic drug" shall have the meaning ascribed to the term "narcotic drugs" by section 3228(g) of the Internal Revenue Code of 1954; the term "isonipecaine" shall have the meaning ascribed to that term by section 3228(e) of the Internal Revenue Code of 1954; and the term "opiate" shall have the meaning ascribed to that term by section 3228(f) of the Internal Revenue Code of 1954.

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

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

[SEC. 2. (a) Except as otherwise provided in this Act or by other law, the administration of this Act is vested in the Department of the Treasury.

[(b) It is unlawful to import or bring any narcotic drug into the United States or any territory under its control or jurisdiction; except that such amounts of crude opium and coca leaves as the Commissioner of Narcotics finds to be necessary to provide for medical and legitimate uses only may be imported and brought into the United States or such territory under such regulations as the Commissioner of Narcotics shall prescribe, but no crude opium may be imported or brought in for the purpose of manufacturing heroin. All narcotic drugs imported under such regulations shall be subject to the duties which are now or may hereafter be imposed upon such drugs when imported.

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

[(d) Any narcotic drug imported or brought into the United States or any territory under its control or jurisdiction, contrary to to law, shall (1) if smoking opium or opium prepared for smoking, be seized and summarily forfeited to the United States Government without the necessity of instituting forfeiture proceedings of any character; or (2), if any other narcotic drug be seized and forfeited to the United States Government, without regard to its value, in the manner provided by sections 3075 and 3076 of the Revised Statutes, or the provisions of law hereafter enacted which are amendatory of, or in substitution for, such sections. Any narcotic drug which is forfeited in a proceeding for condemnation or not claimed under such sections, or which is summarily forfeited as provided in this subdivision, shall be placed in the custody of the Commissioner of Narcotics and in his discretion be destroyed or delivered to some agency of the United States Government for use for medical or scientific purposes.]

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

[(g) The master of any vessel or other watercraft, or a person in charge of a railroad car or other vehicle, shall not be liable under subdivision (c), if he satisfies the jury that he had no knowledge of and used due diligence to prevent the presence of the narcotic drug in or on such vessel, watercraft, railroad car, or other vehicle; but the nar-

cotic drug shall be seized, forfeited, and disposed of as provided in subdivision (d).

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

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

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

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

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

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

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

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

[SEC. 4. That any person subject to the jurisdiction of the United States who shall, either as principal or as accessory, receive or have

in his possession, or conceal on board of or transport on any foreign or domestic vessel of other water craft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, shall not report the same to the principal officer thereof, shall be subject to the penalty provided in section two of this Act. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury: *Provided, however*, That any master of a vessel or other water craft, or person in charge of a railroad car or other vehicle, shall not be liable under this section if he shall satisfy the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vessel, and any such article shall be forfeited and shall be destroyed.

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

[Sec. 6(a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except—

[(1) to a country which has ratified and become a party to the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925, any narcotic drugs derived directly or indirectly from crude opium or coca leaves; or

[(2) to a country which has ratified and become a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, any narcotic drugs not derived directly or indirectly from crude opium or coca leaves; and in the instance of (1) and (2) then only if—

[(A) such country has instituted and maintains, in conformity with the respective conventions, a system which the Secretary of the Treasury or his delegate deems adequate, for the control of imports of narcotic drugs;

[(B) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import; and

[(C) there is furnished to the Secretary or his delegate proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual need for the narcotic drug for medical and scientific uses within such country.

[(b) The exceptions contained in subsection (a) of this section shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

[(c) Notwithstanding the provisions of subsection (a) of this section, the Secretary or his delegate may authorize the exportation of any narcotic drug (including crude opium and coca leaves) to a country which has ratified and become a party either to the 1912 convention, the 1925 convention, or the 1931 convention and supplementing protocols of 1946 and 1948, if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

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

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

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

[(b) Such penalty shall constitute a lien upon the vessel which may be enforced by proceedings by libel in rem. Clearance of the vessel from a port of the United States may be withheld until the

penalty is paid, or until there is deposited with the collector of customs at the port, a bond in a penal sum double the amount of the penalty, with sureties approved by the collector, and conditioned on the payment of the penalty (or so much thereof as is not remitted by the Secretary of the Treasury) and of all costs and other expenses to the Government in proceedings for the recovery of the penalty, in case the master's application for remission of the penalty is denied in whole or in part by the Secretary of the Treasury.

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

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

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45 Stat. 374

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

[The Commissioner of Narcotics, with the approval of the Secretary of the Treasury, is authorized to direct the advance of funds by the Fiscal Service, Treasury Department, in connection with the enforcement of act Dec. 17, 1914, c. 1, 38 Stat. 785, the Narcotic Drugs Import and Export Act, and act Aug. 2, 1937, c. 553, 50 Stat. 551.

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

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46 Stat 585

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

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

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

[SEC. 8. That the Secretary of the Treasury shall cooperate with the several States in the suppression of the abuse of narcotic drugs in their respective jurisdictions, and to that end he is authorized (1) to cooperate in the drafting of such legislation as may be needed,

if any, to effect the end named, and (2) to arrange for the exchange of information concerning the use and abuse of narcotic drugs in said States and for cooperation in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States. The Secretary of the Treasury is hereby authorized to make such regulations as may be necessary to carry this section into effect.]

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46 Stat. 850

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

[That the Commissioner of Narcotics is authorized and empowered to pay to any person, from funds now or hereafter appropriated for the enforcement of the narcotic laws of the United States, for information concerning a violation of any narcotic law of the United States, resulting in a seizure of contraband narcotics, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law: *Provided*, That all payments under authority of this Act to any informer in any foreign country shall be made only through an accredited consul or vice consul of the United States stationed in such country, and every such payment must be supported by a voucher with an accompanying certificate of the said consul or vice consul that the payment of the amount stated on the voucher has been made to the informer named, and at the place and time specified on said voucher.]

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53 Stat. 1262

An act to amend the Act of March 28, 1924 (45 Stat. 374), as amended, relating to the advance of funds in connection with the enforcement of Acts relating to narcotic drugs, so as to permit such advances in connection with the enforcement of the Marihuana Tax Act of 1937, and to permit advances of funds in connection with the enforcement of the customs laws.

* * * * * * *

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

[OPIUM POPPY CONTROL ACT OF 1942
56 Stat. 1045

[AN ACT

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

[That it is the purpose of this Act (1) to discharge more effectively the obligations of the United States under the International Opium Convention of 1912, and the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs of 1931; (2)

to promote the public health and the general welfare; (3) to regulate interstate and foreign commerce in opium poppies; and (4) to safeguard the revenue derived from taxation of opium and opium products.

[SEC. 2. For the purpose of this Act—

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

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

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

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

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

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

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

[(b) It shall be unlawful for any person who is not the holder of a license authorizing him to manufacture opium or opium products, duly issued to him by the Secretary of the Treasury in accordance with the provisions of this Act, to manufacture, compound, or extract opium or opium products from the opium poppy.

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

[SEC. 6. (a) Any person who desires to procure a license to produce the opium poppy, or to manufacture opium or opium products, shall

make application therefor in such manner and form as the Secretary of the Treasury shall by rules and regulations prescribe.

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

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

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

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

[SEC. 7. It shall be unlawful for any person to sell, transfer, convey any interest in, or give away, except to a person duly licensed under this Act, or for any unlicensed person to purchase or otherwise obtain, opium poppy seed for the purpose of opium poppy production: *Provided*, That the seed obtained from opium poppies produced by

licensed producers may be sold or transferred by such producers to unlicensed persons, and may thereafter be resold or transferred, for ultimate consumption as a spice seed or for the manufacture of oil.

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

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

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

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

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

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

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

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

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

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

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

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

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

[(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application for a license under the provisions of this Act shall (whether or not such false or fraudulent statement is made by or with the knowledge or consent of the person authorized to present the application) be guilty of a misdemeanor, and, upon conviction thereof, be fined not more than $2,000 or imprisoned for not more than one year, or both.

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

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

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

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

69 Stat. 684

[An act to authorize subpenas in connection with the enforcement of the narcotic laws, and for other purposes

[That, for the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of the laws of the United States relating to narcotic drugs and marihuana, the Secretary of the Treasury is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence, and require the production of any records (including books, papers, documents, and tangible things which constitute or contain evidence) which the Secretary of the Treasury finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place of hearing: *Provided*, That a witness shall not be required to appear at any hearing distant more than one hundred miles from the place where he was served with subpena. Witnesses summoned by the Secretary of the Treasury shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

[SEC. 2. A subpena of the Secretary of the Treasury may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

[SEC. 3. In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpena of the Secretary of the Treasury. The court may issue an order requiring the subpenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpenaed person is an inhabitant or wherever he may be found.]

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70 Stat. 908

An Act to implement section 25 subsection (b) of the Organic Act of Guam by carrying out the recommendation of the Commission of the application of Federal laws to Guam and for other purposes

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[SEC. 15. (a) It shall be unlawful for any person to produce, manufacture, compound, possess, sell, give away, deal in, dispense, ad-

minister, or transport marihuana in Guam, or to import marihuana into or export it from Guam.

[(b) As used in subsection (a) of this section, the term "marihuana" shall have the meaning now or hereafter ascribed to it in section 4761(2) of the Internal Revenue Code, and the term "produce" shall mean (a) plant, cultivate, or in any way facilitate the natural growth of marihuana, or (b) harvest and transfer or make use of marihuana.

[(c) Any person who shall violate subsection (a) of this section shall be punished for the first offense by a fine of not more than $2,000, or by imprisonment in jail for not less than two or more than five years, or by both, and shall be punished for each subsequent offense by a fine of not more than $2,000, or by imprisonment in jail for not less than five years or more than ten years, or by both; and any marihuana involved in any violation of subsection (a) of this section may be seized, and the court may order its confiscation and destruction.]

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55 Stat. 584

[An Act to supplement the navigation laws and facilitate the maintenance of discipline on board vessels of the United States

[That (a) whoever brings on board, or has in his possess or control on board, any vessel of the United States, while engaged on a foreign voyage, any narcotic drug not constituting a part of the cargo entered in the manifest or part of the ship stores, shall be imprisoned not less than five or more than twenty years and, in addition, may be fined not more than $20,000. For a second or subsequent offense (as determined under section 7237(c) of the Internal Revenue Code of 1954), the offender shall be imprisoned not less than ten or more than forty years and, in addition, may be fined not more than $20,000. For provision relating to sentencing probation, etc., see section 7237(d) of the Internal Revenue Code of 1954.

[(b) As used in subsection (a) of this section "narcotic drug" means any narcotic drug as now or hereafter defined by the Narcotic Drugs Import and Export Act, or any substance in respect of which a tax is imposed pursuant to subchapter A of chapter 39 of the Internal Revenue Code of 1954, or pursuant to any regulations thereunder.]

[Narcotics Manufacturing Act of 1960

74 Stat. 55; 21 U.S.C. 501 et seq.

[SHORT TITLE

[SECTION 1. This Act may be cited as the "Narcotics Manufacturing Act of 1960."

[NECESSITY FOR LEGISLATION

[SEC. 2. The enactment of this Act is necessary for the following reasons:

[(1) The Congress has long recognized that the manufacture, distribution, and use of narcotic drugs for nonmedical and nonscientific purposes endangers the health of the American people and threatens

the general welfare. The Congress has enacted laws and the Senate has approved international conventions designed to establish effective control over domestic and international traffic in narcotic drugs.

[(2) Until recently, most narcotic drugs were made from natural raw materials such as the opium poppy and the coca leaf, produced in limited areas of the world. In practice, control over the production of narcotic drugs could therefore be achieved by national and international restrictions over the production and shipment of these raw materials and their use to manufacture narcotic drugs.

[(3) In recent years, however, technological advances have resulted in the development of new types of narcotic drugs, produced synthetically from a variety of generally available raw materials. As a result, controls over the production of narcotic drugs can no longer be maintained solely by controls relating to the opium poppy and the coca leaf.

[(4) The United States has joined with other nations in executing international conventions intended to establish suitable controls over production, shipment, and use of all narcotic drugs. These conventions are not self-executing and the obligations of the United States thereunder must be performed pursuant to appropriate legislation.

[(5) In order (A) to discharge more effectively the international obligations of the United States, (B) to promote the public health, safety, and welfare, (C) to regulate interstate and foreign commerce in narcotic drugs, and (D) to safeguard the revenue derived from taxation of narcotic drugs, the Congress finds it necessary to enact a statute for the licensing and control of the manufacture of all narcotic drugs.

[DEFINITIONS

[SEC. 3. For the purposes of this Act—

[(a) The term "1931 convention" means the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946.

[(b) The term "1948 protocol" means the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950.

[(c) The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context.

[(d) The term "person" includes an individual, partnership, corporation, association, trust, or other institution or entity.

[(e) The term "narcotic drug" means narcotic drug as defined in section 4731(a) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

[(f) The term "manufacture" means the production of a narcotic drug, either directly or indirectly by extraction from substances of

vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

[(g) The term "basic class of narcotic drug" means any one of the following classes of narcotic drugs and any additional class or classes of narcotic drugs (other than crude opium or coca leaves), by whatever trade name designated, as may be defined from time to time by the Secretary or his delegate in accordance with section 6 of this Act:

[1. Opium, powdered, granulated, or deodorized, or tinctures or extracts of opium.

[2. Mixed alkaloids of opium and their salts.

[3. Morphine and its salts.

[4. Codeine and its salts.

[5. Thebaine and its salts.

[6. Narcotine and its salts.

[7. Papaverine and its salts.

[8. Cotarnine and its salts.

[9. Narceine and its salts.

[10. Ethylmorphine and its salts.

[11. Apomorphine and its salts.

[12. Nalorphine (N-allylnormorphine) and its salts.

[13. Hydromorphone (dihydromorphinone) and its salts.

[14. Metopon (methyldihydromorphinone) and its salts.

[15. Dihydrocodeine and its salts.

[16. Hydrocodone (dihpdrocodeinone) and its salts.

[17. Oxycodone (dihydrohydroxycodeinone) and its salts.

[18. Cocaine and its salts.

[19. Ecgonine and its salts.

[20. Pethidine (meperidine, isonipecaine) (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester) and its salts.

[21. Alphaprodine (alpha-1, 3-dimethyl-4-phenyl-4-propionoxypiperidine) and its salts.

[22. Methadone (amidone) (6-dimethylamino-4, 4-diphenyl-3-heptanone) and its salts.

[23. Isomethadone (isoamidone) (6-dimethylamino-5-methyl-4, 4-diphenyl-3-hexanone) and its salts.

[24. Levorphan and racemorphan (3-hydroxy-N-methylmorphinan) and their salts.

[25. Levomethorphan and racemethorphan (3-methoxy-N-methylmorphinan) and their salts.

[26. Anileridine (Eethyl 1-[2-(p-amino phenyl)-ethyl]-4-phenyl piperidine-4-carboxylate) and its salts.

[27. Phenazocine (2′-Hydroxy-5, 9-dimethyl-2-(2-phenylethyl)-6, 7-benzomorphan) and its salts.

[(h) The term "net disposal" means the quantity of a basic class of narcotic drug, sold, exchanged, given away, used in the production of another basic class of narcotic drug for which the manufacturer is licensed, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer of such basic class) by the manufacturer during a stated period, less the quantity of any such basic class of narcotic drug returned to the manufacturer by a customer and any quantity sold or transferred to another licensed manufacturer of the same basic class of narcotic drug.

[(i) The term "narcotic precursor" means a substance other than a narcotic drug which the Secretary or his delegate has found, after due notice and opportunity for public hearing—

[(1) is an immediate chemical prescursor of a narcotic drug;

[(2) is produced primarily for use in the manufacture of a narcotic drug; and

[(3) is used, or is likely to be used, in the manufacture of a narcotic drug by persons other than persons licensed to manufacture such narcotic drug.

[AMENDMENTS TO INTERNAL REVENUE CODE OF 1954

[SEC. 4. (a) Subsection (a) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows:

["(a) NARCOTIC DRUGS.—The words 'narcotic drugs' as used in this part shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

["(1) Opium, isonipecaine, coca leaves, and opiate;

["(2) Any compound, manufacture, salt, derivative, or preparation of opium isonipecaine, coca leaves, or opiate;

["(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in classes (1) and (2);

except that the words 'narcotic drugs' as used in this part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine."

[(b) Subsection (g) of section 4731 of the Internal Revenue Code of 1954 is amended to read as follows:

["(g) OPIATE.—

"(1) IN GENERAL.—The word 'opiate' as used in this part shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (52 Stat. 1041, sec. 201(g); 21 U.S.C. 321)) or other substance found by the Secretary or his delegate and proclaimed by the Secretary or his delegate (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have been so found in the Federal Register, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine or to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability, where, in the judgment of the Secretary or his delegate, conversion create a risk of improper use of the drug or other substance.

["(2) TERMINATION.—The Secretary or his delegate is authorized to withdraw any previous finding that a drug or other substance is an 'opiate' whenever (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) he determines that such previous finding was erroneous, and upon publication of such determination in the Federal Register, the particular drug or other substance shall cease to be an opiate. For purposes of the foregoing provision the

Secretary or his delegate may consider any action taken pursuant to article 3 of the 1948 protocol (as defined in section 3(b) of the Narcotics Manufacturing Act of 1960)."

"(3) REGULATIONS, ETC.—The Secretary or his delegate is authorized to issue necessary rules and regulations for carrying out the provisions of this subsection, and to confer or impose upon any officer or employee of the Treasury Department whom he shall designate or appoint, the duty of conducting any hearing authorized hereunder.

"(4) CROSS REFERENCE.—

"For treatment of certain drugs as being, or ceasing to be, opiates for purposes of this part, see section 5 of the Narcotics Manufacturing Act of 1960."

(c) Subsection (a) of section 4702 of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) EXCEPTIONS FROM CERTAIN PROVISIONS AUTHORIZED FOR PREPARATIONS OF NO ADDICTIVE QUALITY OR OF MINOR ADDICTIVE QUALITY.—

"(1) If the Secretary or his delegate, either upon his own motion or upon the application of an interested party, after consideration of the report and recommendations of an advisory committee appointed under paragraph (4) of this subsection, and after due notice and opportunity for hearing, finds that a pharmaceutical preparation containing a narcotic drug combined with other active or inactive ingredients—

"(A) either possesses no addiction-forming or addiction-sustaining liability, or does not possess an addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this part, and

"(B) does not permit the recovery of a narcotic drug having such an addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use;

the Secretary or his delegate may except such pharmaceutical preparation to the extent consistent with the obligations undertaken by the United States pursuant to the Convention of Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of American, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, and with the public health, safety, and welfare. from any or all of the requirements imposed by this part, other than those requirements imposed by sections 4721, 4722, 4724(a), and 4732, and from any or all of the requirements imposed by section 6 of the Act entitled 'An Act to prohibit the importation and use of opium for other than medicinal purposes,' approved February 9, 1909, as amended by section 15 of the Narcotics Manufacturing Act of 1960.

"(2) In excepting any pharmaceutical preparation under paragraph (1), the Secretary or his delegate may, in his discretion, apply any or all of the following requirements:

"(A) Such pharmaceutical preparation shall be manufactured, sold, distributed, given away, dispensed, or possessed as a medicine and not for the purpose of evading the intentions and provisions of this subpart and subpart C;

"(B) Any manufacturer, producer, compounder, or vendor (including dispensing physicians) of such pharmaceutical preparation, lawfully entitled to manufacture, produce, compound, or vend such pharmaceutical preparation, shall keep such records relating to such pharmaceutical preparation as the Secretary or his delegate shall deem necessary;

"(C) Every person so possessing or disposing of such pharmaceutical preparation shall register as required in section 4722 and, if he is not paying a tax under section 4721, shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the official in charge of the collection district in which he carries on such occupation as provided in subpart C.

"(3) If the Secretary or his delegate shall subsequently determine, after due notice and opportunity for hearing, that a pharmaceutical preparation to which such exceptions have been made applicable possesses a degree of addiction liability, or permits recovery of a narcotic drug having a degree of addiction liability, that results in abusive use of such exceptions, he is authorized to withdraw and revoke such exceptions in whole or in part.

"(4) Whenever the Secretary or his delegate shall, on his own motion, determine that there may exist reasonable evidence to support a finding in accordance with paragraph (1) of this subsection, or whenever an interested party makes an application for such a finding, the Secretary or his delegate shall thereupon appoint an advisory committee of experts. At least one member of such an advisory committee shall be selected by the Secretary or his delegate, one by the interested party making the application, if any, one by the Surgeon General of the (United States) Public Health Service, and one by the Commissioner of the (United States) Food and Drug Administration. The Secretary or his delegate shall submit to such advisory committee the application of the interested party, if any, and any other available data. As soon as practicable thereafter, the advisory committee shall, after independent study of the material submitted to it by the Secretary or his delegate and other data available to it, certify a report and recommendations to the Secretary or his delegate with respect to the pharmaceutical preparation involved.

"(5) After consideration of the report and recommendation of the advisory committee, and after due notice and opportunity for hearing, the Secretary or his delegate shall either make the finding provided for in paragraph (1) of this subsection and grant such exceptions as he deems appropriate, or determine that the evidence does not support such a finding and deny the application, if any."

[(d) The amendment to subsection (g) of section 4731 of the Internal Revenue Code of 1954, made by subsection (b) of this section, shall not affect any proceeding commenced before such amendment, but such proceeding shall be continued to final disposition as if the amendment had not been made.

[NOTIFICATIONS, FINDINGS, AND DECISIONS UNDER THE 1948 PROTOCOL

[SEC. 5. (a) Before a notification may be sent on behalf of the United States to the Secretary General of the United Nations, under article 1 of the 1948 protocol, that a drug is considered liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2, of the 1931 convention, such drug shall have been found by the Secretary or his delegate to be an "opiate", as defined in section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4(b) of this Act, and so proclaimed in accordance with the procedure prescribed by section 4731 (g) as amended by section 4(b) of this Act.

[(b) With respect to any drug which is or may be used for medical or scientific purposes and to which the 1931 convention does not apply, and which is liable to the same kind of abuse and productive of the same kind of harmful effects as the drugs specified in article 1, paragraph 2 of the 1931 convention, upon receipt by the United States of a finding or decision made pursuant to article 1 or article 2 of the 1948 protocol that any such drug is capable of producing addiction or of conversion into a drug capable of producing addiction and that the appropriate provisions of the 1931 convention shall apply to such drug, such finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate shall cause such finding or decision to be published in the Federal Register unless such drug has already been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act. From the time of such publication, such drug shall be an opiate to the same extent as if the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, had been followed with respect to such drug.

[(c) If the finding or decision so received and published in the Federal Register relates to a drug which has not previously been determined to be an opiate under the procedure prescribed by section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act, any person in the United States interested in the domestic manufacture and distribution of such drug for medical and scientific purposes may submit to the Secretary or his delegate written data, views, and argument opposed to such finding or decision. Such written data, views, and argument shall be transmitted to the Secretary General of the United Nations for consideration by the World Health Organization or the Commission on Narcotic Drugs of the United Nations, as the case may be, under article 3 of the 1948 protocol. If thereafter the United States receives a revised finding or decision, under article 3 of the 1948 protocol, that such a drug is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not

apply to such drug, such revised finding or decision shall be transmitted to the Secretary or his delegate, who shall cause such revised finding or decision to be published in the Federal Register within ninety days of receipt thereof by the Secretary or his delegate. From the time of such publication, such drug shall cease to be an opiate, unless the Secretary or his delegate has theretofore initiated an opiate procedure under section 4731(g) of the Internal Revenue Code of 1954, as amended by section 4 of this Act.

[(d) Upon receipt by the United States of a revised finding or decision under article 3 of the 1948 protocol (except a revised finding or decision to which subsection (c) applies) that a drug (theretofore subject to the Federal narcotic laws as an opiate) is not capable of producing addiction or conversion into a drug capable of producing addiction and that the provisions of the 1931 convention shall not apply to such drug, the revised finding or decision shall be transmitted to the Secretary or his delegate. The Secretary or his delegate may, in his discretion, publish the revised finding or decision in the Federal Register and, from the time of such publication, such drug shall cease to be an opiate. If the revised finding or decision is not so published in the Federal Register, the said drug shall continue to be an opiate.

[MODIFICATION OF LIST OF BASIC NARCOTIC DRUGS

[SEC. 6. The Secretary or his delegate, upon his initiative or upon the petition of any interested person shall have the power by rule made on the record after opportunity for hearing, to alter classifications set forth in section 3(g) by adding to, subtracting from, or further defining such classifications or any one or more of them, on the basis of their chemical structure and content and addiction liability or convertibility into an addicting drug. No new basic class shall be added unless with respect to any drug or drugs falling within such class the Secretary or his delegate shall have determined that such drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or has caused a finding or decision to be published in the Federal Register pursuant to section 5 of this Act. For purposes of this section, the Secretary or his delegate may consider changes in classification established by the World Health Organization or its successor in function.

[RESTRICTIONS ON THE MANUFACTURE OF NARCOTIC DRUGS

[SEC. 7. (a) Except as otherwise provided in this Act, it shall be unlawful for any person to manufacture any narcotic drug unless—

[(1) such narcotic drug falls within a basic class of narcotic drugs established by or pursuant to this Act, and

[(2) such person holds a currently effective license and manufacturing quota with respect to such basic class of narcotic drug issued pursuant to section 8 of this Act.

[(b) The omission of a narcotic drug from the classification established pursuant to section 3(g) shall not be construed to permit the manufacture of such narcotic drug, the intent of this Act being to limit the manufacture of narcotic drugs in the United States to those narcotic drugs established under this Act as a basic class of narcotic drugs or as a member of a basic class of narcotic drugs. The fact that the Secretary or his delegate shall have—

[(1) determined that a drug is a narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954, as amended by section 4 of this Act, or

[(2) caused a finding or decision with respect to any drug or other substance to be published in the Federal Register pursuant to section 5 of this Act,

shall not require the Secretary or his delegate to add such narcotic drug to the classifications set forth in section 3(g) or to grant a manufacturing quota for such narcotic drug, if the Secretary or his delegate shall determine that it is contrary to the public health and safety to permit the manufacture of such drug within the United States.

[(c) It shall be unlawful for any person (1) to manufacture or attempt to manufacture any narcotic drug, or (2) to knowingly permit the manufacture of any narcotic drug, in or upon any place owned, leased, occupied, used or controlled by him unless he (or the lessee, tenant, or other occupant as the case may be) is the holder of a license and quota for the manufacture during the period in question of such narcotic drug in accordance with the provisions of sections 3(g), 8, and 11 of this Act; and it shall be unlawful for the holder of any such quota to manufacture during the period for which the quota is applicable any quantity of such narcotic drug in excess of the amount authorized by such quota.

[LICENSES TO MANUFACTURE NARCOTIC DRUGS

[SEC. 8. (a) Every person who manufactures a basic class or classes of narcotic drug shall, on or before January 1, 1961, if then already engaged in such manufacture, or otherwise before engaging in such manufacture, obtain from the Secretary or his delegate a license or licenses for the appropriate basic class or classes of narcotic drug. There shall be a separate license for the manufacture of each basic class of narcotic drug. In determining whether to issue a license for a particular basic class of narcotic drug to a particular applicant, the Secretary or his delegates shall be governed by the following factors—

[(1) maintenance of effective controls against the diversion of the particular basic class of narcotic drug and of narcotic drugs compounded therefrom into other than legitimate medical and scientific channels through limitation of manufacture of the particular basic class of narcotic drug to the smallest number of establishments which will produce an adequate and uninterrupted supply of narcotic drugs of or derived from such basic class of narcotic drugs for medical and scientific purposes, consistent with the public interest; and

[(2) compliance with the obligations undertaken by the United States pursuant to the 1931 convention and the 1948 protocol; and

[(3) promotion of technical advances in the art of manufacturing narcotic drugs and the development of new narcotic drug products; and

[(4) the applicant's education, moral character and reputation, the applicant's past drug manufacturing experience and the quality of his products, his technical competence, the existence in the applicant's establishment of adequate safeguards against diversion of narcotic drugs into other than legitimate medical and scientific channels; and

[(5) such other factors as may be relevant to and consistent with the public interest.

[(b) Registration pursuant to section 4722 of the Internal Revenue Code of 1954, shall be a prerequisite to the issuance of any license under this section. Licenses shall be in such form as the Secretary or his delegate shall prescribe and shall continue in effect subject only to annual renewal of registration unless revoked pursuant to section 9 of this Act or voluntarily surrendered. Issuance of a license pursuant to this section shall not entitle the licensee to perform any act with respect to narcotic drugs as to which the consent or approval of the Secretary or his delegate is required by the provisions of this or any other Act.

[(c) Issuance of a license for the manufacture of any one basic class of narcotic drug shall not entitle the holder thereof to manufacture for sale, distribution, or other use any other basic class of narcotic drug.

[(d) Notwithstanding the foregoing provisions of this section, the Secretary or his delegate shall authorize any person registered as a manufacturer or as a person engaged in research under section 4722 of the Internal Revenue Code of 1954, who meets the standards for licensing under subsection (a)(4) of this section 8, whether or not such person actually holds a license under subsection (a), to produce such limited quantities as the Secretary or his delegate may specify of any narcotic drug, except crude opium or coca leaves, whether or not a basic class for such drug has been established under section 3(g) of this Act, exclusively for research in the development of manufacturing processes for the drug, or for chemical, pharmacological or medical testing of such drugs, for fitness for medical or scientific use and for determination of its suitability for general manufacture and distribution for medical or scientific use. Such person shall make such reports as the Secretary or his delegate may require relating to the quantities of narcotic drug manufactured and to use and disposal of such quantities of such narcotic drug. Such quantities of such narcotic drug may be disposed of only in accordance with the regulations of the Secretary or his delegate. Any authorization made under this subsection (d) shall be subject to revocation or suspension in accordance with the procedure set forth in section 9 of this Act.

[(e) In issuing or refusing to issue manufacturing licenses pursuant to this section, the Secretary or his delegate shall act in conformity with the procedure prescribed by section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. Each licensee of the basic class of narcotic drug with respect to which a license is sought to be obtained shall be deemed a person entitled to notice within the meaning of section 5(a) of the Administrative Procedure Act.

[REVOCATION OR SUSPENSION OF LICENSES

[SEC. 9. (a) Any license issued pursuant to section 8 of this Act may be revoked by the Secretary or his delegate if the licensee—

[(1) has been convicted of violating or conspiring to violate any law of the United States or of any State where the offense

involves any activity or transaction with respect to narcotic drugs; or

[(2) has violated or failed to comply with any duly promulgated regulation of the Secretary or his delegate relating to narcotic drugs, and such violation or failure to comply reflects adversely on the licensee's reliability and integrity with respect to narcotic drugs.

In the case of a licensee holding more than one license issued pursuant to section 8 of this Act, revocation may be in the discretion of the Secretary or his delegate extended to all licenses held by such licensee.

[(b) Before revoking any license pursuant to subsection (a), the Secretary or his delegate shall serve upon the licensee an order to show cause why an order of revocation should not be issued. Any such order to show cause shall contain a statement of the basis thereof, and shall call upon such licensee to appear before the Secretary or his delegate at a time and place stated in the order, but in no event less than thirty days after the date of receipt of such order, and give evidence upon the matter specified therein. The Secretary or his delegate may in his discretion suspend any license simultaneously with the issuance of an order to show cause, in cases where he finds that the public health, safety, or interest require such suspension. Such suspension shall continue in effect until the conclusion of any revocation proceeding, including judicial review thereof, unless sooner withdrawn by the Secretary or his delegate, or dissolved by a court of competent jurisdiction. Every hearing held pursuant to this section shall be conducted in accordance with section 5 of the Administrative Procedure Act and the Secretary or his delegate shall be deemed to constitute "the agency" for purposes of compliance with sections 7 and 8 of such Act. If after hearing, default, or waiver thereof by the licensee, the Secretary or his delegate determines that an order of revocation should issue, he shall issue such order, which shall include a statement of his findings and the grounds and reasons therefor and shall specify the effective date of the order, and he shall cause such order to be served on the licensee. In any case where a hearing is conducted pursuant to the provisions of this section both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Secretary or his delegate. Proceedings under this section shall be independent of, and not in lieu of, criminal prosecution or other proceedings under this Act or any other law of the United States.

[AUTHORITY TO SEIZE NARCOTIC DRUGS, ORDER FORMS, AND TAX STAMPS

[SEC. 10. In the event of the suspension or revocation of a license obtained under section 8, all narcotic drugs owned or possessed by such person at the time of suspension or at the effective date of the revocation order, as the case may be, whether or not taxes have been paid on such narcotic drugs, together with all unused order forms or narcotic tax stamps owned or possessed by such person, may at the discretion of the Secretary or his delegate be placed under seal and no disposition made until the time for taking an appeal has elapsed or until all appeals have been concluded. Upon a suspension or revocation order becoming final all narcotic drugs, tax stamps, and order forms shall be forfeited to the Government.

[MANUFACTURING QUOTAS FOR BASIC CLASSES OF NARCOTIC DRUGS

[SEC. 11. (a) For the purpose of fixing manufacturing quotas under this section and in order to carry out the treaty obligations of the United States, the Secretary or his delegate shall make determinations of the total quantity of each basic class of narcotic drug necessary to be manufactured during each calendar year to provide for the estimated medical and scientific needs of the United States, for lawful export requirements, and for establishment and maintenance of reserve stocks.

[(b) In fixing individual manufacturing quotas for any basic class of narcotic drug for a calendar year pursuant to this section, or at any time after fixing such individual quotas, the Secretary or his delegate shall limit or reduce such individual quotas to the extent necessary to prevent the aggregate of such individual quotas from exceeding the amount of the determination of the Secretary or his delegate under subsection (a). In any such limitation or reduction pursuant to this subsection the quota of each licensed manufacturer of such basic class of drug shall be limited or reduced in the same proportion as the limitation or reduction of the aggregate of such quotas. However, if any licensee, before the issuance of a limitation or reduction in quota, has manufactured in excess of his quota so limited or reduced, the amount of such excess shall be subtracted from such licensee's manufacturing quota for the following year.

[(c) On or before June 1 of each year, upon application therefor by a person having a license to manufacture a basic class of narcotic drug, the Secretary or his delegate shall fix a manufacturing quota for such calendar year for such basic class of narcotic drug for such person. Subject to the provisions of subsections (a) and (b), such quota shall be sufficient to cover the applicant's estimated disposal, inventory, and other requirements for the calendar year as determined by the Secretary or his delegate, who shall take into account the applicant's current disposal rate, the trend of such disposal rate during the preceding calendar year, the applicant's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors. Subject to the provisions of subsections (a) and (b), such quota shall not be less than the sum of—

[(1) such licensed manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year or the average of the three immediately preceding calendar years in which such manufacturer produced such basic class of narcotic drug, whichever is greater; and

[(2) one-half of such manufacturer's net disposal of such basic class of narcotic drug during the immediately preceding calendar year;

less such manufacturer's inventory of such basic class of narcotic drug on December 31 of the preceding calendar year.

[(d) During the period from January 1 until a manufacturing quota for such calendar year is fixed pursuant to subsection (c), any licensed manufacturer entitled to receive a quota for any basic class of narcotic drug under subsection (c) may manufacture a provisional quota of not more than 75 per centum of whichever of the following is greater—

[(1) such manufacturer's net disposal of such basic class of narcotic drug during the twelve months immediately preceding September 30 of the preceding calendar year; or

[(2) twelve times such manufacturer's average monthly net disposal of such basic class of narcotic drug for the thirty-three months immediately preceding September 30 of the preceding calendar year;

or such higher or lower percentage as the Secretary or his delegate may from time to time for good cause direct. Any higher or lower percentage so directed shall apply to the provisional quotas of all licensed manufacturers for such basic class of narcotic drug.

[(e) The Secretary or his delegate shall, on application therefor, and subject to the provisions of subsections (a) and (b), fix a quota for any licensed manufacturer of a basic class of narcotic drug who has not manufactured such basic class of narcotic drug during one or more of the three immediately preceding calendar years, in an amount adequate to cover such manufacturer's reasonably anticipated requirements for the current calendar year.

[(f) At any time during the calendar year any licensed manufacturer who has applied for or received a manufacturing quota for a basic class of narcotic drug may apply for an increase in such quota, to meet his estimated disposal, inventory, and other requirements during the remainder of such calendar year. In passing upon such application the Secretary or his delegate shall take into consideration any occurrences since the filing of such manufacturer's initial quota application that may require an increased manufacturing rate by such manufacturer during the balance of such calendar year. In passing upon such application the Secretary or his delegate may also take into consideration the amount, if any, by which the determination of the Secretary or his delegate under subsection (a) exceeds the aggregate of the quotas of all manufacturers under this section, and the equitable distribution of such excess among other manufacturers.

