

104TH CONGRESS
2^D SESSION

H. R. 3852

AN ACT

To prevent the illegal manufacturing and use of
methamphetamine.

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

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Comprehensive Methamphetamine Control Act of 1996”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—IMPORTATION OF METHAMPHETAMINE AND PRECURSOR CHEMICALS

Sec. 101. Support for international efforts to control drugs.

Sec. 102. Penalties for manufacture of listed chemicals outside the United States with intent to import them into the United States.

TITLE II—PROVISIONS TO CONTROL THE MANUFACTURE OF METHAMPHETAMINE

Sec. 201. Seizure and forfeiture of regulated chemicals.

Sec. 202. Study and report on measures to prevent sales of agents used in methamphetamine production.

Sec. 203. Increased penalties for manufacture and possession of equipment used to make controlled substances.

Sec. 204. Addition of iodine and hydrochloric gas to list II.

Sec. 205. Civil penalties for firms that supply precursor chemicals.

Sec. 206. Injunctive relief.

Sec. 207. Restitution for cleanup of clandestine laboratory sites.

Sec. 208. Record retention.

Sec. 209. Technical amendments.

Sec. 210. Withdrawal of regulations.

TITLE III—INCREASED PENALTIES FOR TRAFFICKING AND MANUFACTURE OF METHAMPHETAMINE AND PRECURSORS

Sec. 301. Trafficking in methamphetamine penalty increases.

Sec. 302. Penalty increases for trafficking in listed chemicals.

Sec. 303. Enhanced penalty for dangerous handling of controlled substances: amendment of sentencing guidelines.

TITLE IV—LEGAL MANUFACTURE, DISTRIBUTION, AND SALE OF PRECURSOR CHEMICALS

Sec. 401. Diversion of certain precursor chemicals.

Sec. 402. Mail order restrictions.

TITLE V—EDUCATION AND RESEARCH

Sec. 501. Interagency methamphetamine task force.

Sec. 502. Public health monitoring.

Sec. 503. Public-private education program.

Sec. 504. Suspicious orders task force.

1 **TITLE I—IMPORTATION OF**
2 **METHAMPHETAMINE AND**
3 **PRECURSOR CHEMICALS**

4 **SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CON-**
5 **TROL DRUGS.**

6 The Attorney General, in consultation with the Sec-
7 retary of State, shall coordinate international drug en-
8 forcement efforts to decrease the movement of meth-
9 amphetamine and methamphetamine precursors into the
10 United States.

11 **SEC. 102. PENALTIES FOR MANUFACTURE OF LISTED**
12 **CHEMICALS OUTSIDE THE UNITED STATES**
13 **WITH INTENT TO IMPORT THEM INTO THE**
14 **UNITED STATES.**

15 (a) UNLAWFUL IMPORTATION.—Section 1009(a) of
16 the Controlled Substances Import and Export Act (21
17 U.S.C. 959(a)) is amended—

18 (1) in the matter before paragraph (1), by in-
19 serting “or listed chemical” after “schedule I or II”;
20 and

21 (2) in paragraphs (1) and (2), by inserting “or
22 chemical” after “substance”.

23 (b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—
24 Paragraphs (1) and (2) of section 1009(b) of the Con-
25 trolled Substances Import and Export Act (21 U.S.C.

1 959(b)) are amended by inserting “or listed chemical”
2 after “controlled substance”.

3 (c) PENALTIES.—Section 1010(d) of the Controlled
4 Substances Import and Export Act (21 U.S.C. 960(d)) is
5 amended—

6 (1) in paragraph (5), by striking “or” at the
7 end;

8 (2) in paragraph (6), by striking the comma at
9 the end and inserting “; or”; and

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

11 “(7) manufactures, possesses with intent to dis-
12 tribute, or distributes a listed chemical in violation
13 of section 959 of this title.”.

14 **TITLE II—PROVISIONS TO CON-**
15 **TROL THE MANUFACTURE OF**
16 **METHAMPHETAMINE**

17 **SEC. 201. SEIZURE AND FORFEITURE OF REGULATED**
18 **CHEMICALS.**

19 (a) PENALTIES FOR SIMPLE POSSESSION.—Section
20 404 of the Controlled Substances Act (21 U.S.C. 844) is
21 amended—

22 (1) in subsection (a)—

23 (A) by adding after the first sentence the
24 following: “It shall be unlawful for any person
25 knowingly or intentionally to possess any list I

1 chemical obtained pursuant to or under author-
2 ity of a registration issued to that person under
3 section 303 of this title or section 1008 of title
4 III if that registration has been revoked or sus-
5 pended, if that registration has expired, or if
6 the registrant has ceased to do business in the
7 manner contemplated by his registration.”; and

8 (B) by striking “drug or narcotic” and in-
9 serting “drug, narcotic, or chemical” each place
10 it appears; and

11 (2) in subsection (c), by striking “drug or nar-
12 cotic” and inserting “drug, narcotic, or chemical”.

