

103^D CONGRESS
2^D SESSION

H. R. 3929

To amend titles II and XVI of the Social Security Act to provide that, for purposes of determining whether an individual is under a disability, engagement in an illegal drug-related enterprise demonstrates ability to engage in substantial gainful activity.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1994

Mr. HERGER introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To amend titles II and XVI of the Social Security Act to provide that, for purposes of determining whether an individual is under a disability, engagement in an illegal drug-related enterprise demonstrates ability to engage in substantial gainful activity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ENGAGEMENT IN ILLEGAL DRUG-RELATED EN-**
2 **TERPRISE TREATED AS DEMONSTRATION OF**
3 **ABILITY TO ENGAGE IN SUBSTANTIAL GAIN-**
4 **FUL ACTIVITY.**

5 (a) **DISABILITY INSURANCE.**—Section 223(d)(4) of
6 the Social Security Act (42 U.S.C. 423(d)(4)) is amend-
7 ed—

8 (1) by inserting “(A)” after “(4)”; and
9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B)(i) The criteria referred to in the first sentence
12 of subparagraph (A) shall provide that engagement by an
13 individual in an illegal drug-related enterprise for any re-
14 munerated, or any earnings derived by an individual from
15 engagement in such an enterprise, are sufficient to dem-
16 onstrate such individual’s ability to engage in substantial
17 gainful activity.

18 “(ii) For purposes of clause (i), the term ‘illegal drug-
19 related enterprise’ means the distribution, manufacture,
20 cultivation, sale, or transfer of, or the attempt or conspir-
21 acy to distribute, manufacture, cultivate, sell, or transfer,
22 any substance the possession of which is prohibited under
23 the Controlled Substances Act.”.

24 (b) **SUPPLEMENTAL SECURITY INCOME.**—Section
25 1614(a)(3)(D) of such Act (42 U.S.C. 1382c(a)(3)(D)) is
26 amended—

1 (1) by inserting “(i)” after “(D)”; and

2 (2) by adding at the end the following new
3 clause:

4 “(ii)(I) The criteria referred to in the first sentence
5 of clause (i) shall provide that engagement by an individ-
6 ual in an illegal drug-related enterprise for any remunera-
7 tion, or any earnings derived by an individual from en-
8 gagement in such an enterprise, are sufficient to dem-
9 onstrate such individual’s ability to engage in substantial
10 gainful activity.

11 “(II) For purposes of subclause (I), the term ‘illegal
12 drug-related enterprise’ means the distribution, manufac-
13 ture, cultivation, sale, or transfer of, or the attempt or
14 conspiracy to distribute, manufacture, cultivate, sell, or
15 transfer, any substance the possession of which is prohib-
16 ited under the Controlled Substances Act.”.

17 **SEC. 2. EFFECTIVE DATE.**

18 The amendments made by this Act shall apply with
19 respect to determinations of disability made after Decem-
20 ber 31, 1994. The Secretary of Health and Human Serv-
21 ices shall by regulations revise the criteria referred to in
22 the first sentence of section 223(d)(4)(A) of the Social Se-
23 curity Act (as amended by this Act) and the first sentence
24 of section 1614(a)(3)(D)(i) of such Act (as amended by
25 this Act) not later than December 31, 1994, so as to con-

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1 form to the requirements of the amendments made by this
2 Act.

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