[EXCEPTION FROM APPLICABILITY OF LICENSE AND QUOTA PROVISIONS

[SEC. 12. Notwithstanding any other provisions of this Act—

[(1) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily result from the manufacturing process used for the manufacture of a basic class of narcotic drug duly licensed under this Act; and

[(2) no license or quota shall be required for the manufacture of such quantities of narcotic drugs as incidentally but necessarily result from the manufacture of any substance which is not a narcotic drug.

Unless such incidentally but necessarily resulting narcotic drug shall have been determined to be nonaddicting by the Secretary or his delegate, it may (apart from being used in the process of producing a narcotic drug for which license and quota are held) be retained or disposed of only in such manner as may be prescribed or authorized by the Secretary or his delegate.

[REGULATION WITH RESPECT TO PERSONS WHO MANUFACTURE NARCOTIC PRECURSORS

[SEC. 13. Persons who manufacture, compound, package, sell, deal in, or give away any narcotic precursor shall keep such records and make such reports with respect to such narcotic precursor as the Secretary or his delegate shall by regulation prescribe. The Secretary or his delegate may advise the Congress whether in his opinion the manufacture and distribution of narcotic precursors threaten to result in the diversion of narcotic drugs into other than legitimate medical and scientific channels and whether in his judgment further legislation with respect to narcotic precursors is necessary or desirable.

[CERTAIN PROCEDURES FOR JUDICIAL REVIEW

[SEC. 14. Every final decision of the Secretary or his delegate under sections 3(i), 6, 8, 9, 11(c), 11(e), or 11(f) of this Act shall be subject to judicial review as provided by and in the manner prescribed in Public Law 901, Eighty-first Congress, approved December 29, 1950 (5 U.S.C., secs. 1031–1042).

[AMENDMENT TO LAW WITH RESPECT TO EXPORTATION OF NARCOTIC DRUGS

[SEC. 15. Section 6 of the Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909, as amended (21 U.S.C. 182) is amended to read as follows:

["SEC. 6. (a) No person subject to the jurisdiction of the United States Government shall export or cause to be exported from the United States, or from territory under its control or jurisdiction, any narcotic drug to any other country except—

["(1) to a country which has ratified and become a party to the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925, any narcotic drugs derived directly or indirectly from crude opium or coca leaves; or

["(2) to a country which has ratified and become a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, any narcotic drugs not derived directly or indirectly from crude opium or coca leaves;

and in the instance of (1) and (2) then only if—

["(A) such country has instituted and maintains, in conformity with the respective conventions, a system which the Secretary

of the Treasury or his delegate deems adequate, for the control of imports of narcotic drugs;

"(B) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import; and

"(C) there is furnished to the Secretary or his delegate proof deemed adequate by him that the narcotic drug is to be applied exclusively to medical and scientific uses within the country to which exported, that it will not be reexported from such country, and that there is an actual need for the narcotic drug for medical and scientific uses within such country.

"(b) The exceptions contained in subsection (a) shall not apply to smoking opium or opium prepared for smoking, the exportation of which is absolutely prohibited.

"(c) Notwithstanding the provisions of subsection (a), the Secretary or his delegate may authorize the exportation of any narcotic drug (including crude opium and coca leaves) to a country which has ratified and become a party either to the 1912 convention, the 1925 convention, or the 1931 convention and supplementing protocols of 1946 and 1948, if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

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

AUTHORIZING IMPORTATION OF NARCOTIC DRUGS AS TO CERTAIN PERSONS

SEC. 16. Notwithstanding the provisions of this Act or any other law, the Secretary or his delegate may in his discretion authorize the importation of any narcotic drug or drugs (including crude opium or coca leaves) for delivery to officials of the United Nations, of the Government of the United States, or of any of the several States, or to any person licensed or qualified to be licensed under section 8 of this Act, for scientific purposes only.

ENFORCEMENT AND AUTHORITY TO DELEGATE FUNCTIONS

SEC. 17. It shall be the duty of the Secretary or his delegate to enforce the provisions of this Act, and he is hereby authorized to make, prescribe, and publish all necessary rules and regulations for carrying out its provisions, including but not limited to rules and regulations for the prevention of unlawful diversion of narcotic drugs, and to confer or impose any of the rights, privileges, powers, and duties conferred or imposed upon him by this Act upon such officers or employees of the Treasury Department as he shall designate or appoint.

[PENAL PROVISIONS

[SEC. 18. (a) Any person who violates any of the provisions of this Act shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

[(b) Any person who willfully makes, aids, or assists in the making of, or procures, counsels, or advises in the preparation or presentation of, a false or fraudulent statement in any application made pursuant to this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than $2,000 or imprisoned for not more than one year, or both.

[PROCEDURE AND PRESUMPTIONS

[SEC. 19. It shall not be necessary to negative any exemptions set forth in this Act in any complaint, information, indictment, or other writ or proceeding laid or brought under this Act and the burden of proof of any such exemption shall be upon the person claiming its benefit. In the absence of proof by such person that he is the duly authorized holder of an appropriate license or quota issued under this Act, he shall be presumed not to be the holder of such license or quota and the burden of proof shall be upon him to rebut such presumption.

[APPLICABILITY OF ACT

[SEC. 20. The provisions of this Act shall apply to the several States, the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the other insular territories and possessions of the United States.

[SEPARABILITY OF INVALID PROVISIONS

[SEC. 21. If any provision of this Act, or the application of such provision to any circumstances, shall be held invalid, the validity of the remainder of the Act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

[EFFECTIVE DATE

[SEC. 22. With the exception of section 8(a), this Act shall take effect on January 1 of the year following the date of its enactment. Section 8(a) shall take effect on the date of enactment of this Act.]

FEDERAL FOOD, DRUG AND COSMETIC ACT

52 Stat. 1040; 21 U.S.C. 321 et sec.

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SEC. 201. * * *

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[(v) The term "depressant or stimulant drug" means—

[(1) any drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative

of barbituric acid which has been designated by the Secretary under section 502(d) as habit forming;

[(2) any drug which contains any quantity of (A) amphetamine or any of its optical isomers; (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (C) any substance which the Secretary, after investigation, has found to be, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

[(3) lysergic acid diethylamide and any other drug which contains any quantity of a substance which the Secretary, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect; except that the Secretary shall not designate under this paragraph, or under clause (C) of subparagraph (2), any substance that is now included, or is hereafter included, within the classifications stated in section 4731, and marihuana as defined in section 4761, of Internal Revenue Code of 1954 (26 USC 4731, 4761).

[The provisions of subsections (e), (f), and (g) of section 701 shall apply to and govern proceedings for the issuance, amendment, or repeal of regulations under subparagraph (2) (C) or (3) of this paragraph.]

* * * * * * *

[DEPRESSANT AND STIMULANT DRUGS

[SEC. 511. (a) No person shall manufacture, compound, or process any depressant or stimulant drug, except that this prohibition shall not apply to the following persons whose activities in connection with any such drug are solely as specified in this subsection:

[(1) (A) Manufacturers, compounders, and processors registered under section 510 who are regularly engaged, and are otherwise qualified, in conformance with local laws, in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment, (i) to pharmacies or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of pactitioners licensed by law to administer such drugs in the course of their professional practice, or (ii) to laboratories or research or educational institutions for their use, research, teaching, or chemical analysis.

[(B) Suppliers (otherwise qualified in conformance with local laws) of manufacturers, compounders, and processors referred to in subparagraph (A).

[(2) Wholesale druggists registered under section 510 who maintain establishments in conformance with local laws and are regularly engaged in supplying prescription drugs (A) to pharmacies, or to hospitals, clinics, public health agencies, or physicians, for dispensing by registered pharmacists upon presciptions, or for use by or under the supervision of practitioners licensed by law to administer such drugs in the course of their

professional practice, or (B) to laboratories or research or educational institutions for their use in reseach, teaching, or clinical analysis.

[(3) Pharmacies, hospitals, clinics, and public health agencies, which maintain establishments in conformance with any applicable local laws regulating the practice of pharmacy and medicine and which are regularly engaged in dispensing prescription drugs upon prescriptions of practitioners licensed to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

[(4) Practitioners liscensed by law to prescribe or administer depressant or stimulant drugs, while acting in the course of their professional practice.

[(5) Persons who use depressant or stimulant drugs in research, teaching, or chemical analysis and not for sale.

[(6) Officers and employees of the United States, a State government or a political subdivision of a State, while acting in the course of their official duties.

[(7) An employee or agent of any person described in paragraph (1) through paragraph (5) of this subsection, and a nurse or other medical technician under the supervision of a practitioner licensed by law to administer depressant or stimulant drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

[(b) No person, other than—

[(1) a person described in subsection (a) of this section, while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment, or

[(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant or stimulant drug is in the usual course of his business or employment as such, shall sell, deliver, or otherwise dispose of any depressant or stimulant drug to any other person.

[(c) No person, other than a person described in subsection (a) or (b) (2) of this section, shall—

[(1) possess any depressant or stimulant drug for sale, delivery, or other disposal to another, or

[(2) otherwise possess any such drug unless such drug was obtained directly, or pursuant to a valid prescription, from a practitioner (licensed by law to prescribe or administer such drug) while acting in the course of his professional practice.

[(d) (1) Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant or stimulant drug shall, upon the effective date of this section, prepare a complete and accurate record of all stocks of each such drug on hand and shall keep such record for three years. On and after the effective date of this section, every person manufacturing, compounding, or processing any depressant or stimulant drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each such drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing; and every person selling, delivering, or otherwise disposing of any depressant or stimulant drug shall prepare or obtain, and keep

for not less than three years, a complete and accurate record of the kind and quantity of each such drug received, sold, delivered, or otherwise disposed of, the name and address of the person, and the registration number, if any, assigned to such person by the Secretary pursuant to section 510(e), from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction. No separate records, nor set form or forms for any of the foregoing records, shall be required as long as records containing the required information are available.

[(2) (A) Every person required by paragraph (1) of this subsection to prepare or obtain, and keep, records, and any carrier maintaining records with respect to any shipment containing any depressant or stimulant drug, and every person in charge, or having custody, of such records, shall, upon request of an officer or employee designated by the Secretary permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and of enforcement of this section, officers or employees designated by the Secretary are authorized, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, to enter, at reasonable times, any factory, warehouse, establishment, or vehicle in which any depressant or stimulant drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle, and all pertinent equipment, finished and unfinished material, containers and labeling therein, and all things therein (including records, files, papers, processes, controls, and facilities) bearing on violation of this section or section 301(q); and to inventory any stock of any such drug therein and obtain samples of any such drug. If a sample is thus obtained, the officer or employee making the inspection shall, upon completion of the inspection and before leaving the premises, give to the owner, operator, or agent in charge a receipt describing the sample obtained.

[(B) No inspection authorized by subparagraph (A) shall extend to (i) financial data, (ii) sales data other than shipment data, (iii) pricing data, (iv) personnel data, or (v) research data, which are exempted from inspection under the third sentence of section 704(a) of this Act.

(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to a licensed practitioner described in subsection (a) (4) of this section with respect to any depressant or stimulant drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.

[(e) No prescription (issued before or after the effective date of this section) for any depressant or stimulant drug may be filled or refilled more than six months after the date on which such prescription was issued and no such prescription which is authorized to be refilled may be refilled more than five times, except that any prescription for such a drug after six months after the date of issue or after being refilled five times may be renewed by the practitioner issuing it

either in writing, or orally (if promptly reduced to writing and filed by the pharmacist filling it).

[(f) (1) The Secretary may by regulation exempt any depressant or stimulant drug from the application of all or part of this section when he finds that regulation of its manufacture, compounding, processing, possession, and disposition, as provided in this section or in such part thereof, is not necessary for the protection of the public health.

[(2) The Secretary shall by regulation exempt any depressant or stimulant drug from the application of this section, if—

[(A) such drug may, under the provisions of this chapter, be sold over the counter without a prescription; or

[(B) he finds that such drug includes one or more substances not having a depressant or stimulant effect on the central nervous system or a hallucinogenic effect and such substance or substances are present therein in such combination, quantity, proportion, or concentration as to prevent the substance or substances therein which do have such an effect from being ingested or absorbed in sufficient amounts or concentrations as, within the meaning of section 201 (v),

to—

[(i) be habit forming because of their stimulant effect on the central nervous system, or

[(ii) have a potential for abuse because of their depressant or stimulant effect on the central nervous system or their hallucinogenic effect.

[(g) (1) The Secretary may, from time to time, appoint a committee of experts to advise him with regard to any of the following matters involved in determining whether a regulation under subparagraph (2) (C) or (3) of section 201 (v) should be proposed, issued, amended, or repealed: (A) whether or not the substance involved has a depressant or stimulant effect on the central nervous system or a hallucinogenic effect, (B) whether the substance involved has a potential for abuse because of its depressant or stimulant effect on the central nervous system, and (C) any other scientific question (as determined by the Secretary) which is pertinent to the determination of whether such substance should be designated by the Secretary pursuant to subparagraph (2) (C) or (3) of section 201 (v). The Secretary may establish a time limit for submission of the committee's report. The appointment, compensation, staffing, and procedure of such committees shall be in accordance with subsection (b) (5) (D), and the admissibility of their reports, recommendations, and testimony at any hearing involving such matters shall be determined in accordance with subsection (d) (2), of section 706. The appointment of such a committee after publication of an order acting on a proposal pursuant to section 701 (e) (1) shall not suspend the running of the time for filing objections to such order and requesting a hearing unless the Secretary so directs.

[(2) Where such a matter is referred to an expert advisory committee upon request of an interested person, the Secretary may, pursuant to regulations, require such person to pay fees to pay the costs, to the Department, arising by reason of such referral. Such fees, including advance deposits to cover such fees, shall be available, until

expended, for paying (directly or by way of reimbursement of the applicable appropriations) the expenses of advisory committees under this subsection and other expenses arising by reason of referrals to such committees and for refunds in accordance with such regulation.]

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Sec. 301. * * *

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[(q)(1) The manufacture, compounding, or processing of a drug in violation of section 511(a); (2) the sale, delivery, or other disposition of a drug in violation of section 511(b); (3) (A) the possession of a drug in violation of section 511(c)(1), or (B) the possession of a drug in violation of section 511(c)(2); (4) the failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by section 511(d); (5) the refusal to permit access to or copying of any record as required by section 511(d); (6) the refusal to permit entry or inspection as authorized by section 511(d); or (7) the filling or refilling of any prescription in violation of section 511(e).]

TITLE 18—UNITED STATES CODE

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[Chapter 68—NARCOTICS

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

[§ 1401. Definitions

[As used in this chapter—

[The term "heroin" shall mean any substance identified chemically as diacetylmorphine or any salt thereof.

[The term "United States" shall include the District of Columbia, the Commonwealth of Puerto Rico, the insular possessions of the United States, the Trust Territory of the Pacific, and the Canal Zone.

[§ 1402. Surrender of heroin—procedure

[Any heroin lawfully possessed prior to the effective date of this Act shall be surrendered to the Secretary of the Treasury, or his designated representative, within one hundred and twenty days after the effective date of the Act, and each person making such surrender shall be fairly and justly compensated therefor. The Secretary of the Treasury, or his designated representative, shall formulate regulations for such procedure. All quantities of heroin not surrendered in accordance with this section and the regulations promulgated

thereunder by the Secretary of the Treasury, or his designated representative, shall by him be declared contraband, seized, and forfeited to the United States without compensation. All quantities of heroin received pursuant to the provisions of this section, or otherwise, shall be disposed of in the manner provided in section 4733 of the Internal Revenue Code of 1954, except that no heroin shall be distributed or used for other than scientific research purposes approved by the Secretary of the Treasury, or his designated representative.

[§ 1403. Use of communications facilities—penalties

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

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

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

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

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

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

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

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

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

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

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

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

[§ 1405. Issuance of search warrants—procedure

[In any case involving a violation of any provision of part I or part II of subchapter A of chapter 39 of the Internal Revenue Code of 1954 the penalty for which is provided in subsection (a) or (b) of

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

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

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

[§ 1406. Immunity of witnesses

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

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

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

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

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

[§ 1407. Border crossings—narcotic addicts and violators

[(a) In order further to give effect to the obligations of the United States pursuant to the Hague convention of 1912, proclaimed as a treaty on March 3, 1915 (38 Stat. 1912), and the limitation convention of 1931, proclaimed as a treaty on July 10, 1933 (48 Stat. 1571), and in order to facilitate more effective control of the international traffic in narcotic drugs, and to prevent the spread of drug addiction, no citizen of the United States who is addicted to or uses narcotic drugs, as defined in section 4731 of the Internal Revenue Code of 1954, as amended (except a person using such narcotic drugs as a result of

sickness or accident or injury and to whom such narcotic drug is being furnished, prescribed, or administered in good faith by a duly licensed physician in attendance upon such person, in the course of his professional practice) or who has been convicted of a violation of any of the narcotic or marihuana laws of the United States, or of any State thereof, the penalty for which is imprisonment for more than one year, shall depart from or enter into or attempt to depart from or enter into the United States, unless such person registers under such rules and regulations as may be prescribed by the Secretary of the Treasury with a customs official, agent, or employee at a point of entry or a border customs station. Unless otherwise prohibited by law or Federal regulation such customs official, agent, or employee shall issue a certificate to any such person departing from the United States; and such person shall, upon returning to the United States, surrender such certificate to the customs official, agent, or employee present at the port of entry or border customs station.

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

INTERNAL REVENUE CODE OF 1954

68A Stat. 3; 26 U.S.C. 4701 et sec.

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Chapter 39—REGULATORY TAXES

[Subchapter A—Narcotic Drugs and Marihuana

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[A. Narcotic drugs and marihuana.]

[Part
[I. Narcotic drugs.
[II. Marihuana.
[III. Miscellaneous provisions relating to narcotic drugs and marihuana.

[PART I—NARCOTIC DRUGS

[Subpart
[A. Tax on opium, isonipecaine, opiates, and coca leaves.
[B. Tax on opium for smoking.
[C. Occupational tax.
[D. General provisions relating to narcotic drugs.

[Subpart A—Tax on Opium, Isonipecaine, Opiates, and Coca Leaves

[Sec.
[4701. Imposition of tax.
[4702. Exemptions.
[4703. Affixing of stamps.
[4704. Packages.
[4705. Order forms.
[4706. Forfeitures.
[4707. Cross references.

[PART III—MISCELLANEOUS PROVISIONS RELATING TO NARCOTIC DRUGS AND MARIHUANA

[Sec.
[4771. Stamps.
[4772. Exemption from tax and registration.
[4773. Inspection of returns, order forms, and prescriptions.
[4774. Territorial extent of law.
[4775. List of special taxpayers.
[4776. Cross references.

[§ 4701. Imposition of tax

[(a) Rate.—There shall be imposed an internal revenue tax upon narcotic drugs, produced in or imported into the United States, and sold, or removed for consumption or sale, at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce. The tax imposed by this subsection shall be in addition to any import duty imposed on narcotic drugs.

(b) By whom paid.—The tax imposed by subsection (a) shall be paid by the importer, manufacturer, producer, or compounder.

[§ 4702. Exemptions

[(a) Exceptions from certain provisions authorized for preparations of no addictive quality or of minor addictive quality.—

[(1) If the Secretary or his delegate, either upon his own motion or upon the application of an interested party, after consideration of the report and recommendations of an advisory committee appointed under paragraph (4) of this subsection, and after due notice and opportunity for hearing, finds that a pharmaceutical preparation containing a narcotic drug combined with other active or inactive ingredients—

[(A) either possesses no addiction-forming or addiction-sustaining liability, or does not possess an addiction-forming or addiction-sustaining liability sufficient to warrant imposition of all of the requirements of this part, and

[(B) does not permit the recovery of a narcotic drug having such an addiction-forming or addiction-sustaining liability, with such relative technical simplicity and degree of yield as to create a risk of improper use;

the Secretary or his delegate may except such pharmaceutical preparation to the extent consistent with the obligations undertaken by the United States pursuant to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs, concluded at Geneva, July 13, 1931, and entered into force with respect to the United States of America, July 9, 1933, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946), signed at Paris, November 19, 1948, and entered into force with respect to the United States of America, September 11, 1950, and with the public health, safety, and welfare, from any or all of the requirements imposed by this part, other than those requirements imposed by

sections 4721, 4722, 4724(a), and 4732, and from any or all of the requirements imposed by section 6 of the Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes", approved February 9, 1909, as amended by section 15 of the Narcotics Manufacturing Act of 1960.

[(2) In excepting any pharmaceutical preparation under paragraph (1), the Secretary or his delegate may, in his discretion, apply any or all of the following requirements:

[(A) Such pharmaceutical preparation shall be manufactured, sold, distributed, given away, dispensed, or possessed as a medicine and not for the purpose of evading the intentions and provisions of this subpart and subpart C:

[(B) Any manufacturer, producer, compounder, or vendor (including dispensing physicians) of such pharmaceutical preparation, lawfully entitled to manufacture, produce, compound, or vend such pharmaceutical preparation, shall keep such records relating to such pharmaceutical preparation as the Secretary or his delegate shall deem necessary;

[(C) Every person so possessing or disposing of such pharmaceutical preparation shall register as required in section 4722 and, if he is not paying a tax under section 4721, shall pay a special tax of $1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the official in charge of the collection district in which he carries on such occupation as provided in subpart C.

[(3) If the Secretary or his delegate shall subsequently determine, after due notice and opportunity for hearing, that a pharmaceutical preparation to which such exceptions have been made applicable possesses a degree of addiction liability, or permits recovery of a narcotic drug having a degree of addiction liability, that results in abusive use of such exceptions, he is authorized to withdraw and revoke such exceptions in whole or in part.

[(4) Whenever the Secretary or his delegate shall, on his own motion, determine that there may exist reasonable evidence to support a finding in accordance with paragraph (1) of this subsection, or whenever an interested party makes an application for such a finding, the Secretary or his delegate shall thereupon appoint an advisory committee of experts. At least one member of such an advisory committee shall be selected by the Secretary or his delegate, one by the interested party making the application, if any, one by the Surgeon General of the (United States) Public Health Service, and one by the Commissioner of the (United States) Food and Drug Administration. The Secretary or his delegate shall submit to such advisory committee the application of the interested party, if any, and any other available data. As soon as practicable thereafter, the advisory committee shall, after independent study of the material submitted to it by the Secretary or his delegate and other data available to it, certify a report and recommendations to the Secretary or his delegate with respect to the pharmaceutical preparation involved.

[(5) After consideration of the report and recommendation of the advisory committee, and after due notice and opportunity for hearing, the Secretary or his delegate shall either make the finding provided for in paragraph (1) of this subsection and grant such exceptions as he deems appropriate, or determine that the evidence does not support such a finding and deny the application, if any.

[**(b) Decocainized coca leaves.**—The provisions of this subpart and sections 4721 to 4726, inclusive, shall not apply to decocainized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

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

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

[**(3) Exportation.**—To the sale, exportation, shipment, or delivery of narcotic drugs by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating

their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State.

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

[(c) Government and state officials.—

[(1) Stamping drugs.—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business described in sections 4721 to 4726, inclusive, shall not be required to stamp narcotic drugs, as prescribed in this subpart, but their right to this exemption shall be evidenced in such manner as the Secretary or his delegate may by regulations prescribe.

[(2) Registration and payment of tax.

[For exemption of officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments from the requirements as to registration and the payment of special taxes, see section 4772(b).

[§ 4703. Affixing of stamps

[The stamps provided in section 4771(a) (1) for narcotic drugs shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

[§ 4704. Packages

[(a) General requirement.—It shall be unlawful for any person to purchase, sell, dispense, or distribute narcotic drugs except in the original stamped package or from the original stamped package; and the absence of appropriate taxpaid stamps from narcotics drugs shall be prima facie evidence of a violation of this subsection by the person in whose possession the same may be found.

[(b) Exceptions in case of registered practitioners.—The provisions of subsection (a) shall not apply—

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

[(2) Dispensations direct to patients.—To the dispensing, or administration, or giving away of narcotic drugs to a patient by

a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this subpart of the drugs so dispensed, administered, distributed, or given away.

[§ 4705. Order forms

[(a) General requirement.—It shall be unlawful for any person to sell, barter, exchange, or give away narcotic drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Secretary or his delegate.

[(b) Exception in case of Virgin Islands.—The President is authorized and directed to issue such Executive orders as will permit those persons in the Virgin Islands of the United States, lawfully entitled to sell, deal in, dispense, prescribe, and distribute narcotic drugs, to obtain said drugs from persons registered under section 4722 within the continental United States for legitimate medical purposes, without regard to the order forms described in this section.

[(c) Other exceptions.—Nothing contained in this section, section 4735, or section 4774 shall apply—

[(1) Use of drugs in professional practice.—To the dispensing or distribution of narcotic drugs to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4722, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, veterinary surgeon, or other practitioner shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in section 4773.

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

[(d) Preservation.—Every person who shall accept any order required under subsection (a), and in pursuance thereof shall sell, barter, exchange, or give away narcotic drugs, shall preserve such order for a period of 2 years in such a way as to be readily accessible to inspection by any officer or employee of the Treasury Department duly

authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section 4773.

[(e) Duplicates.—Every person who shall give an order as provided in this section to any other person for narcotic drugs shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Secretary or his delegate, and in case of the acceptance of such order shall preserve such duplicate for said period of 2 years in such a way as to be readily accessible to inspection by the officers, employees, and officials mentioned in section 4773.

[(f) Supply.—The Secretary or his delegate shall cause suitable forms to be prepared for the purposes mentioned in this section, and shall cause the same to be distributed to each internal revenue district for sale to those persons who shall have registered and paid the special tax as required by sections 4722 and 4721; and he shall require that the same be sold only to persons who have registered and paid the special tax as required by said sections. The price at which such forms shall be sold shall be fixed by the Secretary or his delegate but shall not exceed the sum of $1 per hundred. The Secretary or his delegate shall cause to be kept accounts of the number of such forms sold, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any of such forms are sold, the Secretary or his delegate shall cause the name of the purchaser thereof to be palinly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring narcotic drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of narcotic drugs.

[(g) Unlawful use.—It shall be unlawful for any person to obtain by means of said order forms narcotic drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practce of hs profession.

[(h) Cross reference.—

For issuance of order forms in Puerto Rico and the Trust Territory of the Pacific Islands, see section 4735(a). For issuance of order forms in Guam, see section 4735(d).

[§ 4706. Forfeitures

[(a) Unstamped packages.—All unstamped packages of narcotic drugs found in the possession of any person, except as provided in this subpart, shall be subject to seizure and forfeiture, and all the provisions of internal revenue laws relating to searches, seizures, and forfeiture of unstamped articles shall be extended to and made to apply to the articles taxed under this subpart and the persons upon whom the taxes under this subpart or sections 4721 to 4726, inclusive, are imposed.

[(b) Cross references.—

[(1) Confiscation and disposal of seized drugs. For provisions relating to the confiscation and disposal of seized drugs, see section 4733.

[(2) Other forfeiture provisions.—For other general forfeiture provisions, see subtitle F.

[§ 4707. Cross references

[For penalties and other general and administrative provisions, see sections 4731 to 4736, inclusive; sections 4771 to 4776, inclusive; and subtitle F.]

[§ 4711. Imposition of tax

[There shall be imposed an internal revenue tax of $300 per pound upon all opium manufactured in the United States for smoking purposes.

[§ 4712. Stamps

[(a) Method of payment.—

[(1) Stamps.—All opium prepared for smoking manufactured in the United States shall be duly stamped in such a permanent mannar as to denote the payment of the internal revenue tax thereon.

[(2) Assessment.—

For assessment in case of omitted taxes payable by stamp, see subtitle F.

[(b) Certain stamp provisions applicable.—The provisions of law covering the engraving, issue, sale, accountability, effacement, cancellation, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to stamps provided for by paragraph (1) of subsection (a).

[§ 4713. Manufacturers

[(a) Definition.—Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium within the meaning of this subpart.

[(b) Bond.—Every manufacturer of opium suitable for smoking purposes shall file with the official in charge of the internal revenue district in which his manufactory is located such bonds as the Secretary or his delegate may by regulation require. The bond required of such manufacturer shall be in a penal sum of not less than $100,000; and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the Secretary or his delegate. No person shall engage in such manufacture who has not given the bond required by the Secretary or his delegate.

[(c) Citizenship.—No person shall engage in the manufacture of opium suitable for smoking purposes who is not a citizen of the United States.

[(d) Signs and factory number.—Every manufacturer of opium suitable for smoking purposes shall put up such signs and affix such number to his factory as the Secretary or his delegate may by regulation require.

[§ 4714. Forfeiture

All opium prepared for smoking, whenever found within the United States without the stamps required by this subpart, shall be forfeited and destroyed.

[§ 4715. Cross references

[For penalties and other general and administrative provisions applicable to this subpart, see sections 4731 to 4736, inclusive; sections 4771 to 4776, inclusive; and subtitle F.

[§ 4716. Application to Guam

[The provisions of this subpart shall be applicable to Guam, and in Guam the administration of this subpart shall be performed by the appropriate internal revenue officers of the Government of Guam, and all revenues collected thereunder in Guam shall accrue intact to the government thereof.]

[§ 4721. Imposition of tax

[On or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away narcotic drugs shall pay the special taxes hereinafter provided. Every person upon first engaging in any of such activities shall immediately pay the proportionate part of the tax for the period ending on the following June 30.

[(1) Importers, manufacturers, or producers.—Importers, manufacturers, producers, or compounders, lawfully entitled to import, manufacture, produce, or compound narcotic drugs, $24 a year;

[(2) Wholesale dealers.—Wholesale dealers, lawfully entitled to sell and deal in narcotic drugs, $12 a year;

[(3) Retail dealers.—Retail dealers, lawfully entitled to sell and deal in narcotic drugs, $3 a year;

[(4) Physicians, dentists, veterinary surgeons, and other practitioners.—Physicians, dentists, veterinary surgeons, and other practitioners, lawfully entitled to distribute, dispense, give away, or administer narcotic drugs to patients upon whom they in the course of their professional practice are in attendance, $1 a year or fraction thereof during which they engage in any of such activities;

[(5) Persons engaged in research, instruction, or analysis.—Persons not registered as an importer, manufacturer, producer, or compounder and lawfully entitled to obtain and use in a laboratory narcotic drugs for the purpose of research, instruction, or analysis shall pay $1 a year, but such persons shall keep such special records relating to receipt, disposal, and stocks on hand of narcotic drugs as the Secretary or his delegate may by regulation require. Such special records shall be open at all times to the inspection of any duly authorized officer or employee of the Treasury Department.

[(6) Persons not otherwise taxed.—

For a tax of $1 a year on persons not otherwise taxed, dispensing preparations and remedies of limited narcotic content, see section 4702(a).

[(7) Persons in Canal Zone.—

For authority of the President to issue Executive orders providing for the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away narcotic drugs, see section 4735(b).

[§ 4722. Registration

[On or before July 1 of each year every person who engages in any of the activities enumerated in section 4721 shall register with the Secretary or his delegate his name or style, place of business and place or places where such business is to be carried on, and every person upon first engaging in any such activities shall immediately make like registration.

[§ 4723. Possession by Person not registered

[The possession of any original stamped packaged containing narcotic drugs by any person who has not registered and paid special taxes as required by sections 4721 and 4722 shall be prima facie evidence of liability to such special tax.

[§ 4724. Unlawful acts in case of failure to register and pay special tax

[(a) Trafficking.—It shall be unlawful for any person required to register under the provisions of this subpart or section 4702(a) to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away narcotic drugs without having registered and paid the special tax imposed by this subpart or section 4702(a).

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

[(1) to any person who shall have registered and paid the special tax as required by sections 4721 and 4722;

[(2) to common carriers engaged in transporting narcotic drugs;

[(3) to any employee acting within the scope of his employment for any person who shall have registered and paid the special tax as required by sections 4721 and 4722, or to any contract carrier or other agent acting within the scope of his agency for such registered person;

[(4) to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, veterinarian, or other practitioner required to register under the terms of this subpart or section 4702(a) and employed to prescribe for the particular patient receiving such drug;

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

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

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

[**(c) Possession.**—It shall be unlawful for any person who has not registered and paid the special tax provided for by this subpart or section 4702(a) to have in his possession or under his control narcotic drugs; and such possession or control shall be presumptive evidence of a violation of this subsection and subsection (a), and also a violation of the provisions of sections 4721 and 4722: *Provided*, That this subsection shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this subpart or section 4702(a), having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of narcotic drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this subpart or section 4702(a); or to any United States, State, county, municipal, District, Territorial, or insular officer or official who has possession of any of said drugs, by reason of his official duties; or to a warehouseman holding possession for a person registered and who has paid the taxes under this subpart and sections 4701 to 4707, inclusive; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this subpart or sections 4701 to 4707, inclusive; and the burden of proof of any such exemption shall be upon the defendant.

[§ 4725. Other laws applicable

[All provisions of law relating to special taxes, as far as necessary, shall be extended and made applicable to the special tax imposed by this subpart.]

[§ 4726. Cross references

[For penalties and other general and administrative provisions applicable to this subpart, see sections 4731 to 4736, inclusive; sections 4771 to 4776, inclusive; chapter 40; and subtitle F.]

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[§ 4731. Definitions

[(a) Narcotic drugs.—The words "narcotic drugs" as used in this part shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

[(1) Opium, isonipecaine, coca leaves, and opiate;

[(2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;

[(3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical

with any of the substances referred to in clauses (1) and (2); except that the words "narcotic drugs" as used in this part shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

[(b) **Person.**—The word "person", as used in sections 4701 to 4707, inclusive, and sections 4721 to 4726, inclusive, shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person.

[(c) **Importer, manufacturer, or producer.**—Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution narcotic drugs shall be deemed to be an importer, manufacturer, or producer.

[(d) **Wholesale dealer.**—Every person who sells, or offers for sale, any of said drugs in the original stamped packages as provided in section 4704(a) shall be deemed a wholesale dealer.

[(e) **Retail dealer.**—Every person who sells or dispenses from original stamped packages as provided in section 4704(a) shall be deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered, for the purpose of the part, except sections 4711 to 4715, inclusive, his place of business.

[(f) **Isonipecaine.**—The word "isonipecaine", as used in this part shall mean any substance identified chemically as 1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester, or any salt thereof, by whatever trade name designated.

[(g) **Opiate.**—

[(1) **In general.**—The word "opiate" as used in this part shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act (52 Stat. 1041, sec. 201(g); 21 U.S.C. 321) or other substance found by the Secretary or his delegate and proclaimed by the Secretary or his delegate (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) to have been so found in the Federal Register, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine or to be capable of conversion into a drug having such addiction-forming or addiction-sustaining liability, where, in the judgment of the Secretary or his delegate, the relative technical simplicity and degree of yield of such conversion create a risk of improper use of the drug or other substance.

[(2) **Termination.**—The Secretary or his delegate is authorized to withdraw any previous finding that a drug or other substance is an "opiate" whenever (after considering the technical advice of the Secretary of Health, Education, and Welfare, or his delegate, on the subject) he determines that such previous finding was erroneous, and upon publication of such determination in the Federal Register, the particular drug or other substance shall cease to be an opiate. For purposes of the foregoing provision the Secretary or his delegate may consider any action taken pursuant to article 3 of the 1948 protocol (as defined in section 3(b) of the Narcotics Manufacturing Act of 1960).

[(3) **Regulations, etc.**—The Secretary or his delegate is authorized to issue necessary rules and regulations for carrying out the provisions of this subsection, and to confer or impose

upon any officer or employee of the Treasury Department whom he shall designate or appoint, the duty of conducting any hearing authorized hereunder.

[(4) Cross reference.—

For treatment of certain drugs as being, or ceasing to be, opiates for purposes of this part, see section 5 of the Narcotics Manufacturing Act of 1960.

[(h) Territory.—As used in this part—

[(1) the word "territory" shall include the Trust Territory of the Pacific Islands, and

[(2) the word "territorial" shall reflect such inclusion.

[§ 4732. Records, statements, and returns

[(a) Books and monthly returns of importers, manufacturers, and wholesale dealers.—Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in narcotic drugs as the Secretary or his delegate may by regulations require.

[(b) Returns by registrants of drugs received.—Any person who shall be registered with the Secretary or his delegate under the provisions of section 4722 shall, whenever required so to do by the Secretary or his delegate, render to the official in charge of the internal revenue district a true and correct statement or return, verified by affidavit, setting forth the quantity of narcotic drugs received by him in said internal revenue district during such period immediately preceding the demand of the Secretary or his delegate, not exceeding 3 months, as the Secretary or his delegate may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons; and the date when received.

[§ 4733. Confiscation and disposal of seized drugs

[9ll narcotic drugs seized by the United States Government from any person or persons charged with any violation of this part, or the act of February 9, 1909 (c. 100, 35 Stat. 614), as amended by the act of January 17, 1914 (c. 9, 38 Stat. 275), the act of May 26, 1922 (c. 202, 42 Stat. 596), the act of June 7, 1924 (c. 352, 43 Stat. 657), the act of June 14, 1930 (c. 488, 46 Stat. 586), and the act of November 2, 1951 (c. 666, 65 Stat. 767; 21 U.S.C. 171–185), shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary or his delegate is authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application therefor under such regulaton as may be prescribed by the Secretary or his delegate, any of the drugs so seized, confiscated, and forefeited to the United States. The provisions of this section shall also apply to narcotic drugs seized or coming into the possession of the United States in the enforcement of this part or any of the above-mentioned acts, where the owner or owners thereof are unknown. No narcotic drugs coming into possession of the United States under the operation of said part or acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Secretary or his delegate that they are of no value for medical or scientific purposes.