13 (b) FORFEITURES.—Section 511(a) of the Controlled
14 Substances Act (21 U.S.C. 881(a)) is amended—

15 (1) in paragraphs (2) and (6), by inserting “or
16 listed chemical” after “controlled substance” each
17 place it appears; and

18 (2) in paragraph (9), by—

19 (A) inserting “dispensed, acquired,” after
20 “distributed,” both places it appears; and

21 (B) striking “a felony provision of”.

22 (c) SEIZURE.—Section 607 of the Tariff Act of 1930
23 (19 U.S.C. 1607) is amended—

24 (1) in subsection (a)(3), by inserting “or listed
25 chemical” after “controlled substance”; and

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) As used in this section, the terms ‘controlled
4 substance’ and ‘listed chemical’ have the meaning given
5 such terms in section 102 of the Controlled Substances
6 Act (21 U.S.C. 802).”.

7 **SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT**
8 **SALES OF AGENTS USED IN METHAMPHET-**
9 **AMINE PRODUCTION.**

10 (a) STUDY.—The Attorney General of the United
11 States shall conduct a study on possible measures to effec-
12 tively prevent the diversion of red phosphorous, iodine, hy-
13 drochloric gas, and other agents for use in the production
14 of methamphetamine. Nothing in this section shall pre-
15 clude the Attorney General from taking any action the At-
16 torney General already is authorized to take with regard
17 to the regulation of listed chemicals under current law.

18 (b) REPORT.—Not later than January 1, 1998, the
19 Attorney General shall submit a report to the Congress
20 of its findings pursuant to the study conducted under sub-
21 section (a) on the need for and advisability of preventive
22 measures.

23 (c) CONSIDERATIONS.—In developing recommenda-
24 tions under subsection (b), the Attorney General shall con-
25 sider—

1 (1) the use of red phosphorous, iodine, hydro-
2 chloric gas, and other agents in the illegal manufac-
3 ture of methamphetamine;

4 (2) the use of red phosphorous, iodine, hydro-
5 chloric gas, and other agents for legal purposes, and
6 the impact any regulations may have on these pur-
7 poses; and

8 (3) comments and recommendations from law
9 enforcement, manufacturers of such chemicals, and
10 the consumers of such chemicals for legal purposes.

11 **SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND**
12 **POSSESSION OF EQUIPMENT USED TO MAKE**
13 **CONTROLLED SUBSTANCES.**

14 (a) IN GENERAL.—Section 403(d) of the Controlled
15 Substances Act (21 U.S.C. 843(d)) is amended—

16 (1) by striking “(d) Any person” and inserting
17 “(d)(1) Except as provided in paragraph (2), any
18 person”; and

19 (2) by adding at the end the following:

20 “(2) Any person who violates paragraph (6) or (7)
21 of subsection (a), if the controlled substance is meth-
22 amphetamine, shall be sentenced to a term of imprison-
23 ment of not more than 10 years, a fine under title 18,
24 United States Code, or both; except that if any person

1 commits such a violation after one or more prior convic-
2 tions of that person—

3 “(A) for a violation of paragraph (6) or (7) of
4 subsection (a);

5 “(B) for a felony under any other provision of
6 this subchapter or subchapter II of this chapter; or

7 “(C) under any other law of the United States
8 or any State relating to controlled substances or list-
9 ed chemicals,

10 has become final, such person shall be sentenced to a term
11 of imprisonment of not more than 20 years, a fine under
12 title 18, United States Code, or both.”.

13 (b) SENTENCING COMMISSION.—The United States
14 Sentencing Commission shall amend the sentencing guide-
15 lines to ensure that the manufacture of methamphetamine
16 in violation of section 403(d)(2) of the Controlled Sub-
17 stances Act, as added by subsection (a), is adequately pun-
18 ished.

19 (c) TECHNICAL AMENDMENT.—Section 403(d) of the
20 Controlled Substances Act (21 U.S.C. 843(d)) is amend-
21 ed—

22 (1) by striking “of not more than \$30,000” and
23 inserting “under title 18, United States Code”; and

24 (2) by striking “of not more than \$60,000” and
25 inserting “under title 18, United States Code”.

1 **SEC. 204. ADDITION OF IODINE AND HYDROCHLORIC GAS**
2 **TO LIST II.**

3 (a) IN GENERAL.—Section 102(35) of the Controlled
4 Substances Act (21 U.S.C. 802(35)) is amended by adding
5 the end the following:

6 “(I) Iodine.

7 “(J) Hydrochloric gas.”.

8 (b) IMPORTATION AND EXPORTATION REQUIRE-
9 MENTS.—(1) Iodine shall not be subject to the require-
10 ments for listed chemicals provided in section 1018 of the
11 Controlled Substances Import and Export Act (21 U.S.C.
12 971).

13 (2) EFFECT OF EXCEPTION.—The exception made by
14 paragraph (1) shall not limit the authority of the Attorney
15 General to impose the requirements for listed chemicals
16 provided in section 1018 of the Controlled Substances Im-
17 port and Export Act (21 U.S.C. 971).