[§ 4734. Laws unaffected

[Nothing contained in sections 4701 to 4707, inclusive, or sections 4721 to 4726, inclusive, shall be construed to impair, alter, amend, or repeal any of the provisions of the act approved February 9, 1909, entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes" (c. 100, 35 Stat. 614; 21 U.S.C. 171–185), or of the Federal Food, Drug, and Cosmetic Act (June 25, 1938, c. 675, 52 Stat. 1040; 21 U.S.C. 301 et seq.), and any amendment thereof.

[§ 4735. Administration in Puerto Rico, the Trust Territory of the Pacific Islands, Guam, the Canal Zone, and the Virgin Islands

[(a) Puerto Rico and the Trust Territory of the Pacific Islands.—In Puerto Rico and the Trust Territory of the Pacific Islands, the administration of sections 4701 to 4707, inclusive, and sections 4721 and 4726, inclusive, the collection of the special tax imposed by section 4721, and the issuance of the order forms specified in section 4705 shall be performed by the appropriate internal revenue officers of those governments, and all revenues collected thereunder in Puerto Rico and the Trust Territory of the Pacific Islands shall accrue intact to the general governments thereof, respectively. The highest court of original jurisdiction of the Trust Territory of the Pacific Islands shall possess and exercise jurisdiction in all cases arising in such Territory under sections 4701 to 4707, inclusive, and sections 4721 to 4726, inclusive.

[(b) Canal Zone.—The President is authorized and directed to issue such Executive orders as will carry into effect in the Canal Zone the intent and purpose of sections 4701 to 4707, inclusive, and sections 4721 to 4726, inclusive, by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away narcotic drugs.

[(c) Virgin Islands.—

For authority of the President to exempt persons in the Virgin Islands from the order form requirements, see section 4705(b).

[(d) Guam.—In Guam the administration of sections 4701 to 4707, inclusive; sections 4721 to 4726, inclusive; sections 4732 to 4734, inclusive; and insofar as they relate to narcotic drugs, sections 4771 to 4776, inclusive; the collections of the special tax imposed by section 4721 and the issuance of the order forms specified in section 4705, shall be performed by the appropriate internal revenue officers of Guam, and all revenues collected thereunder in Guam shall accrue intact to the general government thereof.

[§ 4736. Other laws applicable

[All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of sections 4701 to 4707, inclusive, sections 4721, 4722, and 4724(a), and of section 4772 insofar as it relates to narcotic drugs.]

* * * * * * *

[§ 4741. Imposition of tax

[(a) Rate.—There shall be imposed upon all transfers of marihuana which are required by section 4742 to be carried out in pursuance of written forms taxes at the following rates:

[(1) Transfers to special taxpayers.—Upon each transfer to any person who has paid the special tax and registered under sections 4751 to 4753, inclusive, $1 per ounce of marihuana or fraction thereof.

[(2) Transfers to others.—Upon each transfer to any person who has not paid the special tax and registered under sections 4751 to 4753, inclusive, $100 per ounce of marihuana or fraction thereof.

[(b) By whom paid.—Such tax shall be paid by the transferee at the time of securing each order form and shall be in addition to the price of such form. Such transferee shall be liable for the tax imposed by this section but in the event that the transfer is made in violation of section 4742 without an order form and without payment of the transfer tax imposed by this section, the transferor shall also be liable for such tax.

[§ 4742. Order forms

[(a) General requirement.—It shall be unlawful for any person, whether or not required to pay a special tax and register under sections 4751 to 4753, inclusive, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary or his delegate.

[(b) Exceptions.—Subject to such regulations as the Secretary or his delegate may prescribe, nothing contained in this section shall apply—

[(1) Professional practice.—To a transfer of marihuana to a patient by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4753, in the course of his professional practice only: *Provided*, That such physician, dentist, veterinary surgeon, or other practitioner shall keep a record of all such marihuana transferred, showing the amount transferred and the name and address of the patient to whom such marihuana is transferred, and such record shall be kept for a period of 2 years from the date of the transfer of such marihuana, and subject to inspection as provided in section 4773.

[(2) Prescriptions.—To a transfer of marihuana, made in good faith by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4753: *Provided*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, veterinary surgeon, or other practitioner who issues the same: *Provided further*, That such dealer shall preserve such prescription for a period of 2 years from the day on which such prescription is filled, so as to be readily accessible for inspection by the officers, employees, and officials mentioned in section 4773.

[(3) Exportation.—To the sale, exportation, shipment, or delivery of marihuana by any person within the United States, any

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

[(4) Government and state officials.—To a transfer of marihuana to any officer or employee of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the Department of Defense, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

[(5) Certain seeds.—To a transfer of any seeds of the plant Cannabis sativa L. to any person registered under section 4753.

[(c) Supply.—The Secretary or his delegate shall cause suitable forms to be prepared for the purposes mentioned in this section and shall cause them to be distributed to each internal revenue district for sale. The price at which such forms shall be sold shall be fixed by the Secretary or his delegate, but shall not exceed 2 cents each. Whenever any of such forms are sold, the Secretary or his delegate shall cause the date of sale, the name and address of the proposed vendor, the name and address of the purchaser, and the amount of marihuana ordered to be plainly written or stamped thereon before delivering the same.

[(d) Preservation.—Each such order form sold by the Secretary or his delegate shall be prepared to include an original and two copies, any one of which shall be admissible in evidence as an original. The original and one copy shall be given to the purchaser thereof. The original shall in turn be given by the purchaser thereof to any person who shall, in pursuance thereof, transfer marihuana to him and shall be preserved by such person for a period of 2 years so as to be readily accessible for inspection by an officer or employee mentioned in section 4773. The copy given to the purchaser shall be retained by the purchaser and preserved for a period of 2 years so as to be readily accessible to inspection by any officer or employee mentioned in section 4773. The second copy shall be preserved in the records of the internal revenue district.

[(e) Exemption of certain transfers to millers.—Nothing in this section shall apply to a transfer of the plant Cannabis sativa L. or any parts thereof from any person registered under section 4453 to a person who is also registered under section 4753 as a taxpayer required to pay the tax imposed by paragraph (6) of section 4751.

[§ 4743. Affixing of stamps

[The stamps provided in section 4771(a)(1) for marihuana shall be affixed by the Secretary or his delegate to the original order form.

[§ 4744. Unlawful possession

[(a) Persons in general.—It shall be unlawful for any person who is a transferee required to pay the transfer tax imposed by section 4741(a)—

[(1) to acquire or otherwise obtain any marihuana without having paid such tax, or

[(2) to transfer or conceal, or in any manner facilitate the transportation or concealment of, any marihuana so acquired or obtained.

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

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

[§ 4745. Forfeitures

[**(a) Ownership by violators.**—Any marihuana which may be seized by the United States Government from any person or persons charged with any violation of this part shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States.

[**(b) Unknown ownership.**—Any marihuana seized or coming into the possession of the United States in the enforcement of this part, the owner or owners of which are unknown, shall be confiscated by and forfeited to the United States.

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

[**(d) Other laws applicable.**—Except as inconsistent with the provisions of this part, all the provisions of internal revenue laws relating to searches, seizures, and forfeitures are extended to include marihuana.

[§ 4746. Cross references

[For penalties and other general and administrative provisions applicable to this subpart, see sections 4761 and 4762; sections 4771 to 4776, inclusive, and subtitle F.]

* * * * * * *

[§ 4751. Imposition of tax

[Every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, prescribes, administers, or gives away marihuana shall before engaging in any of the above-mentioned activities, and thereafter on or before July 1 of each year, pay the following special taxes respectively:

[**(1) Importers, manufacturers, and compounders.**—Importers, manufacturers, and compounders of marihuana, $24 a year;

[(2) **Producers.**—Producers of marihuana (except those included within paragraph (4)), $1 a year, or fraction thereof, during which they engage in such activity;

[(3) **Physicians, dentists, veterinary surgeons, and other practitioners.**—Physicians, dentists, veterinary surgeons, and other practitioners who distribute, dispense, give away, administer or prescribe marihuana to patients upon whom they in the course of their professional practice are in attendance, $1 a year, or fraction thereof, during which they engage in any of such activities;

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

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

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

[§ 4752. **Computation and liability for tax**

[(a) **Computation of tax.**—Where a tax under paragraph (1) or (5) of section 4751 is payable on July 1 of any year it shall be computed for 1 year; where any such tax is payable on any other day it shall be computed proportionately from the first day of the month in which the liability for the tax accrued to the following July 1.

[(b) **Liability in case of activities in more than one place.**—In the event that any person subject to a tax imposed by section 4751 engages in any of the activities enumerated in such section at more than one place, such person shall pay the tax with respect to each such place.

[(c) **Liability in case of more than one activity by same person at same time.**—Except as otherwise provided, whenever more than one of the activities enumerated in section 4751 is carried on by the same person at the same time, such person shall pay the tax for each such activity, according to the respective rates prescribed.]

§ 4753. **Registration**

[(a) **In general.**—Any person subject to the tax imposed by section 4751 shall, upon payment of such tax, register his name or style and his place or places of business with the official in charge of the internal revenue district in which such place or places of business are located.

[(b) Special requirements for millers.—The Secretary or his delegate shall not permit the registration of any person under this section as a person required to pay the tax imposed by paragraph (6) of section 4751, unless in the opinion of the Secretary or his delegate such person (or if a corporation, each officer thereof) is a person of good moral character and unless in the opinion of the Secretary or his delegate such person is a person of suitable financial standing, intends to engage in good faith in the business of manufacturing or producing fiber or fiber products from the plant Cannabis sativa L. on a commercial basis, and is not seeking registration under this section for the purpose of facilitating the unlawful diversion of marihuana. Any person who is registered under this section and has paid the tax imposed by paragraph (6) of section 4751 shall afford officers and employees designated by the Secretary or his delegate ready access at all times to any part of the premises of the mill or other premises of such person and the right to inspect any and all books, papers, records, or documents connected with the activities of such person in dealing in, manufacturing, and processing Cannabis sativa L. and fiber or fiber products thereof, and the handling of marihuana. The Secretary or his delegate may cancel or may refuse to renew, after notice and opportunity for hearing, the registration of any such person if he finds that such person has not complied or is not complying with the requirements of this subsection, or if he finds that grounds exist which would justify the refusal to permit the original registration of such person under this section.

[§ 4754. Returns

[(a) Registrants.—Any person who shall be registered under the provisions of section 4753 with the Secretary or his delegate shall, whenever required to do so by the Secretary or his delegate, render a true and correct statement or return, verified by affidavits, setting forth the quantity of marihuana received or harvested by him during such period immediately preceding the demand of the Secretary or his delegate, not exceeding 3 months, as the Secretary or his delegate may fix and determine. If such person is not solely a producer, he shall set forth in such statement or return the names of the persons from whom said marihuana was received, the quantity in each instance received from such persons, and the date when received.

[(b) Cross references.—

[For general requirement as to records, statements, and returns in the case of persons liable for tax, see subtitle F.

[§ 4755. Unlawful acts in case of failure to register and pay special tax

[(a) Trafficking.—

[(1) Liability.—It shall be unlawful for any person required to register and pay the special tax under the provisions of sections 4751 to 4753, inclusive, to import, manufacture, produce, compound, sell, deal in, dispense, distribute, prescribe, administer or give away marihuana without having so registered and paid such tax.

[(2) Enforcement of liability.—In any suit or proceeding to enforce the liability imposed by this section or sections 4751 to 4753, inclusive, if proof is made that marihuana was at any time growing upon land under the control of the defendant, such

proof shall be presumptive evidence that at such time the defendant was a producer and liable under this section as well as under sections 4751 to 4753, inclusive.

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

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

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

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

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

[(5) to any person carrying marihuana which has been obtained by the person from a registered dealer in pursuance of a written prescription referred to in section 4742(b) (2), issued for legitimate medical uses by a physician, dentist, veterinary surgeon, or other practitioner registered under section 4753, if the bottle or other container in which such marihuana is carried bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person issuing such prescription;

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

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

[§ 4756. Other laws applicable

[All provisions of law (including penalties) applicable in respect of the taxes imposed by sections 4701 and 4721 shall, insofar as not inconsistent with this part, be applicable in respect of the taxes imposed by this part.

[§ 4757. Cross references

[For penalties and other general and administrative provisions applicable to this subpart, see sections 4761 and 4762; sections 4771 to 4776, inclusive; chapter 40; and subtitle F.]

* * * * * * *

[§ 4761. Definitions

[When used in this part—

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

[(2) Marihuana.—The term "marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

[(3) Producer.—The term "producer" means any person who (A) plants, cultivates, or in any way facilitates the natural growth of marihuana; or (B) harvests and transfers or makes use of marihuana.

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

[§ 4762. Administration in insular possession

[(a) Puerto Rico.—In Puerto Rico the administration of this part, the collection of the special taxes and transfer taxes, and the issuance of the order forms provided for in section 4742 shall be performed by the appropriate internal revenue officers of the government of Puerto Rico, and all revenues collected under this part in Puerto Rico shall accrue intact to the general government thereof.

[(b) Virgin Islands.—The President shall be authorized and directed to issue such Executive orders as will carry into effect in the Virgin Islands the intent and purpose of this part by providing for the registration with appropriate officers and the imposition of the special and transfer taxes upon all persons in the Virgin Islands who import, manufacture, produce, compound, sell, deal in, dispense, prescribe, administer, or give away marihuana.]

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[§ 4771. Stamps

[(a) Method of payment.—

[(1) Stamps.—The taxes imposed by sections 4701 and 4741 shall be represented by appropriate stamps, to be provided by the Secretary or his delegate.

[(2) Assessment.—

[For assessment in case of omitted taxes payable by stamp, see subtitle F.

[(b) Other laws applicable.—All the provisions of law relating to the engraving, issuance, sale, accountability, cancellation, and de-

struction of tax-paid stamps provided for in the internal revenue laws shall, insofar as applicable and not inconsistent with sections 4701 to 4707, inclusive, and sections 4741 to 4746, inclusive, be extended and made to apply to the stamps provided in subsection (a).

[§ 4772. Exemption from tax and registration

[(a) Employees.—No employee of any person who has registered and paid a special tax as required in sections 4721 to 4726, inclusive, or sections 4751 to 4757, inclusive, acting within the scope of his employment shall be required to register and pay such special taxes.

[(b) Government and state officials.—Officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the businesses described in section 4741 or activities enumerated in sections 4751 and 4752, shall not be required to register, nor pay special tax, but their right to this exemption shall be evidenced in such manner as the Secretary or his delegate may by regulations prescribe.

[(c) Cross references.—

[(1) Canal Zone.

[For authority of the President to issue Executive orders providing for the registration of all persons in the Canal Zone who produce, import, compound, deal in, dispense, distribute, sell, or give away narcotic drugs, see section 4735(b).

[(2) Virgin Islands.—

[For authority of the President to issue Executive orders providing for the registration and the imposition of special taxes relating to marihuana, on persons in the Virgin Islands, see section 4762(b).

[§ 4773. Inspection of returns, order forms, and prescriptions

[The duplicate order forms and the prescriptions, including the written record of oral prescriptions, required to be preserved under the provisions of section 4705(c) (2) and (e), and the order forms and copies thereof and the prescriptions and records required to be preserved under the provisions of section 4742, in addition to the statements or returns filed in the office of the official in charge of the internal revenue district under the provisions of sections 4732 (b) or 4754, shall be open to inspection by officers and employees of the Treasury Department duly authorized for that purpose, and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the production of marihuana or regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs or marihuana. The Secretary or his delegate is authorized to furnish, upon written request, certified copies of any of the said statements or returns filed in the office of any official in charge of an internal revenue district to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States as shall be entitled to inspect the said statements or returns filed in the office of the official in charge of the internal revenue district, upon the payment of a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested.

[§ 4774. Territorial extent of law

[The provision of sections 4701 to 4707, inclusive, and sections 4721 to 4776, inclusive, shall apply to the several States, the District of Columbia, and the insular possessions of the United States; and, in the case of narcotic drugs, shall also apply to the Trust Territory of the Pacific Islands and to the Canal Zone. On and after the effective date of the Narcotic Control Act of 1956, the provisions referred to in the preceding sentence shall not apply to the Commonwealth of Puerto Rico unless the Legislative Assembly of the Commonwealth of Puerto Rico expressly consents thereto in the manner prescribed in the constitution of the Commonwealth of Puerto Rico for the enactment of a law: *Provided*, That (notwithstanding section 7651), sections 4741 to 4762, inclusive, as amended, and, insofar as they relate to marihuana, sections 4771 to 4776, inclusive, shall not apply to Guam.

[§ 4775. List of special taxpayers

[The Secretary or any officer or employee designated by him is authorized to furnish upon written request, to any person, a certified copy of the names of any or all persons who may be listed in the respective internal revenue districts as special taxpayers under the provisions of sections 4721 and 4726, inclusive, section 4702(a), section 4751, or section 4752, upon payment of a fee of $1 for each 100 names or fraction thereof in the copy so requested.

[§ 4776. Cross references

[For penalties and other general and administrative provisions applicable to this subchapter, see subtitle F.]

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Chapter 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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[§ 7237. Violation of laws relating to narcotic drugs and to marihuana

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

[(b) Sale or other transfer without written order.—Whoever commits an offense, or conspires to commit an offense, described in section 4705(a) or section 4742(a) shall be imprisoned not less than

5 or more than 20 years and, in addition, may be fined not more than $20,000. For a second or subsequent offense, the offender shall be imprisoned not less than 10 or more than 40 years and, in addition, may be fined not more than $20,000. If the offender attained the age of 18 before the offense and—

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

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

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

[(c) Conviction of second or subsequent offense.—

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

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

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

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

[(D) section 1 of the Act of May 26, 1922 (42 Stat. 596);

[(E) section 12 of the Marihuana Tax Act of 1937 (50 Stat. 556); or

[(F) section 2557(b) (1) or 2596 of the Internal Revenue Code of 1939.

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

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

he is such person, he shall be sentenced as prescribed in subsection (a) or (b) of this section, subsection (c) or (h) of such section 2, or such Act of July 11, 1941, as amended, as the case may be.

[**(d) No suspension of sentence; no probation; etc.**—Upon conviction—

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

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

the imposition or execution of sentence shall not be suspended, probation shall not be granted and in the case of a violation of a law relating to narcotic drugs, section 4202 of title 18, United States Code, and the Act of July 15, 1932 (47 Stat. 696; D.C. Code 24–201 and following), as amended, shall not apply.

[**(e) Unlawful disclosure of information on returns and order forms.**—Any person who shall disclose the information contained in the statements or returns required under section 4732(b) or 4754 (a), in the duplicate order forms required under section 4705(e), or in the order forms or copies thereof referred to in section 4742(d), except—

[(1) as expressly provided in section 4773,

[(2) for the purpose of enforcing any law of the United States relating to narcotic drugs or marihuana, or

[(3) for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of narcotic drugs or marihuana,

shall be fined not more than $2,000 or imprisoned not more than 5 years or both.

[§ 7238. Violation of laws relating to opium for smoking

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

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Chapter 76—JUDICIAL PROCEEDINGS

[Sec.
[7491. Burden of proof of exemptions in case of marihuana offenses.]

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[§ 7491. Burden of proof of exemptions in case of marihuana offenses

[It shall not be necessary to negative any exemptions set forth in part II of subchapter A of chapter 39, relating to marihuana, in any complaint, information, indictment, or other writ or proceeding laid

or brought with respect to part II of subchapter A of chapter 39 and the burden of proof of any such exemption shall be upon the defendant. In the absence of the production of evidence by the defendant that he has complied with the provisions of section 4753 relating to registration, or that he has complied with the provisions of section 4742 relating to order forms, he shall be presumed not to have complied with such provisions of such section, as the case may be.]

TITLE I—FINDINGS AND DECLARATION, AND DEFINITIONS

TITLE II—STANDARDS AND SCHEDULES

TITLE III—REGULATION OF MANUFACTURE, DISTRIBUTION AND DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES

TITLE IV—IMPORTATION AND EXPORTATION

TITLE V—OFFENSES AND PENALTIES

TITLE VI—ADMINISTRATIVE PROVISIONS

TITLE I—FINDINGS AND DECLARATION, AND DEFINITIONS

FINDINGS AND DECLARATION

SEC. 101. The Congress finds and declares that many of the drugs included within this Act have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.

The Congress, however, finds and declares that the illegal importation, manufacture, distribution, possession, and improper use of controlled dangerous substances have a substantial and detrimental effect on the health and general welfare of the American people.

The Congress finds and declares that the United States is a party to international conventions designed to establish effective control over international and domestic traffic in controlled dangerous substances, particularly the Single Convention on Narcotic Drugs, 1961.

The Congress finds and declares that a major portion of the traffic in controlled dangerous substances flows through interstate and foreign commerce. Incidents of the traffic which are not an integral part of the interstate or foreign flow, such as manufacture, local distribution, and possession, nonetheless have a substantial and direct effect upon interstate commerce.

(a) After manufacture, many controlled dangerous substances flow through interstate commerce.

(b) Substances distributed locally commonly flow through interstate commerce immediately prior to such distribution.

(c) Substances possessed commonly flow through interstate commerce immediately prior to such possession.

(d) Local distribution and possession of controlled dangerous substances contribute to swelling the interstate traffic in such substances.

(e) Substances manufactured and distributed intrastate cannot be differentiated from substances manufactured and distributed interstate; thus,

it is not feasible to distinguish, in terms of controls, between substances manufactured and distributed interstate and substances manufactured and distributed intrastate.

The Congress finds and declares that Federal control of the primarily intrastate incidents of the traffic in controlled dangerous substances is essential to the effective control of the interstate incidents of such traffic.

DEFINITIONS

SEC. 102. As used in this Act:

(a) "Addict" means any individual who habitually uses any narcotic drug as defined in this Act so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Administer" means to deliver, by a practitioner, in his presence, a controlled dangerous substance to the ultimate user or human research subject by injection, or for inhalation, or ingestion, or by any other means.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, but does not include a common or contract carrier, public warehouseman, or employee thereof.

(d) "Bureau of Narcotics and Dangerous Drugs" means the Bureau of Narcotics and Dangerous Drugs, Department of Justice.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under title II of this Act.

(f) "Controlled dangerous substance" means a drug, substance, or immediate precursor in schedules I through IV of title II of this Act. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in section 26 of the United States Code, subtitle E.

(g) "Counterfeit substance" means a controlled dangerous substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other indetifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by such other manufacturer, distributor, or dispenser.

(h) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled dangerous substance, whether or not there exists an agency relationship.

(i) "Department" means the United States Department of Justice.

(j) "Depressant or stimulant drug" means—

(1) a drug which contains any quantity of (A) barbituric acid or any of the salts of barbituric acid; or (B) any derivative of barbituric acid which has been designated by the Secretary of Health, Education and Welfare as habit forming under section 502(d) of the "Federal Food, Drug, and Cosmetic Act" (52 Stat. 1050; 21 U.S.C. 352 (d));

(2) a drug which contains any quantity of (A) amphetamine or any of its optical isomers; (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or (C) any substance which the Attorney General, after investigation, has found to be, and by regulations designated as, habit forming because of its stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide or any other drug which contains any quantity of a substance which the Attorney General, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(k) "Dispense" means to deliver a controlled dangerous substance to the ultimate user or human research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. "Dispenser" is a practitioner who delivers a controlled dangerous substance to the ultimate user or human research subject.

(l) "Distribute" means to deliver a controlled dangerous substance. "Distributor" means a person who delivers a controlled dangerous substance.

(m) "Drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3) of this paragraph; but does not include devices or their components, parts, or accessories.

(n) "Marihuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

(o) "Manufacture" means the production, preparation, propagation compounding, or processing of a controlled dangerous substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacturer" also includes any person who packages, repackages, or labels any container of any controlled dangerous substance, except practitioners who dispense or compound prescription order for delivery to the ultimate consumer.

(p) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium, coca leaves, and opiates;

(2) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(3) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2), except that the words "narcotic drug" as used in this Act shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(q) "Net disposal" means the quantity of a controlled dangerous substance in schedule I or II or any narcotic drug distributed, dispensed, used in the production of another narcotic drug for which the manufacturer is registered, or otherwise disposed of (as such or contained in or combined with other drugs compounded by the manufacturer of such narcotic drug) by the manufacturer during a stated period, less the quantity of any controlled dangerous substance in schedules I and II or other narcotic drug returned to the manufacturer by a customer and any quantity distributed or dispensed to another registered manufacturer of the same narcotic drug.

(r) "Opiate" means any controlled dangerous substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability.

(s) "Opium poppy" means the plant of the species Papaver somniferum L., except the seeds thereof.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled dangerous substance in the course of professional practice or research by the United States or the jurisdiction in which he practices or does research.

(v) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled dangerous substance.

(w) "Immediate precursor" means a substance which the Attorney General has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled dangerous substance, the control of which is necessary to prevent, curtail, or limit such manufacture.

(x) "State" means any State, territory, possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico), the Trust Territory of the Pacific Islands and the Canal Zone.

(y) "Ultimate user" means a person who lawfully possesses a controlled dangerous substance for his own use or for the use of a member of his household or for administration to an animal owned by him or by a member of his household.

(z) "United States" means all places and waters, continental or insular, subject to the jurisdiction of the United States.

TITLE II—STANDARDS AND SCHEDULES

AUTHORITY TO CONTROL

SEC. 201. (a) The Attorney General shall control all substances enumerated in section 202 of this Act and he may, upon his own motion or on the petition of any interested party pursuant to the procedures of subchapter II of chapter 5 of title 5 of the United States Code, add, delete, or reschedule a substance as a controlled dangerous substance. Before so doing, the Attorney General shall request the advice in writing from the Secretary of Health, Education, and Welfare and from the Scientific Advisory Committee established in title VI of this Act whether a substance should be added, deleted, or rescheduled as a controlled dangerous substance. Such advice shall be rendered to the Attorney General within a

reasonable time. The Attorney General shall consider with respect to each substance hereafter controlled:

(1) its actual or relative potential for abuse;
(2) scientific evidence of its pharmacological effect, if known;
(3) state of current scientific knowledge regarding the substance;
(4) its history and current pattern of abuse;
(5) the scope, duration, and significance of abuse;
(6) what, if any, risk there is to the public health;
(7) its psychic or physiological dependence liability;
(8) controls required based on United States obligations under international treaties, conventions, or protocols; and
(9) whether the substance is an immediate precursor of a substance already controlled under this title.

After considering the above factors, the Attorney General shall make findings with respect thereto and shall issue an order controlling the substance if he finds that the substance has a potential for abuse or that control is required by United States obligations under international treaties, conventions, or protocols.

(b) If the Attorney General designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(c) When, for the purpose of greater protection of the public, at the time a new drug application is submitted to the Department of Health, Education, and Welfare for any drug having a stimulant, depressant, or hallucinogenic effect on the central nervous system, it appears that such drug has an abuse potential, such information shall be forwarded by the Department of Health, Education, and Welfare to the Bureau of Narcotics and Dangerous Drugs for the review by the Scientific Advisory Committee prior to their advising the Attorney General whether or not to control such drug under this Act.

(d) The Attorney General shall not remove any schedule I substance of this title to schedules III or IV, nor shall he delete such substances from the controls of this Act unless specifically authorized by the Congress to do so.

SCHEDULES OF CONTROLLED SUBSTANCES

SEC. 202. The following schedules include the controlled dangerous substances listed or to be listed by whatever official name, common or usual name, chemical name, or trade name designated.

(a) Schedule I—In determining that a substance comes within this schedule, the Attorney General shall find:

(1) a high potential for abuse, and
(2) no accepted medical use in the United States, and
(3) a lack of accepted safety for use under medical supervision.

The following controlled dangerous substances are included in this schedule:

(a) Any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetylmethadol.
(2) Allylprodine.
(3) Alphacteylmethadol.

(4) *Alphameprodine.*
(5) *Alphamethadol.*
(6) *Benzethidine.*
(7) *Betacetylmethadol.*
(8) *Betameprodine.*
(9) *Betamethadol.*
(10) *Betaprodine.*
(11) *Clonitazene.*
(12) *Dextromoramide.*
(13) *Dextrorphan.*
(14) *Diampromide.*
(15) *Diethyliambutene.*
(16) *Dimenoxadol.*
(17) *Dimepheptanol.*
(18) *Dimethyliambutene.*
(19) *Dioxaphetyl butyrate.*
(20) *Dipipanone.*
(21) *Ethylmethylthiambutene.*
(22) *Etonitazene.*
(23) *Etoxerdine.*
(24) *Furethidine.*
(25) *Hydroxypethidine.*
(26) *Ketobemidone.*
(27) *Levomoramide.*
(28) *Levophenacylmorphan.*
(29) *Morpheridine.*
(30) *Noracymethadol.*
(31) *Norlevorphanol.*
(32) *Normethadone.*
(33) *Norpipanone.*
(34) *Phenadoxone.*
(35) *Phenampromide.*
(36) *Phenomorphan.*
(37) *Phenoperidine.*
(38) *Piritramide.*
(39) *Proheptazine.*
(40) *Properidine.*
(41) *Racemoramide.*
(42) *Trimeperidine.*

(b) *Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:*

(1) *Acetylcodone.*
(2) *Benzylmorphine.*
(3) *Codeine methylbromide.*
(4) *Codeine-N-Oxide.*
(5) *Desomorphine.*
(6) *Heroin.*
(7) *Hydromorphinol.*
(8) *Methyldesorphine.*
(9) *Methylhydromorphine.*
(10) *Morphine methylbromide.*

(11) *Morphine methylsulfonate.*
(12) *Morphine-N-Oxide.*
(13) *Myrophine.*
(14) *Nicocodeine.*
(15) *Nicomorphine.*
(16) *Normorphine.*
(17) *Thebacon.*

(c) *Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:*

(1) *Bufotenine.*
(2) *Diethyltryptamine.*
(3) *Dimethyltryptamine.*
(4) *4-methyl-2,5-dimethoxyamphetamine.*
(5) *Ibogaine.*
(6) *Lysergic acid diethylamide.*
(7) *Marihuana.*
(8) *Mescaline.*
(9) *Peyote.*
(10) *Psilocybin.*
(11) *Psilocyn.*
(12) *Tetrahydrocannabinol.*

(b) *Schedule II—In determining that a substance comes within this schedule, the Attorney General shall find:*

(1) *a high potential for abuse, and*
(2) *currently accepted medical use in the United States, or currently accepted medical use with severe restrictions, and*
(3) *abuse may lead to severe psychic or physical dependence.*

The following controlled dangerous substances are included in this schedule.

(a) *Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:*

(1) *Opium, coca leaves, and opiate;*
(2) *Any salt, compound, derivative, or preparation of opium, coca leaves; or opiate;*
(3) *Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clauses 1 and 2, except that these substances shall not include decocainized coca leaves or extraction of coca, leaves, which extractions do not contain cocaine or ecgnine; and shall not include the isoquinoline akaloids of opium;*
(4) *Opium poppy and poppy straw.*

(b) *Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation:*

(1) *Alphaprodine.*
(2) *Anileridine.*
(3) *Bezitramide.*

(4) *Diphenoxylate.*
(5) *Fentanyl.*
(6) *Isomethadone.*
(7) *Levomethorphan.*
(8) *Levorphanol.*
(9) *Metazocine.*
(10) *Methadone.*
(11) *Methadone-Intermediate, 4-cyano-2-dimethyl-amino-4,4-diphenyl butane.*
(12) *Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.*
(13) *Pethidine.*
(14) *Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.*
(15) *Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.*
(16) *Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.*
(17) *Phenazocine.*
(18) *Piminodine.*
(19) *Racemethorphan.*
(20) *Racemorphan.*

(c) *Schedule III—In determining that a substance comes within this schedule, the Attorney General shall find:*

(1) *a potential for abuse less than the substances listed in schedules I and II; and*
(2) *well documented and approved medical use in the United States; and,*
(3) *abuse may lead to moderate or low physical dependence or high psychological less dependence.*

The following classes of controlled dangerous substances are included in this schedule;

(a) *Any material, compound, mixture, or preparation which contain any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:*

(1) *Amphetamine, its salts, optical isomers, and salts of its optical isomers.*
(2) *Phenmetrazine and its salts.*
(3) *Any substance which contains any quantity of methapetamine, including its salts, isomers, and salts of isomers.*
(4) *Methylphenidate.*

(b) *Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:*

(1) *Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.*
(2) *Chloral betaine.*
(3) *Chloral hydrate.*
(4) *Chlordiazepoxide.*
(5) *Chlorhexadol.*
(6) *Diazepam.*
(7) *Ethchlorvynol.*

(8) *Ethinamate.*
(9) *Glutethimide.*
(10) *Lysergic acid.*
(11) *Lysergic acid amide.*
(12) *Meprobamate.*
(13) *Methyprylon.*
(14) *Pareldehyde.*
(15) *Petrichloral.*
(16) *Phencyclidine.*
(17) *Sulfondiethylmethane.*
(18) *Sulfonethylmethane.*
(19) *Sulfonmethane.*

(c) *Nalorphine.*

(d) *Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof, except those narcotic drugs listed in other schedules;*

(1) *Not more than one and eighty one-hundredths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.*

(2) *Not more than one and eighty one-hundredths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(3) *Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.*

(4) *Not more than three hundred milligrams of dihydrocodeinone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(5) *Not more than one and eighty one-hundredths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(6) *Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(7) *Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(8) *Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.*

(e) *The Attorney General may by regulation except any compound, mixture, or preparation containing any stimulant or depressant substance listed in paragraphs (a) and (b) of this schedule above from the application of all or any part of this Act if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system: Provided, That such admixtures shall be included therein in such combinations, quantity,*

proportion, or concentration as to vitiate the potential for abuse of the substances which do have a stimulant or depressant effect on the central nervous system.

(f) The Attorney General shall by regulation exempt any nonnarcotic substance from the control under this Act if such substance may, under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), be lawfully sold over the counter without a prescription.

(d) Schedule IV—In determining that a substance comes within this schedule, the Attorney General shall find:

(1) a low potential for abuse relative to the substances listed in schedule III; and

(2) currently accepted medical use in the United States; and

(3) limited physical dependence and/or psychological dependence liability relative to the substances listed in schedule III.

The following controlled dangerous substances are included in this schedule.

(a) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliter or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than fifty milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than five milligrams per dosage unit.

TITLE III—REGULATION OF MANUFACTURE, DISTRIBUTION, AND DISPENSING OF CONTROLLED DANGEROUS SUBSTANCES

RULES AND REGULATIONS

SEC. 301. The Attorney General is authorized to promulgate rules and regulations and to charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances.

REGISTRATION REQUIREMENTS

SEC. 302. (a) Every person who manufactures, distributes, or dispenses any controlled dangerous substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled dangerous substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

(b) The following persons shall not be required to register and may lawfully possess controlled dangerous substances under the provisions of this Act:

(1) an agent, or an employee thereof, of any manufacturer, distributor, or dispenser of any controlled dangerous substance if such agent is acting in the usual course of his business or employment;

(2) a common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled dangerous substance is in the usual course of his business or employment;

(3) an ultimate user or a person in possession of any controlled dangerous substance pursuant to a lwaful order of a practitioner.

(c) The Attorney General may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if he finds it consistent with the public health and safety.

(d) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled dangerous substances listed in the schedules in section 202.

(e) The Attorney General is authorized to inspect the establishment of a registrant or applicant for registration in accordance with the rules and regulations promulgated by him.

REGISTRATION

SEC. 303. (a) The Attorney General shall register an applicant to manufacture controlled dangerous substances included in schedule I or II of title II of this Act if he determines that such registration is consistent with the public interest and with treaty or other international obligations of the United States. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled dangerous substances and any schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels, by limiting the importation and bulk manufacture of such controlled dangerous substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution or dispensing of such substances;

(5) past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and,

(6) such other factors as may be relevant to and consistent with the public health and safety.

(b) The Attorney General shall register an applicant to distribute a controlled dangerous substance included in schedule I or II unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled dangerous substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(c) Registration granted under subsections (a) and (b) of this section shall not entitle a registrant to manufacture and distribute controlled dangerous substances in schedule I and II other than those specified in the registration, or any quantity of those controlled dangerous substances in excess of the quota assigned pursuant to section 306.

(d) The Attorney General shall register an applicant to manufacture controlled dangerous substances included in schedules III and IV unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled dangerous substances and any schedule III or IV substance compounded therefrom into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(5) past experience in the manufacture, distribution, and dispensing of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and

(6) such other factors as may be relevant to and consistent with the public health and safety.

(e) The Attorney General shall register an applicant to distribute controlled dangerous substances included in schedules III and IV unless he determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled dangerous substances into other than legitimate medical, scientific, and industrial channels;

(2) compliance with applicable State and local law;

(3) prior conviction record of applicant under Federal or State laws relating to the manufacture, distribution, or dispensing of such substances;

(4) past experience in the distribution of controlled dangerous substances; and

(5) such other factors as may be relevant to and consistent with the public health and safety.

(f) Practitioners shall be registered to dispense substances in schedules II through IV if they are authorized to dispense under the law of the State in which they practice. A registration application by a practitioner who wishes to conduct research with schedule I substances shall be referred to the Secretary of Health, Education, and Welfare for advice. The Secre-

tary shall promptly advise the Attorney General concerning the qualifications of each practitioner requesting registration. Registration for the purpose of bona fide research with schedule I substances by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a) or on the ground that the applicant's past practice or proposed procedures furnish ground for the belief that the applicant will abuse or unlawfully transfer such substances or fail to safeguard adequately his supply of such substances against diversion from legitimate medical or scientific use.

(g) The Attorney General shall permit persons to initially register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled dangerous substances prior to the effective date of this Act and who are registered or licensed under section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), section 8 of the "Narcotics Manufacturing Act of 1960" (74 Stat. 62; 21 U.S.C. 506), and sections 4721, 4722, 4751, 4752, and 4753 of the "Internal Revenue Code of 1954" (68 Stat. 31; 26 U.S.C. 4721, 4722, 4751, 4752, and 4753).

DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION

Sec. 304. (a) A registration pursuant to section 303 to manufacture distribute, or dispense a controlled dangerous substance, may be suspended or revoked by the Attorney General upon a finding that the registrant:

(1) has materially falsified any application filed pursuant to this Act or required by this Act;

(2) has been convicted of a felony under this Act or any law of the United States, or of any State, relating to any substances defined herein as a controlled dangerous substance; or

(3) has had his State license or registration suspended or revoked by competent State authority and is no longer authorized by State law to engage in the manufacturing, distribution, or dispensing of controlled dangerous substances.

(b) The Attorney General may limit revocation or suspension of a registration to the particular controlled dangerous substance with respect to which grounds for revocation or suspension exist.

(c) Before taking action pursuant to this section, or pursuant to a denial of registration under section 303, the Attorney General shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke or suspend shall be conducted pursuant to this section in accordance with subchapter II of chapter 5, of title 5, of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this Act or any law of the United States.

(d) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this section, in cases where he finds that there is an imminent danger to the public health or safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

(e) The suspension or revocation of a registration under this section shall operate to suspend or revoke any quota applicable under section 306.

(f) In the event the Attorney General suspends or revokes a registration granted under section 303, all controlled dangerous substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled dangerous substances shall be forfeited to the Government.

MARKING OF CONTAINERS

SEC. 305. Commercial containers of controlled dangerous substances, where appropriate, shall be identified by a symbol in accordance with the rules and regulations promulgated by the Attorney General.

QUOTAS APPLICABLE TO CERTAIN SUBSTANCES

SEC. 306. (a) The Attorney General shall determine the total quantity and establish production quotas for each controlled dangerous substance in schedules I and II to be manufactured each calendar year to provide for the estimated medical, scientific, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks.

(b) The Attorney General shall limit or reduce individual production quotas to the extent necessary to prevent the aggregate of individual quotas from exceeding the amount determined necessary each year by the Attorney General under subsection (a). The quota of each registered manufacturer for each controlled dangerous substance in schedule I or II shall be revised in the same proportion as the limitation or reduction of the aggregate of the quotas. However, if any registrant, before the issuance of a limitation or reduction in quota, has manufactured in excess of his revised quota, the amount of the excess shall be subtracted from his quota for the following year.

(c) On or before July 1 of each year, upon application therefor by a registered manufacturer, the Attorney General shall fix a manufacturing quota for the controlled dangerous substances in schedules I and II that the manufacturer seeks to produce. The quota shall be subject to the provisions of subsections (a) and (b) of this section. In fixing such quotas, the Attorney General shall determine the manufacturer's estimated disposal, inventory, and other requirements for the calendar year; and, in making his determination, the Attorney General shall consider the manufacturer's current rate of disposal, the trend of the national disposal rate during the preceding calendar year, the manufacturer's production cycle and inventory position, the economic availability of raw materials, yield and stability problems, emergencies such as strikes and fires, and other factors.

(d) The Attorney General shall, upon application and subject to the provisions of subsections (a) and (b) of this section, fix a quota for a controlled dangerous substance in schedule I or II for any registrant who

has not manufactured that controlled dangerous substance during one or more preceding calendar years. In fixing such quota, the Attorney General shall take into account the registrant's reasonably anticipated requirements for the current year; and, in making his determination of such requirements, shall consider such factors specified in (c) of this section as may be relevant.

(e) At any time during the year any registrant who has applied for or received a manufacturing quota for a controlled dangerous substance in schedule I or II may apply for an increase in that quota to meet his estimated disposal, inventory, and other requirements during the remainder of that year. In passing upon the application the Attorney General shall take into consideration any occurrences since the filing of the registrant's initial quota application that may require an increased manufacturing rate by the registrant during the balance of the year. In passing upon the application the Attorney General may also take into account the amount, if any, by which the determination of the Attorney General under subsection (a) of this section exceeds the aggregate of the quotas of all registrants under this section.

(f) Notwithstanding any other provisions of this title, no registration or quota may be required for the manufacture of such quantities of controlled dangerous substances in schedules I and II that incidentally and necessarily result from the manufacturing process used for the manufacture of a controlled dangerous substance duly registered under this title. The Attorney General may, by regulation, prescribe restrictions on the retention and disposal of such incidentally produced substances.

RECORDS AND REPORTS OF REGISTRANTS

SEC. 307. (a) Upon the effective date of this Act, each registrant manufacturing, distributing, or dispensing controlled dangerous substances in schedules I, II, III, or IV shall make a complete and accurate record of all stocks of such dangerous substances on hand. Thereafter, complete and accurate records of all such dangerous substances shall be maintained for two years. Each two-year period after the effective date of this Act, at the time of his regular fiscal inventory, each registrant manufacturing, distributing, or dispensing controlled dangerous substances shall prepare an inventory of each dangerous substance in his possession. Records and inventories shall contain such information as shall be provided by rules and regulations promulgated by the Attorney General. This subsection shall not apply to practitioners who lawfully prescribe or administer, but not otherwise dispense, controlled dangerous substances listed in schedules II, III, or IV of this Act.

(b) The Attorney General may by regulation require the submission of reports necessary to conform to international obligations of the United States.

ORDER FORMS

SEC. 308. (a) Controlled dangerous substances in schedules I and II shall be distributed only by a registrant, pursuant to an order form prescribed by the Attorney General.

(b) Nothing contained in subsection (a) shall apply—

(1) to the administering or dispensing of such substances to a patient or a research subject by a practitioner in the course of his professional practice; however, such practitioner must comply with the requirement of section 307 of this Act;

(2) to the distribution or dispensing of such substances by a pharmacist to an ultimate user pursuant to a written prescription issued by a practitioner authorized by State law to issue such prescription; however, such pharmacist must comply with the requirements of section 307 of this Act.

PRESCRIPTIONS

SEC. 309. (a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled dangerous substance included in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without the written prescription of a practitioner: Provided, That in emergency situations, as prescribed by the Attorney General by regulation, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act. Prescriptions shall be retained in conformity with the requirements of section 307 of this Act. No prescription for a schedule II substance may be refilled.

(b) Except when dispensed directly by a practitioner, other than a pharmacists, to an ultimate user, no controlled dangerous substance included in schedule III which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act, may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(c) No controlled dangerous substance included in schedule IV may be distributed or dispensed other than for a medical purpose.

(d) Whenever it appears to the Attorney General that a drug not considered to be a prescription drug under the Federal Food, Drug, and Cosmetic Act should be so considered because of its abuse potential, he shall so advise the Secretary of Health, Education, and Welfare and furnish to him all available data relevant thereto.

TITLE IV—IMPORTATION AND EXPORTATION

IMPORTATION OF CONTROLLED DANGEROUS SUBSTANCES—PROHIBITING CRUDE OPIUM FOR THE MANUFACTURE OF HEROIN

SEC. 401. (a) It shall be unlawful to import or bring into the United States any controlled dangerous substance listed in schedules I or II of title II of this Act, or any narcotic drug listed in schedules III or IV of title II of this Act, except that—

(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, or

(2) such amounts of any schedule I or II substance or any narcotic drug that the Attorney General finds to be necessary to provide for the medical, scientific, or other legitimate needs of the United States (A) during an emergency in which domestic supplies of such substances are found by the Attorney General to be inadequate or (B) if the Attorney General finds that competition among domestic manufacturers of the drug is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303 hereof,

may be imported under such regulations as the Attorney General shall prescribe. No crude opium may be imported or brought into the United States for the purpose of manufacturing heroin or smoking opium.

(b) Non-narcotic controlled dangerous substances listed in schedule III may be imported for medical and other legitimate uses only pursuant to such notification requirements as the Attorney General may prescribe by regulation.

IMPORTATION OF COCA LEAVES

SEC. 402. In addition to the amount of coca leaves which may be authorized to be imported under section 401 (a) of this title, the Attorney General may permit the importation of additional amounts of coca leaves: Provided, That, after entry into the United States, all cocaine, ecgonine, and all salts, derivatives, and preparations from which cocaine or ecgonine may be synthesized or made, contained in such additional amounts of coca leaves, shall be destroyed under the supervision of an authorized representative of the Attorney General.

EXPORTATION OF CONTROLLED DANGEROUS SUBSTANCES

SEC. 403. (a) No person shall export or cause to be exported from the United States, any narcotic drug listed in schedules I, II, and III of title II of this Act to any other country except—

(1) to a country which is a party to the International Opium Convention of 1912 for the Suppression of the Abuses of Opium, Morphine, Cocaine, and Derivative Drugs, or to the International Opium Convention signed at Geneva on February 19, 1925; or

(2) to a country which is a party to the Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs concluded at Geneva, July 13, 1931, as amended by the protocol signed at Lake Success on December 11, 1946, and the protocol bringing under international control drugs outside the scope of the convention of July 13, 1931, for limiting the manufacture and regulating the distribution of narcotic drugs (as amended by the protocol signed at Lake Success on December 11, 1946) signed at Paris, November 19, 1948; or

(3) to a country which is a party to the Single Convention on Narcotic Drugs, 1961, signed at New York, March 30, 1961; and with respect to any country in subsection (1), (2), or (3) only if—

(a) such country has instituted and maintains, in conformity with the conventions to which it is a party, a system for the control of imports of narcotic drugs which the Attorney General deems adequate;

(b) the narcotic drug is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(c) substantial evidence is furnished to the Attorney General by the exporter that the narcotic drug is to be applied exclusively to medical and scientific uses within the country of import, and that there is an actual need for the narcotic drugs for medical and scientific uses within such country; and

(d) a permit to export the narcotic drug in each instance shall have been issued by the Attorney General.

(b) Notwithstanding the provisions of subsection (a) of this section, the Attorney General may authorize the exportation of any narcotic drug

(including crude opium and coca leaves) to a country which is a party to any of the international instruments mentioned in subsection (a) if the particular drug is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

(c) No person subject to the jurisdiction of the United States shall export or cause to be exported from the United States any nonnarcotic controlled dangerous substance listed in schedules I and II of title II of this Act to any other country unless—

(1) such country has instituted and maintains a system which the Attorney General deems adequate for the control of imports of such substances;

(2) the controlled dangerous substance, is consigned to a holder of such permits or licenses as may be required under the laws of the country of import;

(3) substantial evidence is furnished to the Attorney General that the dangerous substance is to be applied exclusively to medical, scientific, or other legitimate uses within the country to which exported, that it will not be exported from such country, and that there is an actual need for the dangerous substance for medical, scientific, or other legitimate uses within the country; and

(4) a permit to export the controlled dangerous substance in each instance shall have been issued by the Attorney General.

(d) Notwithstanding the provisions of section (c) of this section, the Attorney General may authorize the exportation of any nonnarcotic dangerous substance if the particular substance is to be applied to a special scientific purpose in the country of destination and the authorities of such country will permit the importation of the particular drug for such purpose.

(e) No person subject to the jurisdiction of the United States shall cause to be exported from the United States any controlled dangerous substances not requiring an export permit provided by this section to any other country unless the laws of the country to which the controlled dangerous substances are consigned permit the importation into the country, and then only if—

(1) there is furnished to the Attorney General prior to export documentary proof that importation is not contrary to the laws or regulations of the country of destination;

(2) a special controlled dangerous substance invoice, in triplicate, accompanies the shipment setting forth such information as the Attorney General may prescribe to identify the parties to the shipment and the means of shipping. Two copies of the invoice shall be forwarded to the Attorney General before the controlled dangerous substances are exported from the United States.

TRANSSHIPMENT AND IN-TRANSIT SHIPMENT OF CONTROLLED DANGEROUS SUBSTANCES

SEC. 404. No controlled dangerous substance listed in schedule I shall be admitted into the United States for transportation to another country, or be transferred or transshipped from one vessel, vehicle, or aircraft to another vessel, vehicle, or aircraft within the United States for immediate exportation or for any other purpose except for scientific, medical, or other legitimate purposes in the country of destination, and then only with the prior written approval of the Attorney General, which shall be granted or denied

within twenty-one days of the request. No dangerous substances listed in schedules II and III may be so admitted, transferred, or transshipped except upon advance notice to the Attorney General.

TITLE V—OFFENSES AND PENALTIES

PROHIBITED ACTS A—PENALTIES

SEC. 501. (a) Except as authorized by this Act, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled dangerous substance;

(2) to import a controlled dangerous substance classified in schedules I or II or a narcotic drug classified in schedules III or IV into the United States;

(3) to export a controlled dangerous substance classified in schedules I or II or a narcotic drug classified in schedule III from the United States;

(4) to bring or possess on board any vessel, vehicle, or aircraft under the special maritime and territorial jurisdiction of the United States a controlled dangerous substance classified in schedules I or II, or a narcotic drug classified in schedule III, not constituting part the cargo entered in the manifest or part of the official supplies of the vessel, vehicle, or aircraft; and,

(5) to create, distribute, or possess with intent to distribute, a counterfeit controlled dangerous substance.

(b) It shall be unlawful for any person to manufacture or distribute a controlled dangerous substance classified in schedules I or II—

(1) intending that such substance be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

This subsection is intended to reach acts of manufacture or distribution committed outside the territorial jurisdiction of the United States. Any person who violates this subsection shall be tried in the United States District Court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

(c) Any person who violates subsection (a) or (b) with respect to—

(1) a substance classified in schedules I or II which is a narcotic drug shall be sentenced to a term of imprisonment for not more than twelve years, a fine of not more than $25,000, or both. In addition to any term of imprisonment, any sentence imposed shall include a special parole term of at least three years.

(2) any other controlled dangerous substance classified in schedule I, II, or III, except as specified in section 501(c)(4), shall be sentenced to a term of imprisonment for not more than five years, a fine of not more than $15,000, or both. In addition to any term of imprisonment, any sentence imposed shall include a special parole term of at least two years.

(3) a substance classified in schedule IV shall be sentenced to a term of imprisonment for not more than one year, a fine of not more than $5,000, or both.

(4) any person, who, in violation of this Act, distributes a small amount of marihuana incidental to his own use for no remuneration

or for insignificant remuneration not involving a profit shall be sentenced, if it is his first offense under this Act, to a term of imprisonment for not more than one year, a fine of not more than $5,000, or both. A second or subsequent offense shall be punished as a second or subsequent offense under 501(c)(2).

(d) A special parole term imposed under this Act may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. The special term provided for in this Act is in addition to, and not in lieu of, any other parole provided for by law.

(e) It is unlawful for any person knowingly or intentionally to possess a controlled dangerous substance unless such substance was obtained directly, or pursuant to a valid prescription or order from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by the Act. Any person who violates this section shall be sentenced to a term of imprisonment for not more than one year, a fine of not more than $5,000, or both.

PROHIBITED ACTS B—PENALTIES

SEC. 502. (a) It shall be unlawful for any person—

(1) who is subject to the requirements of title II of this Act to distribute or dispense a controlled dangerous substance in violation of section 309;

(2) who is a registrant to manufacture, distribute, or dispense a controlled dangerous substance not authorized by his registration to another registrant or other authorized person;

(3) to bring a controlled dangerous substance classified in schedule I, II, or III into the United States or the special maritime or territorial jurisdiction of the United States for transshipment to another country, or to transfer or transship such a substance from one vessel to another within the United States for immediate exportation or for any other purpose—in violation of section 404 of this Act;

(4) who is a registrant to omit from any container of a controlled dangerous substance the symbol required by section 305 of this Act;

(5) to remove, alter, or obliterate a symbol required by section 305 of this Act;

(6) to refuse or fail to make, keep, or furnish any record, report, notification, order form, statement, invoice, or information required under this Act; or

(7) to refuse any entry into any premises or inspection authorized by this Act.

(b) It shall be unlawful for any person who is a registrant to manufacture a controlled dangerous substance which is—

(1) not expressly authorized by his registration and by a quota assigned to him pursuant to section 306 of this Act; or

(2) in excess of a quota assigned to him pursuant to section 306 of this Act.

(c) Any person who violates this section is punishable by a civil fine of not more than $25,000: Provided, That if the violation is prosecuted by an information or indictment which alleges that the violation was committed

knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person is punishable by imprisonment for not more than one year, or a fine of not more than $25,000, or both.

PROHIBITED ACTS C—PENALTIES

SEC. 503. (a) It shall be unlawful for any person knowingly or intentionally—

(1) who is a registrant to distribute a controlled dangerous substance classified in schedule I or II, in the course of his legitimate business, except pursuant to an order form as required by section 308 of this Act;

(2) to use in the course of the manufacture or distribution of a controlled dangerous substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) to acquire or obtain possession of a controlled dangerous substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) to furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this Act, or any record required to be kept by this Act;

(5) to use any communication facility in committing or in causing or facilitating the commission of any act or acts constituting an offense under any provision of this Act. Each separate use of a communication facility shall be a separate offense under this section. For purposes of this subsection, the term "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds; it includes mail, telephone, wire, radio, and all other means of communication; and,

(6) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit controlled dangerous substance.

(b) Any person who violates this section is punishable by imprisonment for not more than three years, a fine of not more than $30,000, or both.

ENDEAVOR AND CONSPIRACY

SEC. 504. Any person who endeavors or conspires to commit any offense definied in this title is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the endeavor or conspiracy.

ADDITIONAL PENALTIES

SEC. 505. Any penalty imposed for violation of this title shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

DISTRIBUTION TO PERSONS UNDER AGE EIGHTEEN

SEC. 506. Any person who is at least eighteen years of age who violates subsection 501(a)(1) by distributing a substance classified in schedules I or II which is a narcotic drug to a person under eighteen years of age who is at least three years his junior is punishable by a term of imprisonment of twice that authorized by subsection 501(c)(1), by the fine authorized by subsection 501(c)(1), or by both. Any person who is at least eighteen years of age who violates subsection 501(a)(1) by distributing any other controlled dangerous substance listed in schedules I, II, III, or IV to a person under eighteen years of age who is at least three years his junior is punishable by a term of imprisonment up to twice that authorized by subsection 501(c)(2) or (3), by the fine authorized by subsection 501(c)(2) or (3), or by both. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

CONDITIONAL DISCHARGE FOR POSSESSION AS FIRST OFFENSE AND EXPUNGING OF RECORDS

SEC. 507. (a) Whenever any person who has not previsouly been convicted of any offense under this Act or under any statute of the United States or of any State relating to narcotic drugs, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled dangerous substance under subsection 501(e) the court may, without entering a judgment of guilty and with the consent of such person, defer further proceedings and place him on probation upon such reasonable terms and conditions as it may require. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime (including the additional penalties imposed for second or subsequent convictions under section 508 of this Act). Discharge and dismissal under this section may occur only once with respect to any person.

(b) Upon the expiration of a term of probation imposed upon any person under this Act, such person, who at the time of the offense was twenty-one years of age or younger, may apply to the Court for an order to expunge from all official records all recordation of his arrest, trial and conviction pursuant to this section. If the court determines, after hearing, that such person during the period of such probation has not been guilty of any serious or repeated violation of the conditions of such probation, it shall enter such order. The effect of such order shall be to restore such person, in the contemplation of the law, to the status he occupied prior to such arrest and trial. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his failures to recite or acknowledge such arrest or trial in response to any inquiry made of him for any purpose.

SECOND OR SUBSEQUENT OFFENSES

SEC. 508. (a) Any person convicted of any offense under this Act is, if the offense is a second or subsequent offense, punishable by a term of imprisonment twice that otherwise authorized, by twice the fine otherwise

authorized, or by both. If the conviction is for an offense punishable under subsection 501(c)(1) or subsection 501(c)(2) of this Act, and if it is the offender's second or subsequent offense, the court shall impose, in addition to any term of imprisonment and fine, twice the special parole term otherwise authorized.

(b) For purposes of this section, an offense shall be considered a second or subsequent offense, if, prior to the commission of the offense, the offender has at any time been convicted of an offense or offenses under this Act or under any statute of the United States relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

(c) After conviction of any offense the penalty for which is provided in this Act (but before pronouncement of sentence), the court shall be advised by the United States Attorney whether the conviction is the offender's first or subsequent offense. If it is not a first offense, the United States Attorney shall file an information setting forth the prior convictions, and the offender shall have the opportunity in open court to affirm or deny that he is the person previously convicted. If he denies the identity, sentence shall be postponed to permit a trial before a jury on the sole issue of the offender's identity with the person previously convicted. If the offender is found by the jury to be the person previously convicted or if he acknowledges that he is such person, he shall be sentenced as prescribed in this section.

CONTINUING CRIMINAL ENTERPRISES

SEC. 509. (a) Whenever an attorney charged with the prosecution of a defendant over the age of twenty-one years in a court of the United States for an alleged violation of this Act, the penalty for which is imprisonment for more than one year, has reason to believe that the defendant has been involved in a continuing criminal enterprise, such attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that such defendant has been involved in a continuing criminal enterprise and who upon conviction of any offense charged in the indictment shall be subject to the imposition of a sentence under this section, and (2) setting out with particularity the reasons why such attorney believes, the defendant to be involved in such continuing criminal enterprise. In no case shall the fact that the defendant is alleged to be involved in a continuing criminal enterprise be an issue upon the trial of such offense or in any manner be disclosed to the jury.

(b) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such offense, the court shall, before sentence is imposed, hold a hearing before the court alone. The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. In connection with the hearing, the defendant and the United States shall be informed of the substance of such parts of the presentence report as the court intends to rely upon, except where there are placed in the record compelling reasons for withholding particular information, and shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or commitment. If it appears by a preponderance of the information, including information submitted during the trial of such offense and the sentencing hearing and so much of the presentence report as the court

relies upon, that the defendant is involved in a continuing criminal enterprise, the court shall sentence him to a term of imprisonment for life, or for not less than five years, a fine of $50,000, and a forfeiture to the United States of: (1) the profits obtained by any activity in violation of the Act, (2) any interest acquired or maintained in violation of the Act, and (3) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which established, operated, controlled, conducted, or participated in the conduct of, in violation of the Act. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such offense. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

(c) A second or subsequent offense under this section is punishable by a term of imprisonment for life, or for not less than ten years, a fine of $100,000, and a forfeiture to the United States of: (1) the profits obtained by any activity in violation of the Act, (2) any interest acquired or maintained in violation of the Act, and (3) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which established, operated, controlled, conducted, or participated in the conduct of, in violation of the Act.

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

(e) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

(f) A defendant shall be deemed involved in a continuing criminal enterprise for purposes of this section if the court determines, by a preponderance of the evidence, that the convicted person—

(1) played a substantial role in a continuing criminal enterprise involving any violations of this Act punishable by imprisonment for more than one year in concert with at least five other persons and occupied a position of organizer, a supervisory position, or other position of management; or

(2) played a substantial role in a continuing criminal enterprise involving any violations of this Act punishable by imprisonment for more than one year and has or has had in his own name or under his control substantial income or resources not demonstrated to have been derived from lawful activities or interests.

(g) The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition off the original sentence

(h) With respect to any sentence imposed on the defendant after proceedings under this section, a review may be taken by the defendant or the United States or both to a court of appeals. Any review by the United States shall be taken at least five days before expiration of the time for taking a review or appeal by the defendant and shall be diligently prosecuted.

The sentencing court may, with or without motion and notice, extend the time for taking a review for a period not to exceed thirty days from the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review by the United States after the time has expired. A court extending the time for taking a review by the United States shall extend the time for taking a review or appeal by the defendant for the same period. The court of appeals may, after considering the record, including the presentence report, information submitted during the trial of such felony and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be increased or otherwise changed to the disadvantage of the defendant only on review taken by the United States and after hearing. Any withdrawal of review taken by the United States shall foreclose change to the disadvantaged but not change to the advantaged of the defendant. Any review taken by the United States may be dismissed on a showing of abuse of the right of the United States to take such review.

(i) No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

TITLE VI—ADMINISTRATIVE PROVISIONS

DELEGATION OF AUTHORITY—RULES, REGULATIONS, AND PROCEDURES—REQUESTS AND GIFTS

SEC. 601. The Attorney General may delegate any of his functions under this Act to any officer or employee of the Department of Justice. He may promulgate and enforce any rules, regulations, and procedures which he may deem necessary and appropriate for the efficient execution of his functions under this Act. He may accept in the name of the Department of Justice any form of devise, bequest, gift, or donation where the donor intends to donate property for the purpose of preventing or controlling the abuse of dangerous substances. He may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey any such property other than moneys.

EDUCATION AND RESEARCH

SEC. 602. (a) The Attorney General is authorized and directed to carry out educational and research programs necessary for the effective enforcement of this Act. In connection with such programs he is authorized to—

(1) establish methods to assess accurately the effects of controlled dangerous substances and to identify and characterize controlled dangerous substances with potential for abuse;

(2) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, or special projects which bear directly on misuse and abuse of controlled dangerous substances.

(b) The Attorney General may enter into contracts for educational and research activities without performance bonds and without regard to section 5 of title 41, United States Code.

(c) The Attorney General may authorize persons engaged in research on the use and effects of dangerous substances to withhold the names and other identifying characteristics of person who are the subjects of such research. Persons who obtain this authorization may not be compelled in any Federal or State civil, criminal, administrative, legislative, or other proceeding to identify the subjects of research for which such authorization was obtained.

(d) The Attorney General may authorize the possession and distribution of controlled dangerous substances by persons engaged in research. Persons who obtain this authorization shall be exempt from State or Federal prosecution for possession and distribution of dangerous substances to the extent authorized by the Attorney General.

COOPERATIVE ARRANGEMENTS

SEC. 603. (a) The Attorney General shall cooperate with local, State, and Federal agencies in discharging the national and international obligations of the United States concerning traffic in dangerous substances and in suppressing the abuse of dangerous substances. To this end, he is authorized to—

(1) arrange for the exchange of information between governmental officials concerning the use and abuse of dangerous substances;

(2) cooperate in the institution and prosecution of cases in the courts of the United States and before the licensing boards and courts of the several States;

(3) conduct training programs on dangerous substance law enforcement for local, State, and Federal personnel;

(4) maintain in the Bureau of Narcotics and Dangerous Drugs a unit which will accept, catalog, file, and otherwise utilize all information and statistics, including records of dangerous substance addicts and other dangerous substance law offenders, which may be received from Federal, State, and local agencies, and make such information available for Federal, State, and local law enforcement purposes;

(5) conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled dangerous substances may be extracted.

(b) When requested by the Attorney General, it shall be the duty of any agency or instrumentality of the Federal Government to furnish assistance, including technical advice, to him for carrying out the purposes of this Act.

SCIENTIFIC ADVISORY COMMITTEE

SEC. 604. (a) The Attorney General shall appoint a committee of experts to advise him with respect to dangerous substances which may be subject to control under this Act, including advice with respect to whether a drug should be controlled pursuant to the criteria contained in section 201 and which schedule is most appropriate for a controlled dangerous substance in accordance with the criteria established in section 202.

(1) The Advisory Committee shall be composed of persons selected by the Attorney General after consultation with the Secretary of Health, Education, and Welfare from a list drawn by the National Academy of Sciences. Such persons shall be qualified as experts and have diversified professional backgrounds. If the National Academy of Sciences is unable or refuses to act, the Attorney General shall select the membership of the Committee from

other sources. The size of the Committee may be determined by the Attorney General but shall not be less than five persons. Each member of the Committee shall serve for a term of one year and until his successor is appointed and qualifies, and shall be eligible for reappointment.

(2) Members of the Committee shall be entitled to receive compensation at the rate now or hereafter provided for a grade GS–18 of the General Schedule for employees for each day (including traveltime) during which they are engaged in the actual performance of duties for the Committee, members of the Committee shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subsection (i) of chapter 57 of title 5, United States Code. The Attorney General shall furnish the Committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the Committee.

(3) The Attorney General may establish a time limit for the Committee's submission of a written report required by section 201 of this Act.

(4) Referral of a matter to the Committee shall not suspend any administrative proceeding unless the Attorney General so directs.

(b) The Attorney General may from time to time appoint other committees to advise him with respect to preventing and controlling the abuse of dangerous substances. Members of the Committee may be entitled to receive compensation at the rate now or hereafter provided for a grade GS–18 of the General Schedule for employees for each day (including traveltime) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the Committee, members of the Committee shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subsection (i) of chapter 57 of title 5, United States Code.

ADMINISTRATIVE HEARINGS

SEC. 675. (a) In carrying out his functions, the Attorney General may hold hearings, sign and issue subpenas, administer oaths, examine witnesses and receive evidence at any place in the United States.

(b) Except as otherwise provided in this Act, notice shall be given and hearings shall be conducted under appropriate procedures of subchapter II of chapter 5, title 5, United States Code.

SUBPENAS

SEC. 606. (a) In any matter relating to the control of dangerous substances, the Attorney General is empowered to subpena witnesses, compel their attendance and testimony, and require the production of any records (including books, papers, documents, and tangible things which constitute or contain evidence) which the Attorney General finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing: Provided, That a witness shall not be required to appear at any hearing more than five hundred miles distant from the place where he was served with subpena. Witnesses summoned by the Attorney General shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(b) A subpena of the Attorney General may be served by any person designated in the subpena to serve it. Service upon a natural person may be made by personal delivery of the subpena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, be delivering the subpena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpena entered on a true copy thereof by the person serving it shall be proof of service.

(c) In the case of contumacy by or refusal to obey a subpena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpena of the Attorney General. The court may issue an order requiring the subpenaed person to appear before the Attorney General, to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

JUDICIAL REVIEW

SEC. 607. All final determinations, findings, and conclusions of the Attorney General under this Act shall be final and conclusive decisions of the matters involved, except that any person aggrieved by a final decision of the Attorney General may obtain review of the decision in the United States Court of Appeals for the District of Columbia Circuit or for the the circuit in which his principal place of business is located upon petition filed with the court and delivered to the Attorney General within thirty days after notice of the decision. Findings of fact by the Attorney General, if supported by substantial evidence, shall be conclusive.

TITLE VII—ENFORCEMENT PROVISIONS

POWERS OF ENFORCEMENT PERSONNEL

SEC. 701. (a) Any officer or employee of the Bureau of Narcotics and Dangerous Drugs of the Department of Justice designated by the Attorney General may;

(1) carry firearms:

(2) execute and serve search warrants, arrest warrants, administrative inspection warrants, subpenas, and summonses issued under the authority of the United States:

(3) make arrests without warrant for any offense against the United States committed in his presence, or for any felony, cognizable under the laws of the United States, if he has probable cause to believe that the person to be arrested has committed or is committing a felony:

(4) make seizures of property pursuant to the provisions of this Act; and,

(5) perform such other law enforcement duties as the Attorney General may designate.

(b) Nothing in this Act shall derogate from the authority of the Secretary of the Treasury under the customs and related laws.

SEARCH WARRANTS

SEC. 702. (a) A search warrant relating to offenses involving controlled dangerous substances may be served at any time of the day or night if the judge or United States Magistrate issuing the warrant is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

(b) Any officer authorized to execute a search warrant relating to offenses involving controlled dangersous substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States Magistrate issuing the warrant is satisfied that there is probable cause to believe that if such notice were to be given the property sought in the case may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, and has included in the warrant a direction that the officer executing it shall not be required to give such notice: Provided, That any officer acting under such warrant, shall, as soon as practicable after entering the premises, identify himself and give the reasons and authority for his entrance upon the premises.

ADMINISTRATIVE INSPECTIONS AND WARRANTS

SEC. 703. (a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge of the United States or of a State court of record, or any United States Magistrate may, within his jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections of controlled premises authorized by this Act or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of the Act or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by section 701 to execute it. The warrant shall state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and, where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from

whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

(b) The Attorney General is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this title only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this Act are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this Act are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled dangerous substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to subsection (a) of this section, an officer or employee designated by the Attorney General, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, shall have the right to enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the Attorney General shall have the right—

(a) to inspect and copy records required by this Act to be kept;

(b) to inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein, and, except as provided in subsection (b)(5) of this section, all other things therein (including records, files, papers, processes, controls, and facilities) bearing on violation of this Act; and

(c) to inventory any stock of any controlled dangerous substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent the inspection without a warrant of books and records pursuant to an administrative subpena issued in accordance with section 606 of this Act, nor shall this section be construed to prevent entries and administrative inspections (including seizures of property) without a warrant—

(a) with the consent of the owner, operator, or agent in charge of the controlled premises;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and,

(e) in all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to—

(a) financial data;

(b) sales data other than shipment data; or

(c) pricing data.

FORFEITURES

SEC. 704. (a) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) all controlled dangerous substances which have been manufactured, distributed, dispensed or acquired in violation of the provisions of this Act;

(2) all raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled dangerous substance in violation of the provisions of this Act;

(3) all property which is used, or intended for use, as a container for property described in subsections (1) and (2);

(4) all conveyances including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in (1) or (2), except that;

(a) No conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this chapter unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this Act: and,

(b) No conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State: and

(5) all books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this Act.

(b) Any property subject to forfeiture to the United States under this Act may be seized by the Attorney General upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property except that seizure without such process may be made when—

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the United States in a criminal injunction or forfeiture proceeding under this Act;

(3) the Attorney General has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the Attorney General has probable cause to believe that the property has been used or intended to be used in violation of this Act.

In the event of seizure pursuant to paragraphs (3) and (4) of this subsection, proceedings under subsection (d) of this section shall be instituted promptly.

(c) Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under the provisions of this Act, the Attorney General may:

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as applicable and not inconsistent with the provisions hereof: Provided, That such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this Act by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Whenever property is forfeited under this Act the Attorney General may—

(1) retain the property for official use;

(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be disposed of for payment of all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising and court costs;

(3) require that the General Services Administration take custody of the property and remove it for disposition in accordance with law; or

(4) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition. Such disposition may include delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General.

(f) All substances listed in schedule I that are possessed, transferred, sold, or offered for sale in violation of the provisions of this Act shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances listed in schedule I which are seized or come into the possession of the Government, the owners of which are

unknown, shall be deemed contraband and summarily forfeited to the United States.

(g) (1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this Act, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General, or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forforfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

INJUNCTIONS

SEC. 705. (a) The district courts of the United States and all courts exercising general jurisdiction in the territories and possessions of the United States shall have jurisdiction in proceedings in accordance with the Federal Rules of Civil Procedure to enjoin violations of this Act.

(b) In case of an alleged violation of an injunction or restraining order issued under this section, trial shall, upon demand of the accused, be by a jury in accordance with the Federal Rules of Civil Procedure.

ENFORCEMENT PROCEDURES

SEC. 706. Before any violation of this Act is reported by the Director of the Bureau of Narcotics and Dangerous Drugs to any United States Attorney for institution of a criminal proceeding, the Director may require that the person against whom such proceeding is contemplated be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

IMMUNITY AND PRIVILEGE

SEC. 707. Whenever in the judgment of the United States Attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States with respect to violation of any provision of this Act, is necessary to the public interest, he, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the grounds that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for, or on account of, any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding, except prosecution described in the next sentence, against him in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

BURDEN OF PROOF; LIABILITIES

SEC. 708. (a) It shall not be necessary for the United States to negative any exemption or exception set forth in this Act in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this Act, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this Act, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

(c) The burden of establishing that a vehicle, vessel, or aircraft used in connection with the substances listed in schedule I of this Act was used in accordance with the provisions of this Act shall be on the persons engaged in such use.

(d) No liability shall be imposed by virtue of this Act upon any duly authorized Federal officer engaged in the enforcement of this Act, or upon any duly authorized officer of any State, territory, political subdivision thereof, the District of Columbia, or any possession of the United States, who shall be engaged in the enforcement of any law or municipal ordinance relating to controlled dangerous substances.

PAYMENTS AND ADVANCES

SEC. 709. (a) The Attorney General is authorized to pay any person, from funds appropriated for the Bureau of Narcotics and Dangerous Drugs, for information concerning a violations of this Act, such sum or sums of money as he may deem appropriate, without reference to any moieties or rewards to which such person may otherwise be entitled by law.

(b) Moneys expended from appropriations of the Bureau of Narcotics and Dangerous Drugs for purchase of controlled dangerous substances and subsequently recovered shall be reimbursed to the current appropriation for the Bureau.

(c) The Attorney General is authorized to direct the advance of funds by the Treasury Department in connection with the enforcement of this Act.

TITLE VIII—COMMITTEE ON MARIHUANA

ESTABLISHMENT OF COMMITTEE

SEC. 801. The Attorney General and the Secretary of Health, Education, and Welfare shall appoint a committee of experts to advise them with respect to all aspects of marihuana use.

(a) The Committee on Marihuana is authorized and directed to review all available information on this subject and to execute a study to be carried out on both an intramural and extramural basis, including utilization of the resources and ongoing projects of the National Institute of Mental Health and the National Institute of Law Enforcement and Criminal Justice, covering all aspects of marihuana use.

(1) The study shall include but not be limited to—

(a) identification of existing gaps in our knowledge of marihuana;

(b) an intensive examination of the important medical and social aspects of marihuana use;

(c) surveys of the extent and nature of marihuana use;

(d) studies of the pharmacology and effects of marihuana;

(e) studies of the relation of marihuana use to crime and juvenile delinquency; and

(f) studies of the relation between marihuana and the use of other drugs.

(b) The study shall be completed within twenty-four months from the effective date of this Act at which time the Committee shall submit to the President and to Congress a comprehensive report on its findings and, in addition, its recommendations with respect to the degree of control to be exercised over marihauana use. The Committee shall cease to exist thirty days after such report is submitted.

(c) The Committee on Marihauna shall be composed of persons selected by the Attorney General and the Secretary of Health, Education, and Welfare. Such persons shall be qualified as experts and have diversified professional backgrounds. The Director of the National Institute of Mental Health and the Director of the National Institute of Law Enforcement and Criminal Justice shall be members ex officio of the Committee. The size of the Committee shall be determined by the Attorney General and the Secretary of Health, Education, and Welfare but shall not be less than five persons.

(d) Members of the Committee shall be entitled to receive compensation at the rate now or hereafter provided for a grade GS–18 of the General Schedule for employees for each day (including travel time) during which they are engaged in the actual performance of duties for the Committee, members of the Committee shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subsection (i) of chapter 57 of title 5, United States Code. The Attorney General and the Secretary shall furnish the Committee with adequate clerical and other assistance, and shall by rules and regulations prescribe the procedure to be followed by the Committee.

(e) The Committee may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed may be entitled to receive compensation at the rate now or hereafter provided for a grade GS–18 of the General Schedule for employees for each day (including travel time) during which they are engaged in the actual performance of duties. While traveling on official business in the performance of duties for the Committee such persons so employed shall be allowed expenses of travel, including per diem instead of subsistence, in accordance with subsection (i) of chapter 57 of title 5, United States Code.

TITLE IX—MISCELLANEOUS

REPEALERS

SEC. 901. The laws specified in the following schedule are repealed except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this Act:

STATUTES AT LARGE

(a) Act of February 23, 1887 (ch. 210, secs. 1, 2, 24 Stat. 409), as amended (title 21, secs. 191–193).

(b) Act of February 9, 1909 (ch. 100, 35 Stat. 614), as amended (title 21, secs. 171, 173, 174–184, 185).

(c) Section 1 of the Act of March 28, 1928 (ch. 266, 45 Stat. 374), as amended (title 31, sec. 529a).
(d) Act of June 14, 1930 (ch. 488, sec. 6, 46 Stat. 587; title 21, sec. 173a).
(e) Act of June 14, 1930 (ch. 488, secs. 7, 8), as amended (title 21, secs. 197, 198).
(f) Act of July 3, 1930 (ch. 829, 46 Stat. 850; title 21, sec. 199).
(g) Section 6 of the Act of August 7, 1939 (ch. 566, 53 Stat. 1263; title 31, sec. 529g).
(h) Act of December 11, 1942 (ch. 720, 56 Stat. 1045), as amended (title 21, secs. 188–188n).
(i) Act of August 11, 1955 (ch. 800, secs. 1–3, 69 Stat. 684; title 21, secs. 198a–c).
(j) Section 15 of the Act of August 1, 1956 (ch. 852, 70 Stat. 910; title 48, sec. 1421m).
(k) Section 1 of the Act of July 18, 1956 (ch. 629, title I), as amended (title 21, sec. 184a).
(l) Act of April 22, 1960 (74 Stat. 55; title 21, secs. 501–517).
(m) Sections 201(v) and 511 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(v) and 360a), as added by section 3 of Public Law 89–74 and amended by Public Law 90–639.
(n) Section 301(q) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(q)), as added by section 5 of Public Law 89–74 and amended by Public Law 90–639.

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(a) Title 18, sections 1401–1407.
(b) Title 18, section 3616.
(c) Title 26, sections 4701–4776.
(d) Title 26, sections 7237–7238.
(e) Title 26, section 7491.

CONFORMING AMENDMENTS

SEC. 902. (a) Section 1114 of title 18, United States Code, is amended by striking out "the Bureau of Narcotics" and inserting "the Bureau of Narcotics and Dangerous Drugs".
(b) Section 1952 of title 18 of the United States Code is amended by—
(1) inserting in subsection (b)(1) the words "other controlled dangerous substances," immediately following the word "narcotics".
(2) striking subsection (c) and substituting the following new section:
"(c) Investigation of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury".
(c) Section 4251(a) of title 18 of the United States Code is amended by striking out the words "section 4731 of the Internal Revenue Code of 1954, as amended," and substituting "the Controlled Dangerous Substances Act of 1969".
(d) Section 584 of the Act of June 17, 1930 (ch. 497, title IV, 46 Stat. 748), as amended by section 10 of the Act of July 1, 1944 (ch. 377, 58 Stat. 722), and section 9 of the Act of March 8, 1946 (ch. 81, 60 Stat. 39; title 19, sec. 1584), is amended by striking out the last sentence of the second paragraph and substituting the following new sentence: "The words 'opiate' and 'marihuana' as used in this paragraph shall have the same meaning as defined in the Controlled Dangerous Substances Act of 1969."

(e) Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as amended, is amended by deleting subsections (a) and (b) and inserting in lieu thereof the following new subsections:

SEC. 303. (a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $1,000, or both.

"(b) Notwithstanding the provisions of subsection (a) of this section, if any person commits such a violation after a conviction of him under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $10,000, or both".

(f) Section 304(a) (2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(a) (2)), as amended, is amended by striking out paragraphs (A) and (D) and the words "of such a depressant or stimulating drug or" in subparagraph (C), and relettering (B), (C), and (E) as (A), (B), and (C).

(g) Section 304(d) (3) (iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(d) (3) (iii)), as amended, is amended by striking out the words "depressant or stimulant drugs or".

(h) Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360), as amended, is amended (1) by striking out subsection (a)(2) and renumbering subsection (a)(3) as (a)(2); (2) by deleting from the first sentence of subsection (b) the words "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug"; (3) by deleting the last sentence of subsection (b); (4) by deleting from the first sentence of subsection (c) the words "or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug"; (5) by deleting the last sentence of subsection (c); (6) by deleting from subsection (d) the "(1)" immediately after the "(d)" and by inserting a period after the words "drug or drugs" and deleting the remainder of subsection (d); (7) by deleting from the heading of such section 510 the words "and Certain Wholesalers".

(i) Section 702 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372), as amended, is amended by deleting in subsection (e) the words "to depressant or stimulant drugs or".

(j) Section 201(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(a)(2)), as amended, is amended by adding a period after "Canal Zone" the first time these words appear and deleting all thereafter.

(k) Section 801(a) of the Federal Food, Drug, and Cosmetic Act (title 21 sec. 381(a)), as amended, is amended in the last sentence thereof by striking out "This paragraph" and substituting therefor "Clause (2) of the third sentence of this paragraph," and by striking out the words "section 2 of the Act of May 26, 1922, as amended (U.S.C. 1934 edition, title 21, sec. 173)" and substituting "the Controlled Dangerous Substances Act of 1969".

(l) Section 4901(a) of title 26 of the United States Code is amended by deleting the words "4721 (narcotic drugs), or 4751 (marihuana)" and by inserting the word "or" before the number "4461".

(m) Section 4905(b) of title 26 of the United States Code is amended by deleting the words "narcotics, marihuana," and "4722, 4753".

(n) Section 6808 of title 26 of the United States Code is amended by striking out subsection (8) and renumbering subsections (9), (10), (11), (12), and (13), as (8), (9), (10), (11), and (12).

(o) Section 7012 of title 26 of the United States Code is amended by striking out subsections (a) and (b) and renumbering (c), (d), (e), (f), (g), (h), (i), and (j) as (a), (b), (c), (d), (e), (f), (g), and (h).

(p) Section 7103 of title 26 of the United States Code is amended by striking out subsection (d)(3) and renumbering (E) and (F) as (D) and (E)

(q) Section 7326 of title 26 of the United States Code is amended by striking out subsection (b) and relettering (c) as (b).

(r) Section 7607 of title 26 of the United States Code is amended by deleting all words prior to the word "officers" and by capitalizing the word "officer"; and by deleting in subsection (2) the words "section 4731" and "section 4761" and inserting in subsection (2) in lieu thereof the words "Controlled Dangerous Substances Act of 1969".

(s) Section 7651 of title 26 of the United States Code is amended by deleting the words "sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana)".

(t) Section 7655 of title 26 of the United States Code is amended by deleting subsections (3) and (4).

(u) Section 7609 of title 26 of the United States Code is amended by striking out subsections (a) (3) and (a) (4) and renumbering (5) and (6) as (3) and (4).

(v) Section 7641 of title 26 of the United States Code is amended by striking out the words "opium suitable for smoking purposes,".

(w) Section 2901(a) of title 28 of the United States Code is amended by striking out the words "section 4731 of the Internal Revenue Code of 1954, as amended," and substituting "the Controlled Dangerous Substances Act of 1969".

(x) Section 3 of the Act of August 7, 1939 (ch. 566, 53 Stat. 1263; title 31, sec. 529d), is amended by striking out the words "or the Commissioner of Narcotics, as the case may be,".

(y) Section 4 of the Act of August 7, 1939 (ch. 566, 53 Stat. 1263; title 31, sec. 529e) is amended by striking out the words "or narcotics" and "or narcotic".

(z) Section 5 of the Act of August 7, 1939 (ch. 566, 53 Stat. 1263; title 31, sec. 529f) is amended by striking out the words "or narcotics".

(aa) Section 308(c)(2) of the Act of August 27, 1935 (ch. 740), as amended (49 Stat. 880; title 40, sec. 304(m)) is amended by striking out the words "Narcotic Drugs Import and Export Act" and substituting "Controlled Dangerous Substances Act of 1969".

(bb) Section 302(a) of the Act of July 1, 1944 (ch. 373; title III), as amended (58 Stat. 692; title 42, sec. 242(a)) is amended by striking out the words "Narcotic Drugs Import and Export Act" and substituting "Controlled Dangerous Substances Act of 1969".

(cc) Section 301 (a) of the Act of November 8, 1966 (ch. 175, title III), as amended (80 Stat. 1444: title 42, sec. 3411) is amended by striking out the words "section 4731 of the Internal Revenue Code of 1954 and substituting "the Controlled Dangerous Substances Act of 1969".

(dd) Section 1(a) of the Act of July 15, 1954 (ch. 512), as amended (68 Stat. 484: title 46, sec. 239a) is amended by striking out the words "paragraph (a) of the first section of the Narcotics Drugs Import and Export Act, as amended (21 U.S.C. 171(a))" and substituting "the Controlled Dangerous Substances Act of 1969": and by striking out the words "section 3238(b) of Internal Revenue Code" and substituting "the Controlled Dangerous Substances Act of 1969".

(ee) Section 7(d) of the Act of August 9, 1939 (ch. 618), as amended (23 Stat. 1292: title 49, sec. 787) is amended by striking out the words "Narcotic Drugs Import and Export Act, the internal revenue laws or any amendments thereof, or the regulations issued thereunder" and substituting "Controlled Dangerous Substances Act of 1969": and striking out the words "Marihuana Tax Act of 1937 or the regulations issued thereunder" and substituting "Controlled Dangerous Substances Act of 1969".

PENDING PROCEEDINGS

SEC. 903. (a) Prosecutions for any violation of law occurring prior to the effective date of this Act shall not be affected by these repealers or amendments, or abated by reason thereof.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to the effective date of this Act shall not be affected by the repealers or amendments, or abated by reason thereof.

(c) All administrative proceedings pending before the Bureau of Narcotics and Dangerous Drugs on the effective date of this enactment shall be continued and brought to final determination in accord with laws and regulations in effect prior to the date of this enactment. Such drugs placed under control prior to enactment of this Act which are not listed within schedules I and IV shall automatically be controlled by the Attorney General and listed in the appropriate schedule.

(d) The provisions of this Act shall be applicable to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following its effective dates.

CONTINUATION OF REGULATIONS

SEC. 904. Any orders, rules, and regulations which have been promulgated under any law affected by this Act and which are in effect on the day preceding enactment of this title shall continue in effect until modified, superseded, or repealed by the Attorney General.

SEVERABILITY

SEC. 905. If a provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all its valid applications that are severable.

AUTHORIZATION OF APPROPRIATIONS

SEC. 906. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SAVING PROVISION

SEC. 907. Nothing in this Act, except this title and, to the extent of any inconsistency, section 309 of this Act, shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE

SEC. 908. This Act shall take effect on the one hundred and eightieth day following the date of its enactment.

TITLE 18—UNITED STATES CODE

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Chapter 51—HOMICIDE

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§ 1114. Protection of officers and employees of the United States

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any post-office inspector, any officer or employee of the secret service or of the [Bureau of Narcotics,] *Bureau of Narcotics and Dangerous Drugs*, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee or agent of the customs or of the internal revenue or any person assisting him in the execution of his duties, any immigration officer, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any employee of the Department of Agriculture designated by the Secretary of Agriculture to carry out any law or regulation, or to perform any function in connection with any Federal or State program or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control or eradication or prevention of the introduction or dissemination of animal diseases, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Bureau of Land Management, any employee of the Bureau of Animal Industry of the Department of Agriculture, or any officer or employee of the Indian field service of the United States, or any officer or employee of the National Aeronautics and Space Administration directed to guard and protect property of the United States under the administration and control of the National Aeronautics and Space Administration, any security officer of the Department of State or the Foreign Service, or any officer or employee of the Department of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare to conduct investigations or inspections under the Federal Food, Drug, and Cosmetic Act while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title.

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Chapter 95—RACKETEERING

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§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to—

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics, *other controlled dangerous substances*, or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States.

[(c) Investigations of violations under tihs section involving liquor or narcotics shall be conducted under the supervision of the Secretary of the Treasury.]

(c) Investigation of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

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Chapter 229—FINES, PENALTIES AND FORFEITURES

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SEC.
[3616. Use of confiscated motor vehicles.]

* * * * * * *

[§ 3616. Use of confiscated motor vehicles

[The Secretary of the Treasury may authorize the use by narcotic agents of motor vehicles confiscated under the provisions of section 3116 of Title 26 [1] and sections 781–788 of Title 49 and pay the cost of acquisition, maintenance, repair, and operation thereof.]

* * * * * * *

Chapter 314—NARCOTIC ADDICTS

§ 4251. Definitions

As used in this chapter—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by [section 4731 of the Internal Revenue Code of 1954, as amended,] *the Controlled Dangerous Substances Act of 1969*, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(c) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addiction.

(d) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

(e) "Conviction" and "convicted" mean the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, and do not include a final judgment which has been expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

(f) "Eligible offender" means any individual who is convicted of an offense against the United States, but does not include—

(1) an offender who is convicted of a crime of violence.

(2) an offender who is convicted of unlawfully importing or selling or conspiring to import or sell a narcotic drug, unless the court determines that such sale was for the primary purpose of enabling the offender to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

(3) an offender against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an offender on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an offender who has been convicted of a felony on two or more prior occasions.

(5) an offender who has been committed under title I of the Narcotic Addict Rehabilitation Act of 1966, under this chapter, under the District of Columbia Code, or under any State proceeding because of narcotic addiction on three or more occasions.

TARIFF ACT OF 1930

46 Stat. 590

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SEC. 584.

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

If any of such merchandise so found consists of heroin, morphine, cocaine, isonipecaine, or opiate, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $50 for each ounce thereof so found. If any of such merchandise so found consists of smoking opium, opium prepared for smoking, or marihuana, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $25 for each ounce thereof so found. If any of such merchandise so found consists of crude opium, the master of such vessel or person in charge of such vehicle or the owner of such vessel or vehicle shall be liable to a penalty of $10 for each ounce thereof so found. Such penalties shall, notwithstanding the proviso in section 1594 of this title (relating to the immunity of vessels or vehicles used as common carriers), constitute a lien upon such vessel which may be enforced by a libel in rem; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier

shall not be liable to such penalties and the vessel shall not be held subject to the lien, if it appears to the satisfaction of the court that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known, that such narcotic drugs were on board. Clearance of any such vessel may be withheld until such penalties are paid or until a bond, satisfactory to the collector, is given for the payment thereof. The provisions of this paragraph shall not prevent the forfeiture of any such vessel or vehicle under any other provision of law. [The words isonipecaine, opiate, and marihuana as used in this paragraph shall have the same meaning as defined in sections 3228(e), 3228(f) and 3238(b), respectively, of Title 26.] *The words 'opiate' and 'marihuana' as used in this paragraph shall have the same meaning as defined in the Controlled Dangerous Substances Act of 1969.*

If any of such merchandise (sea stores excepted), the importation of which into the United States is prohibited, or which consists of any spirits, wines, or other alcoholic liquors for the importation of which into the United States a certificate is required under section 1707 of this title and the required certificate be not shown, be so found upon any vessel not exceeding five hundred net tons, the vessel shall, in addition to any other penalties herein or by law provided, be seized and forfeited, and, if any manifested merchandise (sea stores excepted) consisting of any such spirits, wines, or other alcoholic liquors be found upon any such vessel and the required certificate be not shown, the master of the vessel shall be liable to the penalty herein provided in the case of merchandise not duly manifested: *Provided*, That if the collector shall be satisfied that the certificate required for the importation of any spirits, wines, or other alcoholic liquors was issued and was lost or mislaid without intentional fraud, or was defaced by accident, or is incorrect by reason of clerical error or other mistakes, said penalties shall not be incurred.

FEDERAL FOOD, DRUG AND COSMETIC ACT
52 Stat. 1040; 21 U.S.C. 333 et sec.

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PENALTIES

SEC. 303. [(a) Any person who violates a provision of section 301 (other than a provision referred to in subsection (b) of this section) shall be imprisoned for not more than one year or fined not more than $1,000, or both; except that if any person commits such a violation after a conviction of him under this subsection has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $10,000, or both.

[(b) (1) Any person who violates clause (1), (2), or (3)(A) of section 301(q), or violates, with respect to a depressant or stimulant drug, any of the provisions of paragraph (3) of section 301(i), shall, except as otherwise provided in paragraph (2) of this subsection, be

imprisoned for not more than five years or fined not more than $10,000, or both.]

(a) Any person who violates a provision of section 301 shall be imprisoned for not more than one year or fined not more than $1,000, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, if any person commits such a violation after a conviction of him under this section has become final, or commits such a violation with the intent to defraud or mislead, such person shall be imprisoned for not more than three years or fined not more than $10,000, or both.

* * * * *

SEIZURE

SEC. 304. (a) (1) Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 404 or 505, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, or libel of information and condemned in any district court of the United States or United States court of a Territory within the jurisdiction of which the article is found: *Provided, however*, That no libel for condemnation shall be instituted under this Act, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this Act based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (A) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this Act, or (B) when the Secretary has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Department that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulations between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business to which the case shall be removed for trial.

(2) The following shall be liable to be proceeded against at any time on libel of information and condemned in any district court of the United States or United States court of a Territory within the jurisdiction of which they are found:

[(A) Any depressant or stimulant drug with respect to which a prohibited act within the meaning of section 301 (p) or (q) by

any person had occurred,]

[(B)] (*A*) Any drug that is a counterfeit drug,

[(C)] (*B*) Any container [of such depressant or stimulant drug or] of a counterfeit drug.

[(D) Any equipment used in manufacturing, compounding, or processing a depressant or stimulant drug with respect to which drug a prohibited act within the meaning of section 301 (p) or (q), by the manufacturer, compounder, or processor thereof, has occurred,] and

[(E)] (*C*) Any punch, die, plate, stone, labeling, container, or other thing used or designed for use in making a counterfeit drug or drugs.

(b) The article, equipment, or other thing proceeded against shall be liable to seizure by process pursuant to the libel, and the procedure in cases under this section shall conform, as nearly as may be, to the procedure in admiralty; except that on demand of either party any issue of fact joined in any such case shall be tried by jury. When libel for condemnation proceedings under this section, involving the same claimant and the same issues of adulteration or misbranding, and pending in two or more jurisdictions, such pending proceedings, upon application of the claimant seasonably made to the court of one such jurisdiction, shall be consolidated for trial by order of such court, and tried in (1) any district selected by the claimant where one of such proceedings is pending; or (2) a district agreed upon by stipulation between the parties. If no order for consolidation is so made within a reasonable time, the claimant may apply to the court of one such jurisdiction, and such court(after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, in which all such pending proceedings shall be consolidated for trial and tried. Such order of consolidation shall not apply so as to require the removal of any case to date for trial of which has been fixed. The court granting such order shall give prompt notification thereof to the other courts having jurisdiction of the cases covered thereby.

(c) The court at any time after seizure up to a reasonable time before trial shall by order allow any party to a condemnation proceeding, his attorney or agent, to obtain a representative sample of the article seized and a true copy of the analysis, if any, on which the proceeding is based and the identifying marks or numbers, if any, of the packages from which the samples analyzed were obtained.

(d) (1) Any food, drug, device, or cosmetic condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and changes, shall be paid into the Treasury of the United States; but such article shall not be sold under such decree contrary to the provisions of this Act or the laws of the jurisdiction in which sold: *Provided*, That after entry of the decree and upon the payment of the costs of such proceedings and the execution of a good and sufficient bond conditioned that such article shall not be sold or disposed of contrary to the provisions of this Act or the laws of any State or

Territory in which sold, the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Act under the supervision of an officer or employee duly designated by the Secretary, and the expenses of such supervision shall be paid by the person obtaining release of the article under bond. If the article was imported into the United States and the person seeking its release establishes (A) that the adulteration, misbranding, or violation did not occur after the article was imported, and (B) that he had no cause for believing that it was adulterated, misbranded, or in violation before it was released from customs custody, the court may permit the article to be delivered to the owner for exportation in lieu of destruction upon a showing by the owner that all of the conditions of section 801(d) can and will be met: *Provided*, *however*, That the provisions of this sentence shall not apply where condemnation is based upon violation of section 402(a) (1), (2), or (6), section 501(a)(3), section 502(j), or section 601(a) or (d); *And provided further*, That where such exportation is made to the original foreign supplier, then clauses (1) and (2) of section 801(d) and the foregoing proviso shall not be applicable; and in all cases of exportation the bond shall be conditioned that the article shall not be sold or disposed of until the applicable conditions of section 801(d) have been met. Any article condemned by reason of its being an article which may not, under section 404 or 505, be introduced into interstate commerce, shall be disposed of by destruction.

(2) The provisions of paragraph (1) of this subsection shall, to the extent deemed appropriate by the court, apply to any equipment or other thing which is not otherwise within the scope of such paragraph and which is referred to in paragraph (2) of subsection (a).

(3) Whenever in any proceeding under this section, involving paragraph (2) of subsection (a), the condemnation of any equipment or thing (other than a drug) is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court (i) that he has not committed or caused to be committed any prohibited act referred to in such paragraph (2) and has no interest in any drug referred to therein, (ii) that he has an interest in such equipment or other thing as owner or lienor or otherwise, acquired by him in good faith, and (iii) that he at no time had any knowledge or reason to believe that such equipment or other thing was being or would be used in, or to facilitate, the violation of laws of the United States relating to [depressant or stimulant drugs or] counterfeit drugs.

(e) When a decree of condemnation is entered against the article, court costs and fees, and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

(f) In the case of removal for trial of any case as provided by subsection (a) or (b)—

(1) The clerk of the court from which removal is made shall promptly transmit to the court in which the case is to be tried all records in the case necessary in order that such court may exercise jurisdiction.

(2) The court to which such case was removed shall have the powers and be subject to the duties for purposes of such case, which the court from which removal was made would have had, or to which such court would have been subject, if such case had not been removed.

* * * * * * *

REGISTRATION OF PRODUCERS [AND CERTAIN WHOLESALERS] OF DRUGS

SEC. 510. (a) As used in this section—

(1) the term "manufacture, preparation, propagation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer;

[(2) the term "wholesaling, jobbing, or distributing of depressant or stimulant drugs" means the selling or distribution of any depressant or stimulant drug to any person who is not the ultimate user or consumer of such drug; and

[(3)] (*2*) the term "name" shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

(b) On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs [or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug] shall register with the Secretary his name, places of business, and all such establishments. [If any such establishment is engaged in the manufacture, preparation, propagation, compound, or processing of any depressant or stimulant drug, such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe.]

(c) Every person upon first engaging in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs [or in the wholesaling, jobbing, or distributing of any depressant or stimulant drug] in any establishment which he owns or operates in any State shall immediately register with the Secretary his name, place of business, and such establishment. [If such establishment is engaged in the manufacture, preparation, propagation, compounding, or processing of any depressant or stimulant drug such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe.]

(d)[(1)] Every person duly registered in accordance with the foregoing subsections of this section shall immediately register with the Secretary any additional establishment which he owns or operates in any State and in which he begins the manufacture, preparation, propagation, compounding, or processing of a drug or drugs. [or the wholesaling, jobbing, or distributing of any depressant or stimulant drug. If any depressant or stimulant drug is manufactured, prepared, propagated, compounded, or processed in such additional establishment, such person shall, at the time of such registration, indicate such fact, in such manner as the Secretary may by regulation prescribe.]

[(2) Every person who is registered with the Secretary pursuant to the first sentence of subsection (b) or (c) or paragraph (1) of this subsection, but to whom the second sentence of subsection (b) or (c) or of paragraph (1) of this subsection did not apply at the time of such registration, shall, if any depressant or stimulant drug is thereafter manufactured, prepared, propagated, compounded, or processed in any establishment with respect to which he is so registered, immediately file a supplement to such registration with the Secretary indicating such fact, in such manner as the Secretary may by regulation prescribe.]

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EXAMINATIONS AND INVESTIGATIONS

SEC. 702. (a) The Secretary is authorized to conduct examinations and investigations for the purposes of this Act through officers and employees of the Department or through any health, food, or drug officer or employee of any State, Territory, or political subdivision thereof, duly commissioned by the Secretary as an officer of the Department. In the case of food packed in the Commonwealth of Puerto Rico or a Territory the Secretary shall attempt to make inspection of such food at the first point of entry within the United States when, in his opinion and with due regard to the enforcement of all the provisions of this Act, the facilities at his disposal will permit of such inspection. For the purposes of this subsection the term "United States" means the States and the District of Columbia.

(b) Where a sample of a food, drug, or cosmetic is collected for analysis under this Act the Secretary shall, upon request, provide a part of such official sample for examination or analysis by any person named on the label of the article, or the owner thereof, or his attorney or agent; except that the Secretary is authorized, by regulations, to make such reasonable exceptions from, and impose such reasonable terms and conditions relating to, the operation of this subsection as he finds necessary for the proper administration of the provisions of this Act.

(c) For purposes of enforcement of this Act, records of any department or independent establishment in the executive branch of the Government shall be open to inspection by any official of the Department of Health, Education, and Welfare duly authorized by the Secretary to make such inspection.

(d) The Secretary is authorized and directed, upon request from the Commissioner of Patents, to furnish full and complete information with respect to such questions relating to drugs as the Commissioner may submit concerning any patent application. The Secretary is further authorized, upon receipt of any such request, to conduct or cause to be conducted, such research as may be required.

(e) Any officer or employee of the Department designated by the Secretary to conduct examinations, investigations, or inspections under this Act relating [to depressant or stimulant drugs or] to counterfeit drugs may, when so authorized by the Secretary—

(1) carry firearms;

(2) execute and serve search warrants and arrest warrants;

(3) execute seizure by process issued pursuant to libel under section 304;

(4) make arrests without warrant for offenses under this Act with respect to such drugs if the offense is committed in his presence or, in the case of a felony, if he has probable cause to believe that the person so arrested has committed, or is committing, such offense; and

(5) make, prior to the institution of libel proceedings under section 304(a)(2), seizures of drugs or containers or of equipment, punches, dies, plates, stones, labeling, or other things, if they are, or he has reasonable grounds to believe that they are, subject to seizure and condemnation under such section 304(a)(2). In the event of seizure pursuant to this paragraph (5), libel proceedings under section 304(a)(2) shall be instituted promptly and the property seized be placed under the jurisdiction of the court.

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SEC. 801. (a) The Secretary of the Treasury shall deliver to the Secretary of Health, Education, and Welfare, upon his request, samples of food, drugs, devices, and cosmetics which are being imported or offered for import into the United States, giving notice thereof to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. The Secretary of Health, Education, and Welfare shall furnish to the Secretary of the Treasury a list of establishments registered pursuant to subsection (i) of section 510 and shall request that if any drugs manufactured, prepared, propagated, compounded, or processed in an establishment not so registered are imported or offered for import into the United States, samples of such drugs be delivered to the Secretary of Health, Education, and Welfare, with notice of such delivery to the owner or consignee, who may appear before the Secretary of Health, Education, and Welfare and have the right to introduce testimony. If it appears from the examination of such samples or otherwise that (1) such article has been manufactured, processed, or packed under insanitary conditions, or (2) such article is forbidden or restricted in sale in the country in which it was produced or from which it was exported, or (3) such article is adulterated, misbranded, or in violation of section 505, then such article shall be refused admission, except as provided in subsection (b) of this section. The Secretary of the Treasury shall cause the destruction of any such article refused admission unless such article is exported, under regulations prescribed by the Secretary of the Treasury, within ninety days of the date of notice of such refusal or within such additional time as may be permitted pursuant to such regulations. [This paragraph] *Clause (2) of the third sentence of this paragraph* shall not be construed to prohibit the admission of narcotic drugs the importation of which is permitted under [section 2 of the Act of May 26, 1922, as amended (U.S.C., 1946 edition, title 21, sec. 173).] *the Controlled Dangerous Substances Act.*

INTERNAL REVENUE CODE

68A Stat. 3; 26 U.S.C. 4901 et sec.

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Chapter 40—GENERAL PROVISIONS RELATING TO OCCUPATIONAL TAXES

§ 4901. Payment of tax

(a) **Condition precedent to carrying on certain business.**—No person shall be engaged in or carry on any trade or business subject to the tax imposed by section 4411 (wagering), *or*, 4461(a)(1) (coin-operated gaming devices), [4721 (narcotic drugs), or 4751 (marihuana)] until he has paid the special tax therefor.

(b) **Computation.**—All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) **How paid.**—

(1) **Stamp.**—All special taxes imposed by law shall be paid by stamps denoting the tax.

(2) **Assessment.**—

For authority of the Secretary or his delegate to make assessments where the special taxes have not been duly paid by stamp at the time and in the manner provided by law, see subtitle F.

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§ 4905. Liability in case of death or change of location

(a) **Requirements.**—When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary or his delegate, under regulations to be prescribed by the Secretary or his delegate.

(b) **Registration.**—

(1) For registration in case of wagering, [narcotics, marihuana,] and white phosphorous matches, see sections 4412, [4722,] [4753,] and 4804(d), respectively.

(2) For other provisions relating to registration, see subtitle F

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Chapter 69—GENERAL PROVISIONS RELATING TO STAMPS

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§[6808. Special provisions relating to stamps

For special provisions on stamps relating to—

(1) Repealed. Pub.L. 89–44, Title VI, § 601(f), June 21, 1965, 79 Stat. 155.
(2) Cotton futures, see subchapter D of chapter 39.
(3) Distilled spirits and fermented liquors, see chapter 51.
(4) Documents and other instruments, see chapter 34.
(5) Filled cheese, see subchapter C of chapter 39.
(6) Machine guns and short-barrelled firearms, see chapter 53.
(7) Oleomargarine, see subchapter F of chapter 38.
[(8) Opium, opium for smoking, opiates and coca leaves, and marihuana, see subchapter A of chapter 39.]
[(9)] *(8)* Repealed. Pub.L. 89–44, Title VI, § 601(f), June 21, 1965, 79 Stat. 155.
[(10)] *(9)* Process, renovated, or adulterated butter, see subchapter C of chapter 39.
[(11)] *(10)* Tobacco, snuff, cigars and cigarettes, see chapter 52.
[(12)] *(11)* White phosphorous matches, see subchapter B of chapter 39.

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Chapter 72—LICENSING AND REGISTRATION

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§ 7012. Cross references

[(a) Narcotic Drugs.—For provisions relating to registration in relation to narcotic drugs, see section 4722.]
[(b) Marihuana.—For provisions relating to registration in relation to marihuana, see section 4753.]
[(c)] *(a)* Firearms.—For provisions relating to registration in connection with firearms, see sections 5802, 5841, and 5854.
[(d)] *(b)* Repealed. Pub. L. 89–44, Title VI, § 601(g), June 21 1965, 79 Stat. 155.
[(e)] *(c)* For provisions relating to registration in relation to the manufacture of white phosphorus matches, see section 4804(d).
[(f)] *(d)* For special rules with respect to registration by persons engaged in receiving wages, see section 4412.
[(g)] *(e)* For provisions relating to registration in relation to the production or importation of gasoline, see section 4101.
[(h)] *(f)* For provisions relating to registration in relation to the manufacture or production of lubricating oils, see section 4101.
(i) Penalty.—
(1) For penalty for failure to register, see section 7272.
(2) For other penalties for failure to register with respect to wagering, see section 7262.

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Chapter 73—BONDS

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§ 7103. Cross references—Other provisions for bonds

(a) Extensions of time.—
(1) For bond where time to pay tax or deficiency has been extended, see section 6155.
(2) For bond to stay collection of a jeopardy assessment, see section 6863.

(3) For bond to stay assesment and collection prior to review of a Tax Court decision, see section 7485.

(4) For furnishing of bond where taxable year is closed by the Secretary or his delegate, see section 6851(e).

(5) For bond in case of an election to postpone payment of estate tax where the value of a reversionary or remainder interest is included in the gross estate, see section 6165.

(b) Release of lien or seized property.—

(1) For the release of the lien provided for in section 6325 by furnishing the Secretary or his delegate a bond, see section 6325(a)(2).

(2) For bond to obtain release of perishable goods which have been seized under forfeiture proceeding, see section 7324(3).

(3) For bond to release perishable goods under levy, see section 6336.

(4) For bond executed by claimant of seized goods valued at $1000 or less, see section 7325(3).

(c) Miscellaneous.—

(1) For bond as a condition precedent to the allowance of the credit for accrued foreign taxes, see section 905(c).

(2) For bonds relating to alcohol and tobacco taxes, see generally subtitle E.

(d) Bonds required with respect to certain products.—

(1) For bond in case of articles taxable under subchapter B of chapter 37 processed for exportation without payment of the tax provided therein, see section 4513(c).

(2) For bond in case of oleomargarine removed from the place of manufacture for exportation to a foreign country, see section 4593(b).

(3) For requirement of bonds with respect to certain industries see—

(A) section 4596 relating to a manufacturer of oleomargarine;

(B) section 4814(c) relating to a manufacturer of process or renovated butter or adulterated butter;

(C) section 4833(c) relating to a manufacturer of filled cheese;

[(D) section 4713(b) relating to a manufacturer op opium suitable for smoking purposes;]

[(E)] *(D)* section 4804(c) relating to a manufacturer of white phosphorus matches.

[(F)] *(E)* Repealed. Pub.L. 89–44, Title VIII, § 802(b)(3), June 21, 1965, 79 Stat. 159.

(e) Personnel bonds.—

(1) For bonds of internal revenue personnel to insure faithful performance of duties, see section 7803(c).

(2) For jurisdiction of United States district courts, concurrently with the court of the several States, in an action on the official bond of any internal revenue officer or employee, see section 7402(d).

(3) For bonds of postmasters to whom stamps have been furnished under section 6802(1), see section 6803(a)(1).

(4) For bonds in cases coming within the provisions of section 6802(2) or (3), relating to stamps furnished

a designated depositary of the United States or State agent, see section 6803(b) (1).

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§ 7326. Disposal of forfeited or abandoned property in special cases

(a) **Coin-operated gaming devices.**—Any coin-operated gaming device as defined in section 4462 upon which a tax is imposed by section 4461 and which has been forfeited under any provision of this title shall be destroyed, or otherwise disposed of, in such manner as may be prescribed by the Secretary or his delegate.

[(b) *Narcotic grugs*.—

For provisions relating to disposal of forfeited narcotic drugs, see sections 4714, 4733, and 4745(d).]

[(c)] (*b*) ***Firearms*—**

For provisions relating to disposal of forfeited firearms, see section 5862(b).

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Chapter 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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§ 7607. Additional authority for Bureau of Narcotics and Bureau of Customs

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

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

(2) make arrests without warrant for violations of any law of the United States relating to narcotic drugs (as defined in **[**section 4731**]** *the Controlled Dangerous Substances Act of 1969*) or marihuana (as defined in **[**section 4761**]** *the Controlled Dangerous Substances Act of 1969*) where the violation is committed in the the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such villation.

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§ 7609. Cross references

(a) Inspection of books, papers, records, or other data.—

For inspection of books, papers, records, or other data in the case of—

(1) Wholesale dealers in oleomargarine, see section 4597.

(2) Wholesale dealers in process or renovated butter or adulterated butter, see section 4815(b).

[(3) Opium, opiates, and coca leaves, see section 4702(a), 4705, 4721, 4773.]

[(4) Marihuana, see sections 4742, 4753(b), and 4773.]

[(5)] (*3*) **Wagering, see section 4423.**

[(6)] (*4*) **Alcohol, tobacco, and [firearms taxes, see subtitle**

(b) Search warrants.—

For provisions relating to—
(1) Searches and seizures, see Rule 41 of the Federal Rules of Criminal Procedure.
(2) Issuance of search warrants with respect to subtitle E, see section 5557.
(3) Search warrants with respect to property used in violatig of the internal revenue laws, see section 7302.

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§ 7641. Supervision of operations of certain manufacturers

Every manufacturer of filled cheese, oleomargarine, [opium suitable for smoking purposes,] process or renovated butter or adulterated butter, or white phosphorous matches shall conduct his business under such surveillance of officers or employees of the Treasury Department as the Secretary or his delegate may by regulations require.

§ 7651. Administration and collection of taxes in possessions

Except as otherwise provided in this subchapter [and in sections 4705(b), 4735, and 4762 (relating to taxes on narcotic drugs and marihuana)], and except as otherwise provided in section 28(a) of the Revised Organic Act of the Virgin Islands and section 30 of the Organic Act of Guam (relating to the covering of the proceeds of certain taxes into the treasuries of the Virgin Islands and Guam, respectively)—

(1) **Applicability of administrative provisions.**—All provisions of the laws of the United States applicable to the assessment and collection of any tax imposed by this title or of any other liability arising under this title (including penalties) shall, in respect of such tax or liability, extend to and be applicable in any possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term "United States" when used in a geographical sense included such possession.

(2) **Tax imposed in possession.**—In the case of any tax which is imposed by this title in any possession of the United States—

(A) **Internal revenue collections.**—Such tax shall be collected under the direction of the Secretary or his delegate, and shall be paid into the Treasury of the United States as internal revenue collections; and

(B) **Applicable laws.**—All provisions of the laws of the United States applicable to the administration, collection, and enforcement of such tax (including penalties) shall, in respect of such tax, extend to and be applicable in such possession of the United States in the same manner and to the same extent as if such possession were a State, and as if the term "United States" when used in a geographical sense included such possession.

(3) **Other laws relating to possessions.**—This section shall apply notwithstanding any other provision of law relating to any possession of the United States.

(4) **Canal Zone.**—For purposes of this section, the term "possession of the United States" includes the Canal Zone.

(5) **Virgin Islands.**—

(A) For purposes of this section, the reference in section 28(a) of the Revised Organic Act of the Virgin Islands to "any tax specified in section 3811 of the Internal Revenue Code" shall be deemed to refer to any tax imposed by chapter 2 or by chapter 21.

(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section had been enacted subsequent to the enactment of this title.

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§ 7655. Cross references

(a) Imposition of tax in possessions.—

For provisions imposing tax in possessions, see—

(1) Chapter 2, relating to self-employment tax;

(2) Chapter 21, relating to the tax under the Federal Insurance Contributions Act;

[(3) Parts I and II of Subchapter A of chapter 39, relating to taxes in respect of narcotic drugs;]

[(4) Parts II and III of subchapter A of chapter 39, relating to taxes in respect of marihuana;]

[(5)] (3) Subchapter A of chapter 37, relating to tax on sugar.

(b) Other provisions.—

For other provisions relating to possessions of the United States see—

(1) Section 933, relating to income tax on residents of Puerto Rico;

(2) Section 6418(b), relating to exportation of sugar to Puerto Rico.

TITLE 28—UNITED STATES CODE

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Chapter 175—CIVIL COMMITMENT AND REHABILITATION OF NARCOTIC ADDICTS

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§ 2901. Definitions

As used in this chapter—

(a) "Addict" means any individual who habitually uses any narcotic drug as defined by [section 4731 of the Internal Revenue Code of 1954, as amended,] *the Controlled Dangerous Substances Act of 1969*, so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Surgeon General" means the Surgeon General of the Public Health Service.

(c) "Crime of violence" includes voluntary manslaughter, murder, rape, mayhem, kidnaping, robbery, burglary or housebreaking in the nighttime, extortion accompanied by threats of violence, assault with

a dangerous weapon or assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable as a felony, or an attempt or conspiracy to commit any of the foregoing offenses.

(d) "Treatment" includes confinement and treatment in an institution and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by correcting his antisocial tendencies and ending his dependence on addicting drugs and his susceptibility to addictio

(e) "Felony" includes any offense in violation of a law of the United States classified as a felony under section 1 of title 18 of the United States Code, and further includes any offense in violation of a law of any State, any possession or territory of the United States, the District of Columbia, the Canal Zone, or the Commonwealth of Puerto Rico, which at the time of the offense was classified as a felony by the law of the place where that offense was committed.

(f) "Conviction" and "convicted" means the final judgment on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere, but do not include a final judgment which has been expunged by pardon, reversed, set aside or otherwise rendered nugatory.

(g) "Eligible individual" means any individual who is charged with an offense against the United States, but does not include—

(1) an individual charged with a crime of violence.

(2) an individual charged with unlawfully importing, selling, or conspiring to import or sell, a narcotic drug.

(3) an individual against whom there is pending a prior charge of a felony which has not been finally determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served: *Provided*, That an individual on probation, parole, or mandatory release shall be included if the authority authorized to require his return to custody consents to his commitment.

(4) an individual who has been convicted of a felony on two or more occasions.

(5) an individual who has been civilly committed under this Act, under the District of Columbia Code, or any State proceeding because of narcotic addiction on three or more occasions.

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53 Stat. 1262

AN ACT To amend the Act of March 28, 1924 (45 Stat. 374), as amended, relating to the advance of funds in connection with the enforcement of Acts relating to narcotic drugs, so as to permit such advances in connection with the enforcement of the Marihuana Tax Act of 1937, and to permit advances of funds in connection with the enforcement of the customs laws.

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SEC. 3. A certificate by the Commissioner of Customs [or the Commissioner of Narcotics, as the case may be,] stating the amount of an expenditure made from funds advanced and certifying that the confidential nature of the transaction involved renders it inadvisable to

specify the details thereof or impracticable to furnish the payee's receipt shall be a sufficient voucher for the sum expressed to have been expended.

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

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

LIQUOR LAW REPEAL AND ENFORCEMENT ACT

49 Stat. 872

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SEC. 308. * * *

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(c) * * *

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(2) narcotic drugs, as defined in section 171 of the [Narcotic Drugs Import and Export Act] *Controlled Dangerous Substances Act of 1969.*

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58 Stat 682

AN ACT To consolidate and revise the laws relating to the public health service and for other purposes

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SEC. 302. (a) In carrying out the purposes of section 301 with respect to narcotics, the studies and investigations shall include the use and misuse of narcotic drugs, the quantities of crude opium, coca leaves, and their salts, derivatives, and preparations, together with reserves thereof, necessary to supply the normal and emergency medicinal and scientific requirements of the United States. The results of studies and investigations of the quantities of crude opium, coca leaves, or other narcotic drugs, together with such reserves thereof, as are necessary to supply the normal and emergency medicinal and scientific requirements of the United States, shall be reported not later than the 1st day of September each year to the Secretary of the Treasury, to be used at his discretion in determining the amounts of crude opium and coca leaves to be imported under the [Narcotic Drugs Import and Export Act, as amended] *Controlled Dangerous Substances Act of 1969.*

80 Stat. 1438

AN ACT To amend Title 18 of the United States Code to enable the courts to deal more effectively with the problem of narcotic addiction, and for other purposes

SEC. 301. For the purposes of this title, the term—

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined by [section 4731 of the Internal Revenue Code of 1954] *the Controlled Dangerous Substances Act of 1969*, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

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68 Stat. 484

AN ACT To provide for the revocation or denial of merchant marine documents to persons involved in certain narcotics violations

That when used in this Act—

(a) The term "narcotic drug" shall have the meaning ascribed to that term by [paragraph (a) of the first section of the Narcotic Drugs Import and Export Act, as amended (21 U.S.C., sec. 171(a))] *the Controlled Dangerous Substances Act of 1969*, and also shall include marihuana as defined in [section 3238(b) of the Internal Revenue Code] *the Controlled Dangerous Substances Act of 1969*.

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23 Stat. 1291

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

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SEC. 7. * * *

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(d) The term "narcotic drug" means any narcotic drug, as now or hereafter defined by the [Narcotic Drugs Import and Export Act, the internal revenue laws, or the regulations issued thereunder] *Controlled Dangerous Substances Act of 1969*, or marihuana as now or hereafter defined by the Marihuana Tax Act of 1937 or the regulations issued thereunder; *Controlled Dangerous Substances Act of 1969;*

ADDITIONAL VIEWS OF MESSRS. ERVIN AND HART

> The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our heritage and should not be given grudging application (Mr. Justice Brennan speaking for the Court in *Miller* v. *U.S.*, 357 U.S. 301).

We strongly favor the general purposes of Controlled Dangerous Substances Act of 1969. In our opinion, drug abuse is one of the most serious problems facing our nation, and the Subcommittee on Juvenile Deliquency should be complimented for dealing with this difficult challenge. We believe that the proposed bill makes some very commendable changes in our laws relating to the severity of penalties which cover drug violations. Mandatory minimum sentences for drug violations are virtually eliminated and the committee has readjusted the laws dealing with marihuana to distinguish the young, casual user, the continuous user, and the professional criminal. The bill creates a Commission to study the effects of marihuana and its result, we hope, will be to provide a better understanding with respect to the dangers of this drug or the lack of them.

Despite our general approval of the bill, we feel that in its effort to facilitate law enforcement, the committee went too far in dealing with search warrants involving felony drug offenses by including section 702(b) in the bill which allows an officer to enter a home without notice if the issuing magistrate is satisfied that there is probable cause to believe that if such notice were given the evidence sought in the case may be easily and quickly disposed of or that danger to the life or limb of the officer or another may result.

We opposed this section in the Judiciary Committee on both constitutional and policy grounds. However, section 702(b) was retained in the bill by a vote of 6–5; even though, 8 of the committee members have now joined in opposing the section. We hope that the Senate will support my amendment to strike section 702(b) from the bill.

Beyond constitutional objections, we feel the section is controversial enough to warrant a serious examination, which it has not received from the Juvenile Deliquency Subcommittee, to study its possible effects on police practices and law enforcement efficiency; and we believe the Senate should agree to strike the provision. In the event the Senate fails to strike section 702(b), the bill should be recommitted to the Judiciary Committee with instructions to reopen this question with full hearings on it.

CONSTITUTIONAL CONSIDERATIONS

The rule that governmental authorities should announce their presence before entering a home is deeply rooted in our common law. It is generally thought to have originated in the 1603 decision in

Seymayne's case (77 Eng. Rep. 194 (K.B. 1603)). In that case, the court said in dictum:

> In all cases when the King is party, the sheriff (if the door be not open) may break the party's house, either to arrest him, or to do other execution of the King's process, if otherwise he cannot enter. But before he breaks in, he ought to signify the cause of his coming, and to make request to open door * * *.

Down through the years, there has been a clear judicial application in the common law of the rule of announcement to service of warrants for arrest and warrants for searches. The rule of announcement has been embodied in statutory form in half of the states and recognized by judicial decisions in the others. However, beyond the legal tradition of receiving announcement, we personally believe that the principle is embodied in the fourth amendment to the U.S. Constitution. The fourth amendment states:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Since the exception to the announcement principle, section 702(b), which we are considering is embodied in a possible Federal statute, the principle would have to be constitutionally founded to negate the statute inspite of its common law hearings. Because a Federal statute, (18 U.S.C. 3109) requires announcement, the Supreme Court has never been called upon to determine the constitutional basis of this principle regarding Federal officers. The Court has, however, considered the announcement question with regard to state officers in *Ker* v. *California* (374 U.S. 23 (1963)), and for this reason, the *Ker* case has to be closely examined.

The *Ker* opinion was very unclear with the Justice dividing on several issues; but on balance, the case clearly pronounces the announcement principle a Federal constitutional requirement. For Justices, in an opinion by Justice Brennan, flatly took the position that the announcement principle was implicit in the fourth amendment and voted to overturn the convictions below because the unannounced entry was not justified by exigent circumstances. Four Justices, in an opinion by Justice Clark, voted to affirm the convictions not because State officers were not bound by a Federal constitutional announcement requirement but because "in the practical circumstances of this case, the officer's method of entry * * * *was not unreasonable under the Fourth Amendment* * * *." The position of the ninth Justice, Justice Harlan, was that the States should not be bound by the same standards of search and seizure as is the Federal Government; so, his vote in *Ker* is no denial that the rule of announcement is constitutionally mandated for Federal officers.

Thus, it is very clear that at least eight members of the Court in *Ker*, the only case in this area, considered the announcement principle a constitutional requirement of the fourth amendment.

Of course, common law exceptions have been created to the announcement rule. Justice Brennan summarized these exceptions in *Ker* v. *California*, as "(1) where the persons within already know of the officers' authority and purpose, or (2) where the officers are justified in the belief that persons within are in imminent peril of bodily harm, or (3) where those within made aware of the presence of someone outside (because, for example, there has been a knock at the door), are then engaged in activity which justifies the officers in the belief that an escape or the destruction of evidence is being attempted."

(1)

It is with regard to authorization in section 702 (b) for a "no knock" provision if "there is probable cause to believe that if such notice were to be given the property sought in the case may be easily and quickly destroyed or disposed of * * *" which raises the most serious constitutional problem. This clause is ambiguous. Presumably the "may be * * * easily and quickly destroyed" refers to the nature of the property sought by which it lends itself to easy destruction; that is, the clause means the property "can be easily destroyed" rather than in the circumstances of the particular case it "might be easily destroyed." Thus, if the property sought is marihuana or heroin which can easily be washed down a sink or flushed down a toilet, the magistrate could with little more being shown insert in the warrant a "no knock" authorization.

Of course, the clause might mean that the officers have to present to the magistrate particular information which leads them to reasonably conclude that the occupants of a dwelling have specifically resolved to effect disposal in the event of police intrustion or have made specific preparations in that regard. But it can also be read as meaning merely that, given the easy destructibility of the material sought and its incriminating nature as evidence, a reasonably prudent law breaker "is likely" to make every effort to destroy it. Thus, the statute will greatly expand the existing common law exception to the announcement principle.

We believe that the statements of Justice Clark and Justice Brennan in the *Ker* case preclude this latter rationale. Justice Clark's statement is more ambiguous, but it clearly does not go that far, and the facts of the case would suggest that the constitutionality of any statute used in such a way would be placed in doubt.

The facts in the *Ker* case are these: State officers had observed conduct occurring between Ker and a narcotics dealer exactly paralleling that observed the previous night when an undercover officer had bought narcotics from the dealer. The officers attempted to follow Ker's car but it made a U-turn in the middle of a block and they lost it. They then proceeded to Ker's apartment building, obtained a pass key from the manager, and entered the apartment surreptitiously, discovering Ker in the living room, his wife in the kitchen, and the marihuana in plain view.

After constitutionally enshrining the announcement principle, the Court in *Ker* proceeded to consider whether or not the judicial officers at the time of the arrest could find exigent circumstances justifying an authorization to break without notice. In other words, did the facts in

Ker relate a reasonable and constitutional exception to the announcement principle? Justice Clark viewed the case as presenting exigent circumstances. He said:

> Here justification for the officers' failure to give notice is uniquely present. In addition to the officers' belief that Ker was in possesion of narcotics which could be quickly and easily destroyed, Ker's furtive conduct in eluding them shortly before the arrest was ground for the belief that he might well have been expecting the police.

Although Justice Clark cited the easy destructibility of the materials sought, it is evident from the quoted paragraph and the context of the entire opinion that it was not this fact alone or primarily that justified the officers' conduct. It was rather that the officers could reasonably have believed from Ker's conduct that he knew he was under surveillance and probably subject to imminent arrest. His "furtive" conduct in losing them could and did reasonably suggest to the officers that Ker's intention would be as rapidly as possible to destroy the evidence which could convict him. On this set of facts and reasonable beliefs there was thus activated two exceptions to the announcement rule. The first is that if objective facts and reasonable conclusions drawn therefrom lead officers to believe that suspects are in the process of destroying evidence they can break and enter without complying with the announcement rule or any other such restriction. The second exception is the commonsense one that if one's identity, authority and purpose are already known to the person within you need not waste your time telling him what he already knows. From Justice Clark's statement of facts and discussion of the issues, while somewhat hazily presented, it seems clear to me that the opinion must be read as grounded on these established exceptions and to lend no support to the constitutionality of section 702(b).

Justice Brennan, on the other hand, would have been even more restrictive. He would permit no exception to the announcement rule, whether it related to the destruction of evidence, the escape of the suspect, or danger to others, that did not turn in some way upon the facts or the probability that the occupant of the dwelling was aware of the officer's presence, identity, and purpose. This view would obviously not allow the insertion of a "no knock" authorization into a warrant by the magistrate because at that stage of the proceedings none of the exigent circumstances justifying failure to give notice could be present.

Presumably, under the Clark view there are a few instances in which the state of known facts at the time of the issuance of the warrant could justify the insertion of a "no knock" authorization. But this would be a distinctly minority case established only upon a particular showing as in *Ker* and not upon the easy destructibility of the evidence sought or the class of violators involved. Yet, this could hardly be what the proponents of section 702(b) have in mind. We believe the "easy destructibility" of the evidence standard in this proposed law is intended to allow the insertion of a "no knock" authorization in every warrant issued for the seizure of narcotics. Such authority, even if the accused were a known criminal, would

constitute a gross invasion of constitutional rights and would, we believe, suffer the same fate as the same claimed authority has recently suffered in California.

In the recent case of *People* v. *Gastelo* (67 Calif. 2d 586) the California Supreme Court rejected the arguments which have been made for section 702(b). In *Gastelo*, police went to an apartment where defendant was living, with a search warrant for narcotics. They broke in, without announcing, found defendant asleep, and discovered narcotics during the search. The state defended the unannounced entry on the basis that narcotics are easily destroyed and that narcotics violators normally are always on the alert to destroy them quickly at the first sign of a policeman. The court rejected the argument. "We do not agree with this contention. Neither this court nor the United States Supreme Court has held that unannounced forcible entries may be authorized by a blanket rule based on the type of crime or evidence involved." Continued Chief Justice Traynor:

> Under the fourth amendment, a specific showing must always be made to justify any kind of police action tending to disturb the security of the people in their homes. Unannounced forcible entry is in itself a serious disturbance of that security and cannot be justified on a blanket thesis. Otherwise the constitutional test of reasonableness would turn only on practical expediency, and the amendment's primary safeguard—the requirement of particularity—would be lost. Just as the police must have sufficiently particular reason to enter at all, so must they have some particular reason to enter in the manner chosen (*supra*, 67 Calif. 2d, 588–589, 432 P. 2d 708).

Similarly, in the case of *People* v. *De Santiago* (71 A.C. 18, 76 Calif. Rptr. 809, 453 P 2d. 706 (1969)) the court specifically rejected the contention that noncompliance with the announcement requirement could be based upon an officer's general experience relative to the disposability of the kind of evidence sought and the propensity of offenders to effect disposal. Rather, the court reiterated, noncompliance must be justified because of the particular circumstances of the case which give rise to a reasonable belief that immediate action is necessary to prevent the destruction of evidence. Both decisions, of course, were interpretations of the California notice statute, but both had decided fourth amendment overtones.

The announcement principle is only one aspect of the constitutional protection embodied in the fourth amendment. It, as well as the requirements of probable cause, particularly, and prior approval of an impartial magistrate, embody the wisdom revealed by the experience of the Founding Fathers to whom the abuse of the general warrant and the unrestricted search was particularly abhorrent. Thus, the requirement of probable cause restricts police power *whether* to invade a citizen's privacy. The announcement requirement restricts police power *as* they invade a citizen's privacy. The particularity requirement restricts police power *after* they invade a citizens privacy by restricting the scope of the search to the items named and the places to be searched to those likely to contain the named items.

It is established constitutional doctrine that the facts that the police have a right to *be* where they are does not give them an unlimited range of freedom of activity once they get there. Similarly, we believe, the fact that they have a right to *get* where they are going does not give them an unlimited power, under warrant or not, to get there in any manner they choose. Regardless of how great the probable cause to believe a man guilty of a crime, in possession of contraband, or concealing evidence, the announcement requirement accords him a reasonable opportunity to surrender his privacy to minimal compulsion, and not yield to force.

Even if one concedes for the sake of argument that section 702(b) is not unconstitutional on its face, it is obvious that it will be unconstitutional as applied in virtually every instance in which it is used because police officers cannot possibly have advance knowledge that either of the specified emergencies will exist in the overwhelming majority of all instances where the section is invoked. It is manifest that the section will be construed to permit the issuance of a "no knock" warrant if the material is easily destructible or the persons involved merely belong to a class of violators with a propensity to destroy such material. This being true, section 702(b) will be invoked to justify unconstitutional search and seizure under the doctrine of the *Ker* case. Also, law enforcement officers will be tempted to pretend that they are searching for narcotics in all cases for the purpose of securing a "no knock" warrant.

The second part of section 702 (b) would allow an officer in executing warrants involving felony drug offenses to enter the house of another without notice if the issuing magistrate was satisfied that danger to the life or limb of the officer or another may result.

It is a well recognized exception to the announcement rule in arrest and search and seizures cases that no notice is necessary when there is a danger to the life and limb of an officer or another. For example, in *Gilbert* v. *U.S.* (366 F. 2d 923, 928 (C.A. 9, 1966) *cert. den.* 388 U.S. 922 (1967)) the suspect was wanted for the murder of a policeman and armed bank robbery and police knew he was always armed; thus, grabbing him with no announcement was excused. Because of this rule, we see no reason to attempt to set up this exception by statute. To do so would invite the unwise temptation to legislate additional classes of exceptions.

Also, we believe that an officer and someone inside a dwelling in danger have a greater chance of being killed or wounded if the officer blusters into the home of an accused without notice. Despite the law being clear in this area, we wonder if we should allow our policemen to catch burglars by acting like burglars. At any rate, there is no reason to try to codify the existing law on the subject since it would serve no worthwhile purpose.

POLICY OBJECTIONS

As stated previously, early common law and our fourth amendment were designed to protect the sanctity of the home. Throughout the development of the law on announcement, courts continually mentioned the right of privacy to which a man in his home is entitled. Justice Brennan in the case of *Miller* v. *U.S.* (357 U.S. 301) twice

mentioned that a man's home protected him from the authority of the government because of a rule of "privacy." The remarks of William Pitt in 1763 express eloquently the general principles of protection which a man's home affords him from the forces of governmental authority:

> The poorest man may in his cottage bid defiance to all of the forces of the crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England cannot enter—all his force dares not cross the threshold of the ruined tenement.

Beyond the general aspects of the right of privacy, the rule of announcement is founded on some very practical considerations. The first is to prevent a sudden, unannounced invasion of the privacy of a citizen, guilty or innocent, with a resulting destruction of property when entry might well be effected by giving notice. The second, to safeguard the officer who might otherwise be killed or injured by a fearful householder unaware of his purpose.

The *Miller* decision, mentioned earlier, was not of constitutional dimensions but we believe that Justice Brennan writing for the majority lays down very sound policy considerations to guide the Congress in legislating in the area of prior notice before entering. He said:

> The requirement of prior notice of authority and purpose before forcing entry into a home is deeply rooted in our herit-

We believe for this reason alone section 702(b) should be opposed.

LACK OF COMMITTEE CONSIDERATION OF THE OVERALL PROBLEM

There is no question that section 702(b) is a hastily considered measure. In the first place, why should this section apply only to announcement in drug cases? Numbers paraphernalia on so-called "flash paper" could be readily destroyed in great quantity by the touch of a lighted match. Also, the Senate Investigations Subcommittee has received testimony that it may take no less than 30 seconds to destroy all of the evidence of a wire-service headquarters. There must be other property which "might easily be destroyed" which a general investigation into this entire area of search and seizure and announcement would disclose.

If we are to have a "no knock" authorization in federal law why legislate piece-meal in this manner. We think we should not have any but if we are to have some would it not be better to have a statute of general application inserted in the body of the Federal statutes governing search and seizure. To legislate so narrowly is bound to lead to confusion and to frustration among law enforcement agencies and create the temptation among law enforcement personnel not so well favored as narcotic agents to evade the restrictions binding them.

These considerations, we submit, make it imperative that the Senate return this bill to committee if the section is not striken with instructions that hearings be held. The subcommittee hearings reveal very little effort at all to ascertain the necessity for the proposal, its desirability, its constitutionality, its potential for abuse, and the other

things we should know before we legislate. Thus, law enforcement officials should be called to relate their experiences with the announcement requirement in narcotics and other areas. Scholars and others should be called on for their considered opinions. For example, New York and Utah by statute and Minnesota by court ruling authorize "no knock" entries. How have the laws worked in those States? Have there been abuses? Has law enforcement really been improved? What is the consensus of opinion in those States?

Moreover, from the early 1950's to the two cases we cited earlier, the California courts apparently permitted police officers wide latitude and discretion in not announcing, especially in narcotics cases. Now, the California court has clamped down. Why? Were there abuses? Did the experiment not work for some reason? These and other questions can be explored fully in hearings and if we are again presented with a "no knock" bill we will have the facts and the opinions needed to legislate.

The subcommittee gave no indepth consideration to the relationship between sections 702(b) and 3109 of title 18, the general statute dealing with announcement in Federal cases. Justice Brennan in the *Miller* case said that "Congress, codifying a tradition embedded in Anglo-Americcan law, had designated in section 3109 the reverance of the law for the individual's right or privacy in his house." Before passage of section 702(b), we feel that hearings should thoroughly explore the significance of its relationship with this law.

Section 702(b) deals only with search warrants in drug cases. It does not deal with announcement in the analogous situation of general arrest or arrest without a warrant. Most of the leading cases, such as *Miller* and *Ker*, concern the question of announcement in connection with an arrest without a warrant. So there could be potentially one rule for arrest—the existing rule—and another for search warrants under the rule of section 702(b). These matters lead to further confusion which could not help the police in their efforts to administer justice, and should be considered by the subcommittee. Suppose, for example, a policeman is executing both an arrest warrant and a search warrant under section 702(b). Would the announcement rulings of the common law dealing with arrest or section 702(b) govern his actions? The fact that there is no reasonable answer illustrates the defective nature of this legislation.

Enactment of section 702(b) would create an interesting paradox in the law which should be considered in hearings. There are holdings to the effect that in the absence of notice it would not be murder for the householder to kill the invading authority. By giving officers the right to enter without notice, section 702(b) would escalate a very real conflict in the law because of the existing right of the citizen to protect his home against intruders.

When legislation is being considered on which there is substantial constitutional doubt and it involves the foundation of one provision of the Bill of Rights, it is absolutely essential that we not vote until we have investigated the matter thoroughly. In short, the subcommittee failed to work out in its hearings the full constitutional and practical implications of S. 702(b). We think the section should be opposed for this reason and if not stricken, the bill should be sent back to the Judiciary Committee to be the subject of a general investigation into the rule of announcement and unlawful entry.

CONCLUSION

We oppose section 702(b) because we believe it is of doubtful constitutionality. We oppose it because we consider it unwise policy and because of its cavalier treatment in the subcommittee hearings. Proponents of this measure say that police already have the authority which would be granted to them under section 702(b). We would be quite willing to abide by this statement and allow the general law as it is developing to control search and seizure situations and we think this is as good reason as any to delete the section from the Controlled Dangerous Substances Act of 1969. Because the present common law exceptions to the announcement principle allow Federal and State officers to disregard it in exigent circumstances involving danger, destruction of evidence, or escape of suspects, we do not believe either a delay or final failure to enact such a provision at all will have a deleterious effect on law enforcement.

Proponents of section 702 (b) argue that because of the demands of effective criminal investigation and law enforcement, this legislation is necessary; therefore, despite other considerations, it should be passed. Justice Jackson in *U. S.* v. *Di Re* (332 U. S. 581 (1948)) eloquently dealt with the necessity argument in the same way that we hope the Senate will deal with it in connection with section 702 (b). He said:

> We meet in this case, as in many, the appeal to necessity. It is said that if such arrests and searches cannot be made, law enforcement will be more difficult and uncertain. But the forefathers, after consulting the lessons of history, designed our constitution to place obstacles in the way of a too permeating police surveillance, which they seemed to think was a greater danger to a free people than the escape of some criminals from punishment.

William Pitt put it even more bluntly:

> Necessity is the plea for every infringement of human freedom. It is the argument of tyrants; it is the creed of slaves.

SAM J. ERVIN, Jr.
PHILIP A. HART.

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-1120 **September Term, 2018**

Filed On: July 29, 2019

In re: Scottsdale Research Institute, LLC,

Petitioner

BEFORE: Millett, Pillard, and Wilkins, Circuit Judges

O R D E R

Upon consideration of the amended petition for writ of mandamus, it is

ORDERED, on the court's own motion, that the Drug Enforcement Administration file a response to the amended mandamus petition, not to exceed 7,800 words, within 30 days of the date of this order. See Fed. R. App. P. 21(d); D.C. Cir. Rule 21(a). Petitioner may file a reply, not to exceed 3,900 words, within 14 days after the filing of the response.

Per Curiam

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ppr. [L. *acceptare*, from *accipere*; *ad*, to, and *capere*, to take.]
1. to take or receive (what is offered) with a consenting mind.
2. to receive with approval or favor.
3. to consent or agree to; as, to *accept* the terms of a contract.
4. to understand; to have a particular idea of; to receive in a particular sense; as, how is this phrase to be *accepted*?
5. in commerce, to agree, as by a signed promise, to pay; as, to *accept* a bill of exchange.
6. to receive as true, valid, proper, etc.; as, to *accept* an apology.
7. to respond to in the affirmative; as, he will *accept* an invitation.
8. in law, to receive in person, as service of a writ.
9. in parliamentary procedure, to receive (a committee report) as satisfactory.
Syn.—receive, take, admit.

ac·cept·a·bil'i·ty, *n.* the quality of being acceptable.

ac·cept'a·ble, *a.* [L. *acceptabilitas*, from *ad*, to, and *capere*, to take.]
1. that may be received with pleasure; pleasing to a receiver; gratifying; as, an *acceptable* present.
2. agreeable or pleasing in person; as, a man makes himself *acceptable* by his services or civilities.
Syn.—agreeable, grateful, pleasing, welcome.

ac·cept'a·ble·ness, *n.* the quality of being acceptable.

ac·cept'a·bly, *adv.* in an acceptable manner.

ac·cept'ance, *n.* 1. an accepting or being accepted.
2. a receiving with approval or satisfaction; favorable reception; as, the *acceptance* of gifts.
3. the receiving of a bill of exchange or order, in such a manner as to bind the acceptor to make payment. This must be by express words; to charge the drawer with costs, in case of nonpayment, the *acceptance* must be in writing, under, across, or on the back of the bill.
4. a signed bill of exchange accepted; as, a merchant receives another's *acceptance* in payment.
5. an agreeing to terms or proposals in commerce, by which a bargain is concluded and the parties bound.
6. an agreeing to the act or contract of another by some act which binds the person in law; as, a landlord's taking rent agreed upon in a lease made by his predecessor is an *acceptance* of the terms of the lease.

ac·cept'an·cy, *n.* acceptance.

ac·cept'ant, *a.* accepting.

ac·cept'ant, *n.* one who accepts. [Archaic.]

ac·cep·tā'tion, *n.* 1. kind reception; a receiving with favor or approbation. [Archaic.]
2. a state of being acceptable; favorable regard. [Archaic.]
Some things are of great dignity and *acceptation* with God. —Hooker.
3. the meaning or sense in which a word or expression is understood, or generally received; as, a term is to be used according to its usual *acceptation*.

ac·cept'ed, *a.* generally regarded as true, valid, proper, etc.; conventional; approved.

ac·cept'ēr, *n.* [L. *acceptor*, one who receives; from *accipere*; *ad*, to, and *capere*, to take.] a person who accepts: see *acceptor*.

ac·cep'ti·lāte, *v.t.* to remit (a debt) by acquittance without receiving the money.

ac·cep·ti·lā'tion, *n.* [L. *acceptilatio*, from *accipere*, to receive or take, and *latio*, from *latus*, pp. of *ferre*, to bear.] remission of a debt by an acquittance from the creditor without receiving the money.

ac·cep'tion, *n.* acceptation, specifically in sense 3.

ac·cept'ive, *a.* acceptable.

ac·cept'ŏr, *n.* same as *accepter*, but more used in commerce and law.

ac'cess, *n.* [L. *accessus*, approach.]
1. a coming toward or near; approach.
2. admittance; admission; as, to gain *access* to an important official.
3. the way or means by which a thing may be approached; as, the *access* is by a neck of land.
4. liberty to approach, come into, or use (with *to*): often implying previous obstacles.
5. in law, admission to sexual intercourse.
6. addition; increase by something added; as, an *access* of territory: in this sense *accession* is more generally used.
7. the onset of a disease; attack.
8. an outburst; paroxysm; as, an *access* of anger.
9. in the Anglican and Protestant Episcopal Churches, the prayer before consecration of the Eucharistic elements; the prayer of humble *access*.
Syn.—admission, approach, entrance, admittance, increase.

ac·ces'sā·ri·ly, *adv.* see *accessorily*.

ac·ces'sā·ri·ness, *n.* see *accessoriness*.

ac·ces'sā·ry, *a.* and *n.* see *accessory*.

ac·ces·si·bil'i·ty, *n.* the quality or condition of being accessible.

ac·ces'si·ble, *a.* 1. that may be approached or entered.
2. easy to approach or enter.
3. that can be got; obtainable.
4. open to the influence of (with *to*); as, he is not *accessible to* pity.
Syn.—attainable, complaisant, courteous, sociable, friendly.

ac·ces'si·bly, *adv.* so as to be accessible.

ac·ces'sion, *n.* [L. *accessio*, an approach, from *accedere*; *ad*, to, and *cedere*, to move.]
1. a coming to and joining; as, a king's *accession* to a confederacy.
2. (a) increase by something added; (b) that which is added; augmentation; as, an *accession* of wealth or territory.
3. in law, (a) addition to property by improvements or natural growth; (b) the owner's right to the increase in value due to such additions.
4. the act of attaining a throne, an office, or dignity; as, the *accession* of a new president; the *accession* of the house of Hanover.
5. the onset of a disease; attack; as, an *accession* of fever.
Syn.—addition, augmentation, growth, increase.

ac·ces'sion·ăl, *a.* additional.

ac·ces'sit, *n.* [L., 3d pers. sing., perf. ind. of *accedere*, to come near, and meaning "he came near."] in England, a certificate or prize awarded to a student second in merit.

ac·ces'sive, *a.* accessible. [Obs.]

ac·ces·sō'ri·ăl, *a.* [L. *accessorius*, from *accessus*, pp. of *accedere*; *ad*, to, and *cedere*, to yield.] pertaining to or resembling an accessory; as, *accessorial* agency, *accessorial* guilt.

ac·ces'sō·ri·ly, ac·ces'sā·ri·ly, *adv.* in the manner of an accessory; by subordinate means, or in a secondary character; not as principal, but as a subordinate agent.

ac·ces'sō·ri·ness, ac·ces'sā·ri·ness, *n.* the state of being accessory, or of being or acting in a secondary character.

ac·ces'sō·ry, ac·ces'sā·ry, *a.* [L. *accessorius*, from *accessus*, pp. of *accedere*; *ad*, to, and *cedere*, to yield.]
1. aiding in certain acts or effects in a secondary or subordinate manner; additional; extra; as, *accessory* sounds in music.
2. in law, acting as an accessory; helping in an unlawful act
accessory fruit; fruit formed with a part of the floral envelope attached to the pericarp as additional substance; pseudocarp: the mulberry and checkerberry are examples.
accessory nerves; in anatomy, the eleventh pair of cranial nerves.

ac·ces'sō·ry, *n.*; *pl.* **ac·ces'sō·ries,** 1. something extra; thing added to help in a secondary way.
2. any article of clothing worn to complete one's outfit, as purse, gloves, stockings, etc.
3. equipment, usually demountable and replaceable, for convenience, comfort, safety, or completeness; as, the *accessories* of an automobile.
4. in law, a person who, though absent, helps another to break or escape the law.
5. in music, any mechanical device which helps to control the tonal effects of an organ.
accessory before (or *after*) *the fact*; a person who, though absent at the commission of a felony, aids or abets the accused before (or after) its commission.
Syn.—abettor, accomplice, ally, confederate, assistant, associate, coadjutor, companion, helper, henchman, partner, auxiliary, participator, appurtenance, attachment, appendage, ornament, decoration.

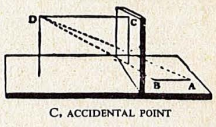
ac·ciac·ca·tù'ra (ät-chäk-kä-tö'rä), *n.* [It.] 1. in music, a short grace note sounded very quickly just before a principal note: it has a small line through the stem, and is shown as smaller.
2. in phonetics, the unemphasized first sound in a rising diphthong.

ac'ci·dence, *n.* [misspelled plural of *accident*; L. *accidentia*, from *accidere*, to happen.]
1. a book containing the fundamentals of grammar.
2. the part of grammar treating of the accidents, or inflection of words.
3. the fundamentals of any language, art, science, etc.

ac'ci·dence, *n.* [L. *accidens*, ppr. of *accidere*; *ad*, to, and *cadere*, to fall.] a happening by accident; a chance. [Obs.]

ac'ci·dent, *n.* [L. *accidens*, falling, from *ad*, to, and *cadere*, to fall.]
1. a happening; an event that takes place without one's foresight or expectation; an event which proceeds from an unknown cause, or is an unusual effect of a known cause, and therefore not expected; chance; casualty; contingency.
2. an unfortunate occurrence or mishap, especially one resulting in an injury.
3. in logic, a property, or quality of a thing, which is not essential to it, as whiteness in paper: also applied to all qualities in opposition to substance, as sweetness and softness, and to things not essential to a body, as clothes.
4. in grammar, something belonging to a word, but not essential to it, as gender, number, and case.
5. in heraldry, a point or mark not essential to a coat of arms.
6. in geography and geology, an irregular formation.
Syn.—casualty, contingency, misadventure, mischance, misfortune, mishap, disaster.

ac·ci·den'tăl, *a.* 1. happening by chance; not expected; casual; fortuitous; taking place not according to the usual course of things: opposed to that which is constant, regular, or intended; as, an *accidental* visit.
2. nonessential; not necessarily belonging; as, the songs are *accidental* to the play.
accidental colors; in optics, the imaginary complementary colors seen after fixing the eye for a short time on a bright-colored object, and then turning it suddenly to a white or light-colored surface. If the object is blue, the accidental color is yellow; if red, the accidental color is green.



C, ACCIDENTAL POINT

accidental point; in perspective, that point (C) where a line (DC) drawn from the eye (D) parallel to a given right line (BA) meets the perspective plane.
Syn.—casual, chance, contingent, fortuitous, incidental.

ac·ci·den'tăl, *n.* 1. anything happening, occurring, or appearing accidentally, or as if accidentally; a property not essential. [Rare.]
2. in music, a sharp, flat, or natural which does not occur in the clef, and which implies some change of pitch in the note before which it is placed.
3. in painting, one of those chance effects, occurring from luminous rays falling on certain objects, by which they are brought into stronger light than they otherwise would be, so that their shadows are consequently deeper.

ac·ci·den'tăl·ism, *n.* accidental character.

ac"ci·den·tal'i·ty, *n.* the quality of being accidental.

ac·ci·den'tăl·ly, *adv.* by chance; casually; fortuitously; not essentially.

ac·ci·den'tăl·ness, *n.* the quality of being accidental; casualness.

ac'ci·den·ted, *a.* varied and uneven in surface: applied to land.

ac'ci·dent in·sūr'ănce, insurance against injury due to accident.

ac·cip'i·ent, *n.* [L. *accipiens*, ppr. of *accipere*; *ad*, to, and *capere*, to take.] one who receives. [Obs.]

ac·cip'i·tēr, *n.* [L., a bird of prey, from *accipere*; *ad*, to, and *capere*, to take or seize.]
1. in ornithology, any of an order of birds of prey, the *Raptores*.
2. a bandage for the nose: so called from its resemblance to a hawk's claw.

ac·cip'i·trăl, *a.* of or like an accipiter.

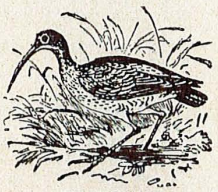
Ac·cip'i·trēs, *n.pl.* the *Raptores*.

Ac·cip·i·trī'nae, *n.pl.* a subfamily of *Raptores*, including the hawks, family *Falconidæ*, having the wings shorter than the tail and the bill short and hooked from the base.

ac·cip'i·trine, *a.* of or like an accipiter.

. accurate; careful; detailed.
. rare; singular; strange; arousing curios-
; as, a *curious* fact.
. very careful; scrupulous; fastidious.
ɔs.]
yn.—inquisitive, prying, rare.
i·ous·ly, *adv.* attentively; with care and
uracy; also, strangely; inquisitively.
i·ous·ness, *n.* the state or quality of being
ious.
i·um, *n.* [after Pierre and Marie *Curie.*]
chemical element of the transuranium
up, produced by atomic fission: symbol,
ı; atomic weight, 242 (?); atomic number,

, *v.t.*; curled, *pt., pp.*; curling, *ppr.* [ME.
·len, metathesized from *crulled, crolled,*
·led, from *crull, a.*, curly.]
. to wind or twist (hair, etc.) into ringlets
coils.
. to dress with curls; to adorn.
. to raise in waves or undulations; to
ple.
eas would be pools, without the brushing
air
To *curl* the waves. —Dryden.
. to cause to roll over or bend around.
, *v.i.* 1. to bend in curves; to take the
m of ringlets; to assume a curved or spiral
m; to appear curly.
t'll make your hair *curl.* —Thackeray.
. to move in waves or undulations; to rip-
; to rise in a winding outline; as, *curling*
oke; *curling* waves.
. to writhe; to twist.
Then round her slender waist he *curled.*
—Dryden.
. to play the game of curling.
o *curl up*; (a) to gather into spirals or curls;
roll up; (b) to sit or lie with the legs drawn
; (c) [Colloq.] to collapse; to break down.
, *n.* [ME. *crull, crulle,* curly, from M.D.
ul, krol, a curl.]
. a ringlet of hair, or anything of a like
m.
. undulation; a waving; sinuosity; a wind-
g.
. any of various diseases of plants in
nich the leaves curl up.
n curl; curled.
led, *a.* having curls; wavy.
l'ed·ness, *n.* the state of being curled;
rliness. [Rare.]
l'ĕr, *n.* 1. one who or that which curls.
2. one who plays the game of curling.
'lew, *n.*; *pl.* **cŭr'lewṣ, cŭr'lew,** [ME. *cur-*
ve; OFr. *corlieu,*
e curlew bird;
ıme prob. echo-
of the bird's
y.]
1. a large,
'ownish wading
rd, of the genus
umenius. It has
long bill that
urves downward.
is of the same
amily as the
oodcock and
ndpiper, and is
idely scattered in Europe and America.


EUROPEAN CURLEW
(*Numenius arquatus*)

2. any of certain wading birds, not of the
enus *Numenius*; as, the pygmy *curlew,* the
one *curlew.*
'lew·ber"ry, *n.* the black crowberry, *Em-*
etrum nigrum.
'lew jack, the European whimbrel, *Nu-*
enius phæopus.
'lew knot (not), the curlew jack.
'lew sand'pī"pĕr, a European sandpiper,
'ringa ferruginea, having a bill like that of a
urlew.
rl'i·cūe, *n.* a fancy curve, flourish, etc., as
handwriting: also written *curlycue.*
rl'i·ness, *n.* the quality or state of being
urly.
rl'ing, *n.* 1. the act of making curls.
2. a game played by sliding a large, smooth
tone of a circular form along the ice at a
nark (called the *tee*) 38 yards away.
rl'ing ī'ron (-ûrn) or **ī'rons,** an instrument
or curling the hair, generally consisting of a
ind of metal tongs: a lock of hair is lifted
vith the heated tongs and rolled into a ring-
et.
rl'ing stōne, a smooth, round stone used in
he game of curling, having a handle attached
o the upper side.
rl'ing tongs, a curling iron.
rl'pā"pĕr, *n.* a piece of paper around which
lock of hair may be wrapped to make a curl.

cŭrl'y, *a.*; *comp.* curlier; *superl.* curliest. 1. having curls.
2. tending to curl.
3. having curled or undulating grain, as certain woods.
cŭrl'y·cūe, *n.* same as *curlicue.*
cŭrl'y-head"ed, *a.* having curly hair; as, a *curly-headed* boy.
cŭrl'y-pā"ted, *a.* curly-headed.
cŭr·mudg'eŏn (-muj'un), *n.* [perh. from medieval name *Curmegan,* perh. equivalent to Fr. *coeur méchant,* evil heart.] an avaricious, churlish fellow; a miser; a cantankerous fellow.
cŭr·mudg'eŏn·ly, *a.* avaricious; cantankerous; churlish.
cŭr·mŭr'ring, *n.* [Scot.; echoic.] a murmuring or rumbling sound. [Scot. and Brit. Dial.]
cŭrn, *n.* [var. of *corn,* grain.]
1. a grain. [Scot.]
2. a small number or quantity; a few. [Scot.]
cŭrr, *v.i.* [echoic or ON. *kurra,* to growl, coo, rumble.] to coo or purr as a dove or cat.
cur'raċh, cur'ragh (-rakh), *n.* [Gael.]
1. a coracle or light skiff for one person. [Ir. and Scot.]
2. a small cart made of wickerwork. [Scot.]
cŭr'rà·jong, cŭr're·jong, cŭr'ri·jong, *n.* the kurrajong, an Australian tree, *Plagianthus sidoides.*
cur'rănt, *n.* [ME. *raisins of corans*; Fr. *raisins de Corinth,* raisins of Corinth: so named from being imported from Corinth.]
1. the dried fruit of a small, seedless grape grown in the Mediterranean region, used in cookery.
2. the fruit of several species of *Ribes,* so named because the berries resemble in size the small grapes from the Mediterranean region. The red currant is *Ribes rubrum,* of which the white currant is a variety; the black currant is *Ribes nigrum.*
3. the shrub bearing this fruit.
4. in Australia, any of several species of trees and shrubs bearing fruit resembling the true currant.
cur'răn bōr'ĕr, in zoology, the larva of a clearwing moth, *Ægeria tipuliformis,* which infests the stems of currant bushes.
cur'răn̆t gall, a small, round gall resembling an unripe currant, formed upon the flowers and leaves of the oak tree by an insect, *Spathegaster baccarum.*
cur'răn̆t wŏrm, in zoology, the larva of any insect that devours the currant; especially, *Nematus ventricosus,* a European species of sawfly, *Pristiphora grossulariæ,* an American sawfly, and *Eufitchia ribearia,* the spanworm.
cur'ren·cy, *n.*; *pl.* **cur'ren·cies,** [hyp. ML. *currentia,* a current, from L. *currens,* ppr. of *currere,* to run.]
1. literally, a flowing, running, or passing; a continued or uninterrupted course like that of a stream; as, the *currency* of time. [Obs.]
2. a continual passing from hand to hand, as of coins or bills of credit; circulation.
3. that which is current or in circulation as a medium of trade or exchange; as, paper *currency.*
4. general estimation; common acceptance; the rate at which anything is generally valued.
He takes greatness of kingdoms according to their bulk and *currency,* and not after intrinsic value. —Bacon.
5. the time during which anything is current.
fractional currency; coins or paper money in circulation, worth less than the monetary unit; as, the dime is *fractional currency,* being worth less than the standard unit, the dollar.
paper currency; paper issued as a substitute for money; the certificates issued by a government, or by a bank on the authority of a government.
cur'rent, *a.* [ME. *currant, corraunt*; OFr. *curant*; L. *currens,* ppr. of *currere,* to run, hasten.]
1. running; flowing; passing. [Rare.]
2. now in progress; of this day, week, month, or year; as, the *current* issue of a magazine.
3. passing from person to person, or from hand to hand; common; general; circulating; as, *current* opinions.
4. established by common estimation; generally received; as, the *current* value of coin.
5. passable; that may be accepted or admitted; authentic; genuine. [Obs.]
cur'rent, *n.* 1. a body of water or air flowing in a definite direction; as, a *current* of air; the *current* of the Gulf Stream.
2. a running or flowing.
3. general or main course; progressive motion or movement; continuation; successive course; as, the *current* of time; the *current* of events.
4. in electricity, the flow or rate of flow of electric force in a conductor, from a point of higher potential to one of lower potential.
alternating current; in electricity, a current which changes its direction at regular intervals: abbreviated *A. C.*
commuted current; in electricity, a current which alternates when generated, but is made to flow continuously in one direction by a commutator.
direct current; in electricity, a current which flows in one direction only: also called *continuous current* when the flow is steady and free of pulsations: abbreviated *D. C.*
eddy current or *Foucault current*; in electricity, a current created in a mass of metal by movement through magnetic induction, which is converted into heat and causes waste.
galvanic current; a voltaic current.
rotating current; in electricity, a current inducing a rotating magnetic field; a polyphase current.
undulatory current; in electricity, a current whose direction is constant, but whose strength is continuously varying.
voltaic current; in electricity, a current produced chemically, as in a battery.
Syn.—flow, stream, course, tide, flux.
cur'rent den'si·ty, the amount of electric current passing through a cross-sectional area of the conductor in a given unit of time: commonly expressed in amperes per square centimeter.
cur'rent ex·pens'eṣ, the regular and continuing expenses of maintaining a going business.
cur'rent·ly, *adv.* 1. now.
2. generally; commonly; popularly.
cur'rent mē'tĕr, an instrument for measuring the strength and velocity of a current in a river, etc.
cur'rent mill, a mill having for its motor a current wheel.
cur'rent·ness, *n.* 1. the state or quality of being current; currency; circulation; general reception.
2. fluency; easiness of pronunciation. [Obs.]
cur'rent wheel, a wheel driven by a current of water or by a tide.
cur'ri·cle, *n.* [L. *curriculum,* a race, a racecourse, from *currere,* to run.]
1. a light carriage with two wheels, drawn by two horses abreast.
2. a short course. [Obs.]
cur·riç'ū·lăr, *a.* [L. *curriculum,* a chariot.] pertaining to carriages, to driving, or to a racecourse. [Rare.]
cur·riç'ū·lăr, *a.* pertaining to a curriculum.
cur·riç'ū·lum, *n.*; *pl.* **cur·riç'ū·lumṣ** or **cur·riç'ū·là,** [L., a race, course, career, from *currere,* to run; figurative use.] a specific course of study or, collectively, all the courses of study in a university, college, or school.
cur'rie, *n.* see *curry.*
cur'ried (-rid), *a.* dressed by currying; dressed as leather; cleaned; prepared.
cur'ried, *a.* made with curry powder; as, *curried* chicken.
cur'ri·ĕr, *n.* [ME. *coriour*; OFr. *corier, corrier,* a worker in leather; L. *coriarius,* a tanner, from *corium,* leather.]
1. one who dresses and colors leather after it is tanned.
2. one who curries horses, etc.
cur'ri·ĕr, *n.* a firearm of the sixteenth century similar to the harquebus. [Obs.]
Cur'ri·ĕr and Iveṣ, [after the founders, Nathaniel *Currier* (1813–1888) and James M. Ives (1824–1895).]
1. a nineteenth-century lithographing firm in the United States that published a series of prints showing the manners, people, and events of the times.
2. any of these prints.
cur'ri·ĕr·y *n.*; *pl.* **cur'ri·ĕr·ieṣ,** the work or shop of a leather currier.
cŭr'rish, *a.* like a cur; having the qualities of a cur; brutal; mean; snarling; churlish; quarrelsome.
cŭr'rish·ly, *adv.* in a currish manner.
cŭr'rish·ness, *n.* the state or quality of being currish.
cur'ry, *v.t.*; curried, *pt., pp.*; currying, *ppr.* [ME. *curreyen, currayan,* to curry a horse, to prepare leather; OFr. *correier, coreer,* to put

NCSL

OUR AMERICAN STATES

State Medical Marijuana Laws

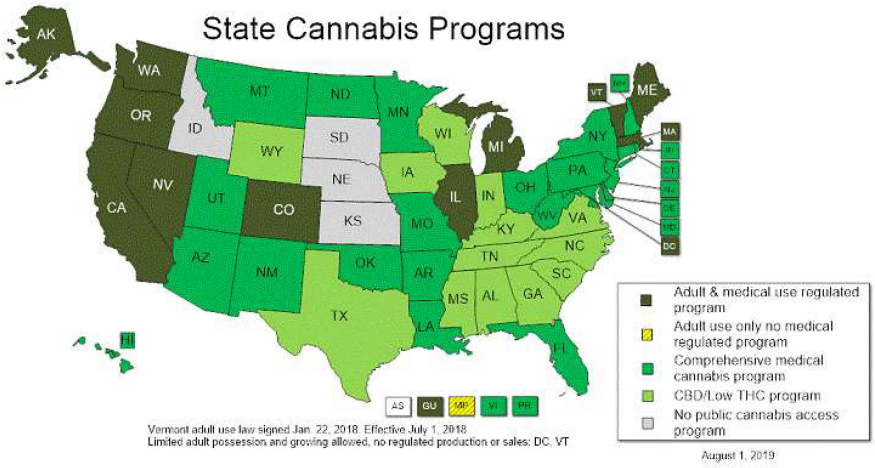
3/10/2020

California voters passed Proposition 215 in 1996, making the Golden State the first in the union to allow for the medical use of marijuana. Since then, 32 more states, the District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands have enacted similar laws.

As of June 25, 2019, 14 states and territories have approved adult-use cannabis. As of Jan. 22, 2018, the Vermont legislature passed adult-use legalization legislation and the governor signed the bill. The measure does not set up a regulatory system for sales or production. See the text of the measure below.

A total of 33 states, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands have approved comprehensive, publicly available medical marijuana/cannabis programs. **(See Table 1 below for more info.)** Approved efforts in 13 states allow use of "low THC, high cannabidiol (CBD)" products for medical reasons in limited situations or as a legal defense. See Table 2 below for more information about those programs. Low-THC programs are not counted as comprehensive medical marijuana programs. NCSL uses criteria similar to other organizations tracking this issue to determine if a program is "comprehensive":

1. Protection from criminal penalties for using marijuana for a medical purpose.
2. Access to marijuana through home cultivation, dispensaries or some other system that is likely to be implemented.
3. It allows a variety of strains or products, including those with more than "low THC."
4. It allows either smoking or vaporization of some kind of marijuana products, plant material or extract.
5. Is not a limited trial program. (South Dakota and Nebraska have limited, trial programs that are not open to the public.)



Medical Uses of Marijuana

In response to California's Prop 215, the Institute of Medicine issued a report that examined potential therapeutic uses for marijuana. The report found that: "Scientific data indicate the potential therapeutic value of cannabinoid drugs, primarily THC, for pain relief, control of nausea and vomiting, and appetite stimulation; smoked marijuana, however, is a crude THC delivery system that also delivers harmful substances. The psychological effects of cannabinoids, such as anxiety reduction, sedation, and euphoria can influence their potential therapeutic value. Those effects are potentially undesirable for certain patients and situations and beneficial for others. In addition, psychological effects can complicate the interpretation of other aspects of the drug's effect."

Further studies have found that marijuana is effective in relieving some of the symptoms of HIV/AIDS, cancer, glaucoma, and multiple sclerosis.[1]

In early 2017, the National Academies of Sciences, Engineering, and Medicine released a report based on the review of over 10,000 scientific abstracts from marijuana health research. They also made 100 conclusions related to health and suggest ways to improve cannabis research.

State vs Federal Perspective

At the federal level, marijuana remains classified as a Schedule I substance under the Controlled Substances Act, where Schedule I substances are considered to have a high potential for dependency and no accepted medical use, making distribution of marijuana a federal offense. In October of 2009, the Obama Administration sent a memo to federal prosecutors encouraging them not to prosecute people who distribute marijuana for medical purposes in accordance with state law.

In late August 2013, the U.S. Department of Justice announced an update to their marijuana enforcement policy. The statement read that while marijuana remains illegal federally, the USDOJ expects states like Colorado and Washington to create "strong, state-based enforcement efforts.... and will defer the right to challenge their legalization laws at this time." The department also reserves the right to challenge the states at any time they feel it's necessary.

More recently, in January 2018, former Attorney General Sessions issued a Marijuana Enforcement Memorandum that rescinded the Cole Memorandum, and allows federal prosecutors to decide how to prioritize enforcement of federal marijuana laws. Specifically, the Sessions memorandum directs U.S. Attorneys to “weigh all relevant considerations, including federal law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community.” Text of the memo can be found here: https://www.justice.gov/opa/pr/justice-department-issues-memo-marijuana-enforcement

NCSL's policy on state cannabis laws can be found under Additional Resources below.

Arizona and the District of Columbia voters passed initiatives to allow for medical use, only to have them overturned. In 1998, voters in the District of Columbia passed Initiative 59. However, Congress blocked the initiative from becoming law. In 2009, Congress reversed its previous decision, allowing the initiative to become law. The D.C. Council then put Initiative 59 on hold temporarily and unanimously approved modifications to the law.

Before passing Proposition 203 in 2010, Arizona voters originally passed a ballot initiative in 1996. However, the initiative stated that doctors would be allowed to write a "prescription" for marijuana. Since marijuana is still a Schedule I substance, federal law prohibits its prescription, making the initiative invalid. Medical marijuana "prescriptions" are more often called "recommendations" or "referrals" because of the federal prescription prohibition.

States with medical marijuana laws generally have some form of patient registry, which may provide some protection against arrest for possession up to a certain amount of marijuana for personal medicinal use.

Some of the most common policy questions regarding medical marijuana include how to regulate its recommendation, dispensing, and registration of approved patients. Some states and localities without dispensary regulation are experiencing a boom in new businesses, in hopes of being approved before presumably stricter regulations are made. Medical marijuana growers or dispensaries are often called "caregivers" and may be limited to a certain number of plants or products per patient. This issue may also be regulated on a local level, in addition to any state regulation.

Table 1. State Medical Marijuana/Cannabis Program Laws

State (click state name to jump to program information)	Statutory Language (year)	Patient Registry or ID cards	Allows Dispensaries	Specifies Conditions	Recognizes Patients from other states	State Allows for Retail Sales/Adult Use
Alaska	Measure 8 (1998) SB 94 (1999) Statute Title 17, Chapter 37	Yes	Yes	Yes	No, but adults over 21 may purchase at retail adult dispensaries.	Ballot Measure 2 (2014) Marijuana Regulations
Arizona	Proposition 203 (2010)	Yes	Yes	Yes	Yes, for AZ-approved conditions, but not for dispensary purchases.	
Arkansas	Issue 6 (2016)	Yes	Yes	Yes	Yes	
California	Proposition 215 (1996) SB 420 (2003)	Yes	Yes (cooperatives and collectives)	No	No	Proposition 64 (2016)

State (click state name to jump to program information)	Statutory Language (year)	Patient Registry or ID cards	Allows Dispensaries	Specifies Conditions	Recognizes Patients from other states	State Allows for Retail Sales/Adult Use
Colorado Medical program info Adult-use info	Amendment 20 (2000)	Yes	Yes	Yes	No	Amendment 64 (2012) Task Force Implementation Recommendations (2013) Analysis of CO Amendment 64 (2013) Colorado Marijuana Sales and Tax Reports 2014 "Edibles" regulation measure FAQ about CO cannabis laws by the Denver Post.
Connecticut	HB 5389 (2012)	Yes	Yes	Yes		
Delaware	SB 17 (2011)	Yes	Yes	Yes	Yes, for DE-approved conditions.	
District of Columbia	Initiative 59 (1998) L18-0210 (2010)	Yes	Yes	Yes		Initiative 71 (2014)
Florida	Amendment 2 (2016) Details pending	Pending	Pending	Pending	Pending	
Guam	Proposal 14A Approved in Nov. 2014, fully operational.- home growing currently allowed until dispensaries open Draft rules released in July 2015 Adult use- 2019 Bill No. 32-35 signed by governor in April, 2019	Yes	Yes	Yes	No	Yes. Adult use- 2019 Bill No. 32-35 signed by governor in April, 2019
Hawaii	SB 862 (2000)	Yes	Yes	Yes	No	
Illinois	HB 1 (2013) *Eff. 1/1/2014* Rules Adult use legalization SB 0007 bill passed legislature May, 2019, signed by governor June 25, 2019, Effective Jan. 1, 2020.	Yes	Yes	Yes	No	Measure approved by legislature in May, 2019, signed by governor June 25, 2019. Effective Jan. 1, 2020.
Louisiana	SB 271 (2017) (not yet in effect)	Pending	Yes	Yes	No	
Maine	Question 2 (1999) LD 611 (2002) Question 5 (2009) LD 1811 (2010) LD 1296 (2011)	Yes	Yes	Yes	Yes, but not for dispensary purchases.	Question 1 (2016) page 4 Chapter 409 (2018)
Maryland	HB 702 (2003) SB 308 (2011) HB 180/SB 580 (2013) HB 1101- Chapter 403 (2013) SB 923 (signed 4/14/14) HB 881- similar to SB 923	Yes	Yes	Yes	No	

State (click state name to jump to program information)	Statutory Language (year)	Patient Registry or ID cards	Allows Dispensaries	Specifies Conditions	Recognizes Patients from other states	State Allows for Retail Sales/Adult Use
Massachusetts	Question 3 (2012) Regulations (2013)	Yes	Yes	Yes	No	Question 4 (2016)
Michigan	Proposal 1 (2008)	Yes	Not in state law, but localities may create ordinances to allow them and regulate them.	Yes	Yes, for legal protection of posession, but not for dispensary purchases.	Proposal 18-1 (2018)
Minnesota	SF 2471, Chapter 311 (2014)	Yes	Yes, limited, liquid extract products only	Yes	No	
Missouri	Amendment 2 (2018)	Yes	Yes, details pending	Yes	Yet to be determined	
Montana	Initiative 148 (2004) SB 423 (2011) Initiative 182 (2016)	Yes Yes	No** Yes	Yes Yes	No	
Nevada	Question 9 (2000) NRS 453A NAC 453A	Yes	Yes	Yes	Yes, if the other state's program are "substantially similar." Patients must fill out Nevada paperwork. Adults over 21 may also purchase at adult retail dispensaries.	Question 2 (2016) page 25
New Hampshire	HB 573 (2013)	Yes	Yes	Yes	Yes, with a note from their home state, but they cannot purchase through dispensaries.	
New Jersey	SB 119 (2009) Program information	Yes	Yes	Yes	No	
New Mexico	SB 523 (2007) Medical Cannabis Program	Yes	Yes	Yes	No	
New York	A6357 (2014) Signed by governor 7/5/14	Yes	Ingested doses may not contain more than 10 mg of THC, product may not be combusted (smoked).	Yes	No	
North Dakota	Measure 5 (2016) NDCC 19-24.1 NDAC 33-44	Yes	Yes	Yes	No	
Northern Mariana Islands	Does not have a medical program.					Yes, HB 20-178 HD 4-Public Law 20-66 (2018)
Ohio	HB 523 (2016) Approved by legislature, signed by governor 6/8/16	Yes	Yes	Yes	Details pending, but will require reciprocity.	

State (click state name to jump to program information)	Statutory Language (year)	Patient Registry or ID cards	Allows Dispensaries	Specifies Conditions	Recognizes Patients from other states	State Allows for Retail Sales/Adult Use
Oklahoma	SQ 788 Approved by voters on 6/26/18, not yet operational	Details pending	Details pending	Not as voted on	Details pending	
Oregon	Oregon Medical Marijuana Act (1998) SB 161 (2007)	Yes	Yes	Yes	No, but adults over 21 may purchase at adult retail dispensaries.	Measure 91 (2014)
Pennsylvania	SB 3 (2016) Signed by governor 4/17/16	Yes	Yes	Yes	No	
Puerto Rico	Public Health Department Regulation 155 (2016) in Spanish	Yes	Cannot be smoked	Yes	Yes	
Rhode Island	SB 791 (2007) SB 185 (2009)	Yes	Yes	Yes	Yes	
US Virgin Islands	SB 135 (2017) signed by governor 1/19/19					
Utah	Prop 2 (2018) replaced by HB 3001 HB 3001 2018- Third Special Session	Yes	Yes	Yes	Yet to be determined	
Vermont	SB 76 (2004) SB 7 (2007) SB 17 (2011) H.511 (2018)	Yes	Yes	Yes	No	H.511 approved by legislature, signed by governor 1/22/18. Effective July 1, 2018. Does NOT provide for legal production or sales. Governor's Marijuana Advisory Commission suggested regulation structure below. Allows adults 21 years or older to possess up to one ounce of marijuana. Selling marijuana in Vermont remains illegal. Allows adults to grow two mature plants. Public consumption of marijuana is also not allowed. Governor's Marijuana Advisory Commission Final Report- December, 2018
Washington	Initiative 692(1998) SB 5798 (2010) SB 5073 (2011)	No	Yes, approved as of Nov. 2012, stores opened in July, 2014.	Yes	No, but adults over 21 may purchase at an adult retail dispensary.	Initiative 502 (2012) WAC Marijuana rules: Chapter 314-55 WAC FAQ about WA cannabis laws by the Seattle Times.
West Virginia	SB 386 (2017)	Yes	Yes. No whole flower/cannot be smoked but can be vaporized.	Yes	No, but may allow terminally ill to buy in other states.	

*The links and resources are provided for information purposes only. NCSL does not endorse the views expressed in any of the articles linked from this page.

** While Montana's revised medical marijuana law limits caregivers to three patients, caregivers may serve an unlimited number of patients due to an injunction issued on January 16, 2013.

Table 2. Limited Access Marijuana Product Laws (low THC/high CBD- cannabidiol)

State	Program Name and Statutory Language (year)	Patient Registry or ID cards	Dispensaries or Source of Product(s)	Specifies Conditions	Recognizes Patients from other states	Definition of Products Allowed	Allo Leg Def
Alabama	SB 174 "Carly's Law" (Act 2014-277) Allows University of Alabama Birmingham to conduct effectiveness research using low-THC products for treating seizure disorders for up to 5 years. HB 61 (2016) Leni's Law allows more physicians to refer patients to use CBD for more conditions.	No	Provides legal defense for posession and/or use of CBD oil. Does not create an in-state production method.	Yes, debilitating epileptic conditions, life-threatening seizures, wasting syndrome, chronic pain, nausea, muscle spasms, any other sever condition resistant to conventional medicine.	No	Extracts that are low THC= below 3% THC	Yes
Florida (NEW comprehensive program approved in 2016, included in table above)	Compassionate Medical Cannabis Act of 2014 CS for SB 1030 (2014) Patient treatment information and outcomes will be collected and used for intractable childhood epilepsy research	Yes	Yes, 5 registered nurseries across the state by region, which have been in business at least 30 years in Florida.	Yes, cancer, medical condition or seizure disorders that chronically produces symptoms that can be alleviated by low-THC products	No	Cannabis with low THC= below .8% THC and above 10% CBD by weight	
Georgia	HB 1 (2015) (signed by governor 4/16/15)	Yes	Law allows University System of Georgia to develop a lot THC oil clinical research program that meets FDA trial compliance.	Yes, end stage cancer, ALS, MS, seizure disorders, Crohn's, mitochondrial disease, Parkinson's, Sickle Cell disease	No	Cannabis oils with low THC= below 5% THC and at least an equal amount of CDB.	Yes
Idaho- VETOED BY GOVERNOR	SB 1146 **(VETOED by governor 4/16/15)**	No	Doesn't define.	The possessor has, or is a parent or guardian of a person that has, cancer, amyotrophic lateral sclerosis, seizure disorders, multiple sclerosis, Crohn's disease, mitochondrial disease, fibroymyalgia, Parkinson's disease or sickle cell disease;	No	Is composed of no more than three-tenths percent (0.3%) tetrahydrocannabidiol by weight; is composed of at least fifteen (15) times more cannabidiol than tetrahydrocannabidiol by weight; and contains no other psychoactive substance.	Yes

State	Program Name and Statutory Language (year)	Patient Registry or ID cards	Dispensaries or Source of Product(s)	Specifies Conditions	Recognizes Patients from other states	Definition of Products Allowed	Allo Leg Def
Indiana	HB 1148 (2017)	Yes	Doesn't define.	Treatment resistant epilepsy.	No	At least 5 percent CBD by weight. No more than .3 percent THC by weight.	Yes
Iowa	SF 2360, Medical Cannabidiol Act of 2014 (Effective 7/1/14 and repealed in 2017 and replaced) HF 524 of 2017 now Section 124E	Yes	Yes	Yes	Yes, for possession or use only, not for purchasing CBD in Iowa.	Less than 3 percent THC	Yes
Kentucky	SB 124 (2014) Clara Madeline Gilliam Act Exempt cannabidiol from the definition of marijuana and allows it to be administerd by a public university or school of medicine in Kentucky for clinical trial or expanded access program approved by the FDA.	No	Universities in Kentucky with medical schools that are able to get a research trial. Doesn't allow for in-state production of CBD product.	Intractable seizure disorders	No	No, only "cannabidiol".	
Mississippi	HB 1231 "Harper Grace's Law" 2014		All provided through National Center for Natural Products Research at the Univ. of Mississippi and dispensed by the Dept. of Pharmacy Services at the Univ. of Mississippi Medical Center	Yes, debilitating epileptic condition or related illness	No	"CBD oil" - processed cannabis plant extract, oil or resin that contains more than 15% cannabidiol, or a dilution of the resin that contains at least 50 milligrams of cannabidiol (CBD) per milliliter, but not more than one-half of one percent (0.5%) of tetrahydrocannabinol (THC)	Yes an aut pat gua
Missouri (NEW comprehensive program approved in 2018, included in table above)	HB 2238 (2014)	Yes	Yes, creates cannabidiol oil care centers and cultivation and production facilities/laboratories.	Yes, intractable epilepsy that has not responded to three or more other treatment options.	No	"Hemp extracts" equal or less than .3% THC and at least 5% CBD by weight.	Yes
North Carolina	HB 1220 (2014) Epilepsy Alternative Treatment Act- Pilot Study HB 766 (2015) Removes Pilot Study designation	Yes	University research studies with a hemp extract registration card from the state DHHS or obtained from another jurisdiction that allows removal of the products from the state.	Yes, intractable epilepsy	No	"Hemp extracts" with less than nine-tenths of one percent (0.9%) tetrahydrocannabinol (THC) by weight. Is composed of at least five percent (5%) cannabidiol by weight. Contains no other psychoactive substance.	Yes

State	Program Name and Statutory Language (year)	Patient Registry or ID cards	Dispensaries or Source of Product(s)	Specifies Conditions	Recognizes Patients from other states	Definition of Products Allowed	Allo Leg Def
Oklahoma (NEW comprehensive medical program approved in 2018 and listed above)	HB 2154 (2015)	Yes	No in-state production allowed, so products would have to be brought in. Any formal distribution system would require federal approval.	People under 18 (minors) Minors with Lennox-Gastaut Syndrome, Dravet Syndrome, or other severe epilepsy that is not adequately treated by traditional medical therapies	No	A preparation of cannabis with no more than .3% THC in liquid form.	Yes
South Carolina	SB 1035 (2014) Medical Cannabis Therapeutic Treatment Act-Julian's Law	Yes	Must use CBD product from an approved source; and (2) approved by the United States Food and Drug Administration to be used for treatment of a condition specified in an investigational new drug application. -The principal investigator and any subinvestigator may receive cannabidiol directly from an approved source or authorized distributor for an approved source for use in the expanded access clinical trials. Some have interpreted the law to allow patients and caregivers to produce their own products.	Lennox-Gastaut Syndrome, Dravet Syndrome, also known as severe myoclonic epilepsy of infancy, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies.	No	Cannabidiol or derivative of marijuana that contains 0.9% THC and over 15% CBD, or least 98 percent cannabidiol (CBD) and not more than 0.90% tetrahydrocannabinol (THC) by volume that has been extracted from marijuana or synthesized in a laboratory	Yes
Tennessee	SB 2531 (2014) Creates a four-year study of high CBD/low THC marijuana at TN Tech Univ. _____ HB 197 (2015)	Researchers need to track patient information and outcomes _____ No	Only products produced by Tennessee Tech University. Patients may possess low THC oils only if they are purchased "legally in the United States and outside of Tennessee," from an assumed medical cannabis state, however most states do not allow products to leave the state. ____ Allows for legal defense for having the product as long as it was obtained legally in the US or other medical marijuana state.	Yes, intractable seizure conditions. _____ Yes, intractable seizure conditions.	No _____ No	"Cannabis oil" with less than .9% THC as part of a clinical research study _____ Same as above.	Yes

State	Program Name and Statutory Language (year)	Patient Registry or ID cards	Dispensaries or Source of Product(s)	Specifies Conditions	Recognizes Patients from other states	Definition of Products Allowed	Allo Leg Def
Texas	SB 339 (2015) Texas Compassionate Use Act HB 3703 (2019)	Yes	Yes, licensed by the Department of Public Safety.	Yes, intractable epilepsy, incurable neurodegenerative disease, terminal cancer, multiple sclerosis, spasticity, ALS, autism.	No	"Low-THC Cannabis" with not more than 0.5 percent by weight of tetrahydrocannabinols.	Yes
Utah (NEW comprehensive program approved in 2018, included in table above)	HB 105 (2014) Hemp Extract Registration Act	Yes	Not completely clear, however it may allow higher education institution to grow or cultivate industrial hemp.	Yes, intractable epilepsy that hasn't responded to three or more treatment options suggested by neurologist.	No	"Hemp extracts" with less than .3% THC by weight and at least 15% CBD by weight and contains no other psychoactive substances	Yes
Virginia	HB 1445	No	No in-state means of acquiring cannabis products.	Intractable epilepsy	No	Cannabis oils with at least 15% CBD or THC-A and no more than 5% THC.	Yes
Wisconsin	AB 726 (2013 Act 267)	No	Physicians and pharmacies with an investigational drug permit by the FDA could dispense cannabidiol. Qualified patients would also be allowed to access CBD from an out-of-state medical marijuana dispensary that allows for out-of-state patients to use their dispensaries as well as remove the products from the state. No in-state production/manufacturing mechanism provided.	Seizure disorders		Exception to the definition of prohibited THC by state law, allows for possession of "cannabidiol in a form without a psychoactive effect." THC or CBD levels are not defined.	No
Wyoming	HB 32 (2015) Supervised medical use of hemp extracts. Effective 7/1/2015	Yes	No in-state production or purchase method defined.	Intractable epilepsy or seizure disorders	No	"Hemp extracts" with less than 0.3% THC and at least 5% CBD by weight.	Yes

**The links and resources are provided for information purposes only. NCSL does not endorse the views expressed in any of the articles linked from this page.*

Additional Resources

- NCSL's Cannabis & Employment Laws page.
- NCSL's Marijuana Deep Dive page featuring marijuana and cannabis laws on criminal justice, health and other resources.
- NCSL FY 2018 letter the LCJPS Committee sent to the Hill opposing the withholding of funding for state with medical marijuana laws: NCSL FY 2018 CJS Appropriations Support Letter. (May 16, 2017)
- State Marijuana Policy covered in Episode 4 of NCSL's podcast, Our American States. You can find it on our website or subscribe to the podcast in iTunes, Google Play or your favorite podcast app.
- Comparisons of programs
  - Comparison of all state medical marijuana programs with contact information. Prepared by the Network for Public Health Law as of Feb. 2019
  - Comparison of state limited access medical marijuana programs. Prepared by the Network for Public Health Law as of June 2018.

"State-by-State Medical Marijuana Laws" Marijuana Policy Project, 2019

- Finances/Tax information
  - Regulating Marijuana: Taxes, Banking and Federal Laws, November 2015
  - "State Medical Marijuana Programs' Financial Information," Marijuana Policy Project, July 2015
  - "Medical Marijuana Dispensary Laws: Fees and Taxes," Marijuana Policy Project
  - Colorado Marijuana Sales and Tax Reports (updated monthly)
  - Washington State Sales and Tax Information (updated weekly)
  - "Taxing Marijuana: The Washington and Colorado Experience," Tax Foundation, August 2014
- Law enforcement/crime information
  - "What Law Enforcement Can Learn from Marijuana Legalization in Colorado," Prepared by American Military University, March, 2015
  - Statement by ONDCP Director Gil Kerlikowske regarding Federal guidelines for medical marijuana prosecution
- Medical marijuana research and reports
  - The Health Effects of Cannabis and Cannabinoids: The Current State of Evidence and Recommendations for Research, 2017
  - "Marijuana and Medicine: Assessing the Science Base," Institute of Medicine, 1999
  - "Exposing the Myth of Smoked Medical Marijuana," U.S. Drug Enforcement Administration
  - Treatment Research Institute's (TRI) policy position statement regarding medical marijuana
  - ProCon.org's resources on medical marijuana. Medical Marijuana ProCon.org presents laws, studies, statistics, surveys, government reports, and pro and con statements on questions related to marijuana as medicine
  - "Becoming a State-Authorized Patient," Americans for Safe Access
- Retail/Adult Use information and news
  - Regulating Marijuana: Taxes, Banking and Federal Laws, November 2015
  - Regulating Marijuana: A Year and a Half In, NCSL, October 2015
  - "State Legalization of **Recreational** Marijuana: Selected Legal Issues." Congressional Research Service, April 2013
  - Analysis of CO Amendment 64 (rec use initiative) by Colorado State University, April 2013
  - Colorado Marijuana Sales and Tax Reports
  - Colorado Marijuana Enforcement Division Annual Update, February 2015
  - Public Health Law Research Law Atlas: Recreational Marijuana Laws - Interactive Map
- Public health and youth information
  - Marijuana Joins Smoke-Free Laws, *State Legislatures*, March 2013
  - Regulating Recreational Use of Marijuana and the Role of Public Health Law Prepared by the Network for Public Health Law
  - Marijuana Impact on Public Health and Safety in Colorado: conference by CO Association of Chiefs of Police, January 14-16, 2015
  - Smart Colorado: Protecting youth from marijuana
- Interest groups, position statements, opinions, and model regulation examples
  - SAM: Smart Approaches to Marijuana
  - Smart Colorado: Protecting youth from marijuana
  - Resources from the Public Health Institute
  - Treatment Research Institute's (TRI) policy position statement regarding medical marijuana
  - National Families in Action: Marijuana Studies Program "Marijuana Report"
  - "Medical Cannabis as a Tool to Combat Pain and the Opioid Crisis: A Blueprint for State Policy" Americans for Safe Access
  - "State-by-State Medical Marijuana Laws" Marijuana Policy Project, 2016
  - "Key Aspects of State and DC Medical Marijuana Laws," Marijuana Policy Project
  - "Becoming a State-Authorized Patient," Americans for Safe Access
  - Brookings Institution: Colorado's Rollout of Legal Marijuana Is Succeeding

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Scottsdale Research Institute, LLC, Plaintiff, vs. U.S. Drug Enforcement Administration and U.S. Department of Justice, Defendants.	No. 2:20-cv-00605-PHX-JJT

SETTLEMENT AGREEMENT

Plaintiff Scottsdale Research Institute, LLC and Defendants United States Department of Justice and United States Drug Enforcement Administration (collectively, "Defendants") hereby enter into this Settlement Agreement:

1. Upon the execution of this Settlement Agreement, Plaintiff hereby releases and forever discharges Defendants, and their successors, the United States of America, and any department, agency, or establishment of the United States, and any officers, employees, agents, successors, or assigns of such department, agency, or establishment, from any and all Freedom of Information Act claims and causes of action that Plaintiff asserts or could have asserted in this litigation, or which hereinafter could be asserted by reason of, or with respect to, or in connection with, or which arise out of, the causes of action alleged in in the Complaint.

2. Upon the execution of this Settlement Agreement, Plaintiff hereby releases and forever discharges Defendants and their successors, the United States of America, and any department, agency, or establishment of the United States, and any officers, employees, agents, successors, or assigns of such department, agency, or establishment, from any and all past,

present, or future claims for attorneys' fees, costs, or litigation expenses in connection with the above-captioned litigation.

3. Concurrent with the execution of this Settlement Agreement, Plaintiff's counsel shall seek the dismissal of this case with prejudice pursuant to Fed. R. Civ. P. 41(a) by filing the Joint Stipulation of Dismissal with Prejudice attached to this Settlement Agreement. This Settlement Agreement shall not be attached as an exhibit to the stipulation of dismissal to be filed on the docket.

4. No later than the end of the next business day after Plaintiff has filed the Joint Stipulation of Dismissal with Prejudice attached to this Settlement Agreement, the Department of Justice's Office of Legal Counsel will publish, in unredacted form, at https://www.justice.gov/olc/opinions, a copy of its June 6, 2018 memorandum on the subject of *Licensing Marijuana Cultivation in Compliance with the Single Convention on Narcotic Drugs*.

5. The parties acknowledge that this Settlement Agreement is entered into solely for the purpose of settling and compromising the claims in this action without further litigation, and it shall not be construed as evidence or as an admission regarding any issues of law or fact, or regarding the truth or validity of any allegation or claim raised in this action, or as evidence or as an admission by Defendants regarding Plaintiff's entitlement to any relief (including attorneys' fees or other litigation costs) under the Freedom of Information Act.

6. This Settlement Agreement may be executed in counterparts, and is effective on the date by which both parties have executed this Agreement. Facsimiles and PDF versions of signatures (including electronic signatures or "/*s*/" signatures) shall constitute acceptable, binding signatures for purposes of this Agreement.

SO STIPULATED AND AGREED this 28th day of April, 2020.

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Assistant Attorney General

MARCIA BERMAN
Assistant Branch Director

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LINCOLN D. CHAFEE
RHODE ISLAND

CHRISTINE O. GREGOIRE
WASHINGTON

November 30, 2011

Michele Leonhart, Administrator
Drug Enforcement Administration
Attn: Administrator
8701 Morrissette Drive
Springfield, VA 22152

Subject: *Rulemaking petition to reclassify cannabis for medical use from a Schedule I controlled substance to a Schedule II*

Dear Administrator Leonhart:

Pursuant to Section 1308.43 of Title 21 of the Code of Federal Regulations (CFR), we hereby petition to initiate proceedings for the issuance of an amendment of a rule or regulation pursuant to Section 201 of the Controlled Substances Act (CSA). Specifically, we petition for the reclassification of medical cannabis (also known as marijuana) from Schedule I to Schedule II of the CSA.

Attached hereto and constituting a part of this petition are the following as required by the CSA and the CFR:

Exhibit A – The proposed rule. We seek the amendment of an existing rule, so pursuant to 21 C.F.R. §1308.43(6), we have included the existing rule together with a reference to the section in the CFR where it appears, along with our proposed amendment for your consideration.

Exhibit B – A statement of the grounds upon which we rely for the issuance of an amendment of the rule. As required, the grounds we rely on include a reasonably concise statement of the facts, including a summary of relevant medical or scientific evidence in the form of an eight factor analysis that the CSA specifies a petitioner must address (21 U.S.C. §811(c)). The Secretary of the United States Department of Health and Human Services (HHS) through the Food and Drug Administration (FDA) will consider these factors in a report to you for purposes of informing your final decision. The factors include: (1) actual and potential for abuse; (2) pharmacology; (3) other current scientific knowledge; (4) history and current pattern of abuse; (5) scope, duration and significance of abuse; (6) public health risk; (7) psychic or physiological dependence liability; and (8) whether it is an immediate precursor of a controlled substance.

> The attached statement of grounds about the scientific and medical record, considering these eight factors, supports recognition of the accepted medical use of cannabis in the United States. Accordingly, we request you to open rulemaking to reschedule cannabis for medical purposes under the CSA from a Schedule I to a Schedule II controlled substance.

Background:

We are concerned that patients with serious medical conditions who could benefit from medical use of cannabis do not have a safe and consistent source of the drug. As you know, sixteen states and the District of Columbia have decriminalized cannabis for limited medical purposes. Each of these jurisdictions is struggling with managing safe access to medical cannabis for patients with serious medical conditions. Our work with the federal agencies has not resolved the matter. Federal enforcement policies acknowledge the "compassionate use" for seriously ill patients, but the policies do not provide means for safe access of medical cannabis for patients in need.

The divergence in state and federal law creates a situation where there is no regulated and safe system to supply legitimate patients who may need medical cannabis. State and local governments cannot adopt a regulatory framework to ensure a safe supply is available for – and limited to – legitimate medical use without putting their employees at risk of violating federal law. As some states seek to increase regulation, United States Attorneys have warned that the federal government would prosecute "vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law." Yet in the absence of state or local regulatory systems, there exists wide spread confusion and proliferation of unregulated activities.

More to the point, it is clear that the long-standing classification of medical use of cannabis in the United States as an illegal Schedule I substance is fundamentally wrong and should be changed. The federal government could quickly solve the issue if it reclassified cannabis for medical use from a Schedule I drug to a Schedule II drug. Most recently the DEA, as noted in your letter dated June 21, 2011 (published July 8, 2011 in the Federal Register), denied a 2002 petition to initiate proceedings to reschedule marijuana based on an outdated 2006 HHS/FDA scientific review. With respect to marijuana, the 2006 HHS/FDA review found: (1) the medical substance has a high potential for abuse; (2) has no currently accepted medical use in treatment in the United States; and (3) lacks accepted safety for use under medical supervision.

Upon review of the enclosed petition, we believe you will find that the mounting evidence refutes the 2006 review and shows that: (1) cannabis for medical purposes has a relatively low potential for abuse, especially in comparison with other Schedule II drugs; (2) the medical community has concluded that cannabis has accepted medical use in treatment in the United States; and (3) cannabis has accepted safety for use under medical supervision and pharmacy based access. It is now the DEA's responsibility to make appropriate decisions and update the scheduling of drugs based on the changing scientific evidence and the opinion of the medical community. We submit that evidence herein.

The American medical community supports rescheduling, and there are safe pharmacy-based methods to dispense medical cannabis:

The medical community supports rescheduling medical cannabis. In 2009, the American Medical Association (AMA) reversed its earlier position that supported Schedule I classification of cannabis. The AMA now supports investigation and clinical research of cannabis for medicinal use, and urged the federal government to reassess the Schedule I classification. The American College of Physicians recently expressed similar support. A great many other groups also support rescheduling.

The National Academy of Sciences, Institute of Medicine perhaps states it best: "Marijuana is not, to be sure, a completely benign substance. It is a powerful drug that affects the body and mind in a variety of ways. However, except for the damage caused by smoking [*which this petition clearly describes non-smoking methods for medical use*], its adverse effects resemble those of many approved medications." [Italics added]

Categorizing medical cannabis as a Schedule II drug would also allow pharmacy dispensing. It requires federal changes to allow pharmacy dispensing and regulated manufacturing and distribution, otherwise pharmacies and pharmacists put their DEA license numbers at risk. There are acceptable methods to safely prescribe and dispense medical cannabis. A pharmacy based method is an existing and effective model that could provide safe and reliable access for patients in need, just like it provides for other controlled substances. The well regulated pharmacy system is perfectly suited to providing controlled access to drugs for legitimate medical use.

Recent scientific development like affordable DNA analysis also supports the pharmacy model. With modern DNA analysis, it is easy to obtain an accurate characterization of the plant's beneficial compound. At the pharmacy level, with current technology readily available today, a compounding pharmacist could easily and inexpensively quantify the levels of cannabinoids, and then use the appropriate cannabis blend to create a customized medication for an individual patient. Compounding is now increasingly offered by community pharmacies. Moreover, studies have shown that pharmacists providing compounding reported increased quality of pharmaceuticals and improved collaboration between the patient, physician, and pharmacist. This paradigm would allow safe access to a medicine with proven efficacy and acceptable safety, in a manner that does not endanger the patient and allows for reasonable governmental oversight. It is important to note that medical cannabis can be vaporized, not smoked. Additionally cannabis can be ingested orally, or applied topically in a liniment. These issues are fully addressed in Exhibit B.

Conclusion:

A public rulemaking process would allow all interested parties to contribute their comments and expertise, and provide a full record for decision. These interested parties include patients and medical professionals and the sixteen states and the District of Columbia, or nearly one-third of the nation's population, that have decriminalized limited possession and use of cannabis for serious medical conditions, and at least ten other states are considering similar measures.

While not required by the law, we urge you to hold public hearings on these issues even before making your decision on whether to initiate formal rulemaking proceedings. You will find that physicians and scientists, mayors and county executives, sheriffs and prosecutors, and the majority of Americans based on reliable national polling, believe rescheduling medical cannabis for serious illnesses is appropriate.

Medical cannabis does have a potential for abuse, but far less so than other Schedule II substances like opiates. There are well researched accepted medical uses; there are ways to safely administer the drug; and, there are effective non-smoking methods like vaporization, oral ingestion or topical application. The exhaustive medical and scientific report attached as Exhibit B, incorporating the necessary eight factors, shows rescheduling cannabis for medical purposes is appropriate.

Current federal rules preclude the adoption of reasonable and workable frameworks for providing access to patients while maintaining the ability of law enforcement agencies to address non-medical/illegal distribution and use of cannabis. The situation has become untenable for our states and others. The solution lies with the federal government. We urge the DEA to initiate rulemaking proceedings to reclassify medical cannabis as a Schedule II drug so qualifying patients who follow state law may obtain the medication they need through the traditional and safe method of physician prescribing and pharmacy dispensing.

Thank you for your consideration.

Sincerely,

Lincoln D. Chafee
Governor of Rhode Island

Christine O. Gregoire
Governor of Washington

Enclosures:

Exhibit A – Proposed Rule
Exhibit B – Statement of Grounds

cc: The Honorable Eric Holder, U.S. Attorney General
The Honorable Kathleen Sebelius, Secretary, U.S. Department of Health and Human Services
The Honorable Margaret Hamburg, M.D., FDA Commissioner

Please send all notices regarding this petition to:

Jason T. McGill, Executive Policy Advisor, Health Care
Governor's Executive Policy Office
PO Box 43113
Olympia, WA 98504-3113

Jason.McGill@gov.wa.gov
Phone: (360) 902-0448
Fax: (360) 586-8380

Submitted in quintuplicate pursuant to 21 C.F.R. §1308.43

Exhibit A: Proposed Rule

We propose the following: that the rule placing "marihuana" in Schedule I [21 CFR 1308.11(d)(23) and 21 CFR 1308.11(d)(31)] is repealed and placed as a Schedule II drug. This is not a petition for the removal of marijuana from scheduling under the Controlled Substances Act (CSA), but a petition to have marijuana and related items removed from Schedule I and rescheduled as "medical cannabis" in Schedule II, and made on the basis of the scientific and medical evaluation required pursuant to the CSA, *see* Exhibit B, Statement of Grounds (21 USC 811(c)).

For the purposes of this petition, and in reference to the Drug Enforcement Administration (DEA) listing of Schedule I drugs, this will include all tetrahydrocannabinols (THC), which are naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances (not otherwise already classified as Schedule II or III), derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

-1 cis or trans tetrahydrocannabinol, and their optical isomers;
-6 cis or trans tetrahydrocannabinol, and their optical isomers; and
-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

Given that nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered are included.

The following is the proposed rule:

REMOVE: 21 CFR 1308.11(d) (23) and (31) and others sections that may relate to medical cannabis use:

"(d) Hallucinogenic substances. …:

…~~(23) Marihuana~~	~~7360~~
…~~(31) Tetrahydrocannabinols~~	~~7370~~
~~Meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:~~ - ~~-1 cis or trans tetrahydrocannabinol, and their optical isomers~~ ~~-6 cis or trans tetrahydrocannabinol, and their optical isomers~~	

~~-3,4 cis or trans tetrahydrocannabinol, and its optical isomers~~

~~(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)~~"

RESCHEDULED TO: 21 CFR 1308.12 Schedule II:

"(a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

…

(f) Hallucinogenic substances.

(1) …
(2) Cannabis (also known as Marihuana, including Tetrahydrocannabinols) for medicinal purposes only …

OTHER ISSUES FOR CONSIDERATION:

We would urge appropriate age and condition limitation.

Exhibit B: Statement of Grounds

Prepared by Gregory T. Carter, MD, MS,[i] Mitchell Earleywine, PhD,[ii] and Jason T. McGill, JD[iii]

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Exhibit B: Statement of Grounds

Exhibit B: Statement of Grounds

STATEMENT OF GROUNDS (21 USC 811(c)):

To remove all forms of cannabinoid medicines that are currently in Schedule I classification by the Federal United States Drug Enforcement Agency (DEA) laws, as determined by the Controlled Substances Act (CSA), be rescheduled as "medical cannabis" in Schedule II, as necessitated and made on the basis of the scientific and medical evaluation required by the CSA and in accordance with existing law. For the purposes of this petition, and in reference to the DEA listing of Schedule I drugs, this will include all tetrahydrocannabinols (THC), which are naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of such plant, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following:

-1 cis or trans tetrahydrocannabinol, and their optical isomers;
-6 cis or trans tetrahydrocannabinol, and their optical isomers; and
-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.

Given that nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered are included. For the remainder of this document, the terms cannabis and marijuana (also spelled "marihuana") will be used interchangeably to refer to any preparation of the cannabis plant intended for medicinal purposes. There are at least three species of the cannabis genus, those being cannabis sativa, cannabis indica, and cannabis ruderalis, any of which may be used for medicinal purposes.

Exhibit B: Statement of Grounds

BACKGROUND AND OVERVIEW OF EIGHT FACTOR ANALYSIS

Cannabis is now categorized (scheduled) by the DEA, as determined by the CSA, as a Schedule I drug. Schedule I is a category of drugs not considered legitimate for medical use because of limited utility and a high potential for dependence. Sharing this schedule with cannabis are heroin, lysergic acid, and methamphetamine. Schedule II is a category of drugs considered to have a strong potential for abuse or addiction but that also have legitimate medical use. Included here are opium, morphine, cocaine, and oxycodone. Schedule III drugs are felt to have even less abuse or addiction potential than Schedule I or II drugs and have a beneficial medical use. Included here are dronabinol, hydrocodone, amphetamine-based stimulants, and short-acting barbiturates. Schedule IV and V drugs are felt to have even less risks. Schedule IV drugs include benzodiazepines, while schedule V drugs include antidiarrheals and antitussives that contain opioid derivatives. While the DEA considers cannabis a schedule I drug, it classifies dronabinol (Marinol) as schedule III. Dronabinol is 100 percent THC and is potentially very psychoactive. Natural cannabis typically would be no more than 15 percent THC by weight. Thus it is inconsistent that cannabis, with 15 percent THC, remains a Schedule I drug, while dronabinol, at 100 percent THC, is schedule III.

Currently cannabinoid medicines fall into three categories: single molecule pharmaceuticals, cannabis-based liquid extracts, and phytocannabinoid-dense botanicals. It is this last category which is the primary target of this petition. The first category includes United States Food and Drug Administration (FDA)-approved synthetic or semisynthetic single molecule cannabinoid pharmaceuticals available by prescription. Currently, these are dronabinol, a Schedule III drug and nabilone, a Schedule II drug. Though both are also used off label, dronabinol, a (-)trans- 9-tetrahydrocannabinol (THC) isomer is found in natural cannabis and has been approved for two uses since 1985 and 1992 respectively: the treatment of nausea and vomiting associated with cancer chemotherapy in patients who have failed to respond adequately to conventional antiemetic treatments and the treatment of anorexia associated with weight loss in patients with acquired immunodeficiency syndrome (AIDS).(179, 369) Nabilone, a synthetic molecule shaped similarly to THC, has also been approved since 1985 for use in the treatment of nausea and vomiting associated with cancer chemotherapy.(370, 473)

The second category of cannabinoid medicines being used in the United States includes a line of cannabis-based medicinal extracts developed by several companies. The industry leader is GW Pharmaceuticals, a United Kingdom-based biopharmaceutical company whose lead product is currently undergoing FDA-approved, multisite clinical trials for the treatment of opioid-refractory cancer pain after receiving prior approval for Phase III clinical trials in the United States.(601) This botanical drug extract which goes by the nonproprietary name nabiximols has already secured approval in Canada for use in the treatment of central

neuropathic pain in multiple sclerosis (in 2005) and in the treatment of intractable cancer pain (in 2007).(601)

This report presents scientific research organized by sections containing research reviews on the following eight factors required by the CSA that determine control of a drug or substance or its removal from schedules (21 USC 811(c)):

1. Actual and potential for abuse
2. Pharmacology[1]
3. Other current scientific knowledge
4. History and current pattern of abuse
5. Scope, duration and significance of abuse
6. Public health risk
7. Psychic or physiological dependence liability
8. If an immediate precursor of a controlled substance

CANNABIS SHOULD BE RESCHEDULED TO SCHEDULE II BECAUSE IT DOES NOT MEET THE REQUIREMENTS OF SCHEDULE I (21 U.S.C. 812(b)(1)):

Past DEA decisions not to reclassify cannabis have relied upon 21 U.S.C. 812(b)(1). Therefore, this report provides evidence to prove that cannabis fails to meet the three criteria for placing a substance in Schedule I of the CSA under 21 U.S.C. 812(b)(1) because:

1. Cannabis does not have a high potential for abuse compared with other Schedule II drugs;
2. Cannabis is currently accepted for medical use in treatment in the United States; and
3. Evidence is clear of accepted safety for use of cannabis under medical supervision.

ORGANIZATION OF REPORT:

Due to subject matter flow, the organization of the report discusses the necessary factors in this order: Factors two (Pharmacology), three (Other current scientific knowledge), and eight (If an immediate precursor), and then factors one (Actual and potential for abuse), four (History and current pattern of abuse), five (Scope, duration and significance of abuse), seven (Psychic or physiological dependence liability) and six (Public health risk).

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[1] This includes a sub-factor analysis regarding "currently accepted medical use." A drug has a "currently accepted medical use" if all of the following five elements have been satisfied:

A. The drug's chemistry is known and reproducible
B. There are adequate safety studies
C. There are adequate and well-controlled studies proving efficacy
D. The drug is accepted by qualified experts; and
E. The scientific evidence is widely available.

Exhibit B: Statement of Grounds

1. PHARMACOLOGY (FACTOR TWO)

The Secretary must consider the scientific evidence of the pharmacological effects of cannabis. There are abundant scientific data available on the neurochemistry, toxicology, and pharmacology of cannabis. This section and others includes a scientific evaluation of cannabis' neurochemistry, pharmacology, and human and animal behavioral, central nervous system, cognitive, cardiovascular, autonomic, endocrinological, and immunological system effects. The overview presented below relies upon the most current research literature on cannabinoids.

In describing the pharmacological effects of cannabis, this section also addresses the five elements of currently accepted medical use. Per the DEA, a drug has a "currently accepted medical use" if all of the following five elements have been satisfied(25):

A. The drug's chemistry is known and reproducible;
B. There are adequate safety studies;
C. There are adequate and well-controlled studies proving efficacy;
D. The drug is accepted by qualified experts; and
E. The scientific evidence is widely available.

These issues will now be addressed in full, as means to substantiate the argument that cannabis should be re-scheduled to schedule II.

Meeting the five-factor criteria for "currently accepted medical use":

A. The chemistry of cannabis is known and reproducible

The chemistry of cannabis is remarkably well-known and highly reproducible compared to other legal drugs. Cannabis is a complex plant, with several subtypes of cannabis, each containing over 400 chemicals.(10,16,18,102,615,616) Approximately 60 are chemically classified as cannabinoids.(19) Cannabinoids, consisting of alkylresorcinol and monoterpene groups, are unique secondary metabolites that are found only in Cannabis. The cannabinoids are 21 carbon terpenes, biosynthesized predominantly via a recently discovered deoxyxylulose phosphate pathway.(349) The cannabinoids are lipophilic and not soluble in water. Among the most psychoactive of the cannabinoids is delta-9-tetrahydrocannabinol (THC), the active ingredient in dronabinol.(19) Other major cannabinoids include cannabidiol (CBD) and cannabinol (CBN), both of which may modify the pharmacology of THC or have distinct effects of their own.(591) CBD is not psychoactive and has significant anticonvulsant, sedative, and other pharmacological activity likely to interact with THC.(16) In mice, pretreatment with CBD increased brain levels of THC nearly threefold and there is strong evidence that cannabinoids can increase the brain concentrations and pharmacological actions of other drugs.(562)

Five endogenous cannabinoids are known, of which anandamide (EAE), 2-arachidonylglycerol (2 AG), and 2-archidonyl glyceryl ether are the best characterized. There is evidence that besides the two cannabinoid receptor subtypes that have been cloned, additional cannabinoid receptor subtypes and vanilloid receptors are involved in the complex physiological

functions of the cannabinoid system that include motor coordination, memory procession, control of appetite, pain modulation and neuroprotection.(732) Evidence suggests that the physiological roles of these endocannabinoids function as diffusible and short lived intercellular messengers that modulate synaptic transmission. Recent studies have provided strong experimental evidence that endogenous cannabinoids mediate signals retrogradely from depolarized postsynaptic neurons to presynaptic terminals to suppress subsequent neurotransmitter release, driving the synapse into an altered state.(562) In hippocampal neurons, depolarization of postsynaptic neurons and resultant elevation of calcium lead to transient suppression of inhibitory transmitter release. Depolarized hippocampal neurons rapidly release both AEA and 2 AG in a Ca2+ dependent manner. In the hippocampus, cannabinoid receptors are expressed mainly by GABA (gamma amino butyric acid) mediated inhibitory interneurons. Synthetic cannabinoid agonists depress GABA release from hippocampal slices.(562) However, in cerebellar Purkinje cells, depolarization induced elevation of calcium causes transient suppression of excitatory transmitter release depolarization induced suppression of excitation.(405) Thus endogenous cannabinoids released by depolarized hippocampal neurons may function to down regulate GABA release.(405) Further, signaling by the endocannabinoid system appears to represent a mechanism by which neurons can communicate backwards across synapses to modulate their inputs.

There are two known cannabinoid receptor subtypes. Subtype 1 (CB1) is expressed primarily in the brain whereas subtype 2 (CB2) is expressed primarily in the periphery.(357,543) Cannabinoid receptors constitute a major family of G protein-coupled, 7-helix transmembrane nucleotides, similar to the receptors of other neurotransmitters such as dopamine, serotonin, and norepinephrine.(165,530) Activation of protein kinases is responsible for some of the cellular responses elicited by the CB1 cannabinoid receptor.(590)

The pharmacological properties have been extensively studied. More recently, biosynthetic pathways of many of the major cannabinoids have been successfully established.(212,629) Several biosynthetic enzymes including geranylpyrophosphate: olivetolate geranyltransferase, tetrahydrocannabinolic acid (THCA) synthase, cannabidiolic acid (CBDA) synthase and cannabichromenic acid (CBCA) synthase have been purified from young rapidly expanding leaves of cannabis sativa. In addition, molecular cloning, characterization and localization of THCA synthase have been recently reported.(629) THCA and cannabigerolic acid (CBGA), its substrate, were shown to be apoptosis-inducing agents that might play a role in plant defense. Transgenic tobacco hairy roots expressing THCA synthase can produce THCA upon feeding of CBGA.

These results establish the basic and advanced chemistry of cannabis and in the context of human pharmacology to prove that the chemistry of cannabis is known and reproducible. The next sections also discuss related issues, so some cross reference is implicit and to a certain degree repetitive as necessary to separately address each factor.

B. Medical use of cannabis is considered safe

The contemporary era of clinical research with cannabis began when the first FDA-approved clinical study of cannabis use in a patient population in 15 years enrolled its first

Exhibit B: Statement of Grounds

subject.(4,415) Overall, the 33 completed and published American controlled clinical trials with cannabis have studied its safety, routes of administration, and use in comparison with placebos, standard drugs, and in some cases dronabinol, in: appetite stimulation in healthy volunteers, the treatment of human immunodeficiency virus (HIV) neuropathy and other types of chronic and neuropathic pain, both pathological and experimentally induced, spasticity in multiple sclerosis, weight loss in wasting syndromes, intraocular pressure in glaucoma, dyspnea in asthma, both pathological and experimentally induced, and emesis, both secondary to cancer chemotherapy and experimentally induced. There has been a long-term, prospective, federally funded cannabis clinical study jointly administered by National Institute on Drug Abuse (NIDA) and FDA. This study has been running for over 30 years without any demonstrable adverse outcomes related to chronic medicinal cannabis use.(594) According to an explanation from the United States Public Health Service, this program was closed to new enrollees in 1992 because the government believed the program was undermining the illegal status of the substance.(556)

Wang, et al. performed a systematic review of safety studies of medical cannabinoids published over the past 40 years to create an evidence base for cannabis-related adverse events and to facilitate future cannabis research initiatives. Ultimately 23 randomized controlled trials and eight observational studies of medical cannabis were used in the analysis. In the 23 randomized controlled trials, the median duration of cannabinoid exposure was two weeks (range eight hours to 12 months). Of all the adverse events reported, 97 percent were considered "not serious," with the most commonly reported "dizziness." The remaining three percent that were considered serious involved relapse of multiple sclerosis, vomiting, and urinary tract infection.(714) There has never been a reported death.

The recent discovery of an endogenous cannabinoid (endocannabinoid) system with specific receptors and ligands has increased our understanding of the actions of cannabis in terms of both safety and efficacy. The endocannabinoid system, present throughout the human body, helps regulate the function of major systems in the body, making it an integral part of the central homeostatic modulatory system—the check-and-balance molecular signaling network that keeps the human body healthy. The discovery and elucidation of the endogenous cannabinoid signaling system with widespread cannabinoid receptors and ligands in human brain and peripheral tissues, and its known involvement in normal human physiology, specifically in the regulation of movement, pain, appetite, memory, immunity, mood, blood pressure, bone density, reproduction, and inflammation, among other actions, has led to the progression of our understanding of the therapeutic actions of cannabinoid botanical medicines from folklore to valid science. The endocannabinoid system represents a previously unrecognized ubiquitous network in the nervous system. There is a dense receptor concentration in the cerebellum, basal ganglia, and hippocampus, accounting for the effects on motor tone, coordination and mood state.(14,15,103,104,714)

There are very few cannabinoid receptors in the brainstem, which may account for the remarkably low toxicity. Recently MRI studies investigated brain morphology related to current and lifetime degree of cannabis use in long term, heavy cannabis users without intensive use of other illicit drugs. Voxel-based morphometry was used to assess differences in regional grey and white matter volume between 33 heavy cannabis users and 42 matched controls.(148) Grey and white matter volume analyses showed that regional grey matter volume in the anterior

cerebellum was actually larger in heavy cannabis users.(148) Gray matter is the cortex of the brain which contains nerve cell bodies and appears gray in color. White matter is the part of the brain that contains myelinated nerve fibers. It is called white matter because the color of myelin appears white. In essence, gray matter is the functional brain tissue, and white matter is the supporting structure. Volume changes appeared to be focused in the orbitofrontal cortex, anterior cingulate cortex, striatum, amygdala, hippocampus, in addition to the cerebellum. These are all regions known to be high in CB1receptor concentrations. No associations were found between white matter volume and measures of cannabis use or dependence. However, the clinical implications of this are not known. There are very few studies done examining cannabis abuse in relation to brain structure and the results have been variable and inconsistent. This likely reflects differences in methodology of imaging, as well as the degree of cannabis abuse, and the concomitant use of other substances.

i. The safety of cannabis: cannabis has never caused a lethal overdose (LD50 standard)

There has never been a lethal overdose of marijuana reported in humans.(16,509) In clinical pharmacology, a lethal dose (LD) 50 is the most commonly used indicator for the toxicity of a drug. The LD50 is the dose at which 50 percent of subjects who ingest this drug will die. There is no known LD50 for any form of cannabis or any cannabinoid based medicine.(105) In its 4,000+ years of documented use, there is no report of death from overdose with cannabis.(31,106,107) If a very large dose of cannabis is consumed ("over dose"), which typically occurs via oral ingestion of a concentrated preparation of cannabis flowers' resin (e.g., in the form of an alcohol tincture or lipophillic extract), agitation and confusion, progressing to sedation, is generally the result.(443) This is time limited and disappears entirely once the cannabis and its psychoactive components are fully metabolized and excreted. This usually occurs within three-to-four hours, although oral ingestion may prolong the duration of these effects.

ii. Cannabis is safer than current, legal Schedule II opiate drugs

Contrast the remarkable safety of cannabis with the equally remarkable toxicity of opioids. As little as two grams of dried opium poppy sap (roughly 200 mg morphine sulfate) can result in death in an average size human (70 kilogram male) due to profound respiratory suppression.(702)

This growing documentation of usefulness and safety of cannabis comes at a time when there have been near epidemic increases in deaths related to prescription opioid analgesics.(134,145,229,230,341,520,527,618,639,640,740) A number of studies have now clearly linked risk of fatal and nonfatal opioid overdose to prescription use, with the risk increasing with the prescribed dosages.(134,618,537) According to the Centers for Disease Control and Prevention (CDC), from the years 1999 through 2006, the number of prescription opioid poisoning deaths in the United States (US) nearly doubled, from approximately 20,000 to 37,000.(116) This increase coincided with a nearly fourfold increase in the use of prescription opioids nationally.