18 **SEC. 205. CIVIL PENALTIES FOR FIRMS THAT SUPPLY PRE-**
19 **CURSOR CHEMICALS.**

20 (a) OFFENSES.—Section 402(a) of the Controlled
21 Substances Act (21 U.S.C. 842(a)) is amended—

22 (1) in paragraph (9), by striking “or” after the
23 semicolon;

24 (2) in paragraph (10), by striking the period
25 and inserting “; or”; and

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

1 “(11) to distribute a laboratory supply to a per-
2 son who uses, or attempts to use, that laboratory
3 supply to manufacture a controlled substance or a
4 listed chemical, in violation of this title or title III,
5 with reckless disregard for the illegal uses to which
6 such a laboratory supply will be put.

7 As used in paragraph (11), the term ‘laboratory supply’
8 means a listed chemical or any chemical, substance, or
9 item on a special surveillance list published by the Attor-
10 ney General, which contains chemicals, products, mate-
11 rials, or equipment used in the manufacture of controlled
12 substances and listed chemicals. For purposes of para-
13 graph (11), there is a rebuttable presumption of reckless
14 disregard at trial if the Attorney General notifies a firm
15 in writing that a laboratory supply sold by the firm, or
16 any other person or firm, has been used by a customer,
17 or distributed further by that customer, for the unlawful
18 production of controlled substances or listed chemicals a
19 firm distributes and 2 weeks or more after the notification
20 the notified firm distributes a laboratory supply to the cus-
21 tomer.”.

22 (b) CIVIL PENALTY.—Section 402(c)(2) of the Con-
23 trolled Substances Act (21 U.S.C. 842(c)(2)) is amended
24 by adding at the end the following:

1 “(C) In addition to the penalties set forth else-
2 where in this title or title III, any business that vio-
3 lates paragraph (11) of subsection (a) shall, with re-
4 spect to the first such violation, be subject to a civil
5 penalty of not more than \$250,000, but shall not be
6 subject to criminal penalties under this section, and
7 shall, for any succeeding violation, be subject to a
8 civil fine of not more than \$250,000 or double the
9 last previously imposed penalty, whichever is great-
10 er.”.

11 **SEC. 206. INJUNCTIVE RELIEF.**

12 (a) TEN-YEAR INJUNCTION MAJOR OFFENSES.—
13 Section 401(f) of the Controlled Substances Act (21
14 U.S.C. 841(f)) is amended by—

15 (1) inserting “manufacture, exportation,” after
16 “distribution,”; and
17 (2) striking “regulated”.

18 (b) TEN-YEAR INJUNCTION OTHER OFFENSES.—
19 Section 403 of the Controlled Substances Act (21 U.S.C.
20 843) is amended—

21 (1) in subsection (e), by—
22 (A) inserting “manufacture, exportation,”
23 after “distribution,”; and
24 (B) striking “regulated”; and
25 (2) by adding at the end the following:

1 “(f) INJUNCTIONS.—(1) In addition to any penalty
2 provided in this section, the Attorney General is author-
3 ized to commence a civil action for appropriate declaratory
4 or injunctive relief relating to violations of this section or
5 section 402.

6 “(2) Any action under this subsection may be
7 brought in the district court of the United States for the
8 district in which the defendant is located or resides or is
9 doing business.

10 “(3) Any order or judgment issued by the court pur-
11 suant to this subsection shall be tailored to restrain viola-
12 tions of this section or section 402.

13 “(4) The court shall proceed as soon as practicable
14 to the hearing and determination of such an action. An
15 action under this subsection is governed by the Federal
16 Rules of Civil Procedure except that, if an indictment has
17 been returned against the respondent, discovery is gov-
18 erned by the Federal Rules of Criminal Procedure.”.

19 **SEC. 207. RESTITUTION FOR CLEANUP OF CLANDESTINE**
20 **LABORATORY SITES.**

21 Section 413 of the Controlled Substances Act (21
22 U.S.C. 853) is amended by adding at the end the follow-
23 ing:

1 “(q) The court, when sentencing a defendant con-
2 victed of an offense under this title or title III involving
3 the manufacture of methamphetamine, may—

4 “(1) order restitution as provided in sections
5 3612 and 3664 of title 18, United States Code;

6 “(2) order the defendant to reimburse the Unit-
7 ed States for the costs incurred by the United States
8 for the cleanup associated with the manufacture of
9 methamphetamine by the defendant; and

10 “(3) order restitution to any person injured as
11 a result of the offense as provided in section 3663
12 of title 18, United States Code.”.

13 **SEC. 208. RECORD RETENTION.**

14 Section 310(a)(1) of the Controlled Substances Act
15 (21 U.S.C. 830(a)(1)) is amended by striking the dash
16 after “transaction” and subparagraphs (A) and (B) and
17 inserting “for two years after the date of the trans-
18 action.”.

19 **SEC. 209. TECHNICAL AMENDMENTS.**

20 Section 102 of the Controlled Substances Act (21
21 U.S.C. 802) is amended—

22 (1) in paragraph (34), by amending subpara-
23 graphs (P), (S), and (U) to read as follows:

24 “(P) Isosafrole.

25 “(S) N-Methylephedrine.

1 “(U) Hydriodic acid.”; and

2 (2) in paragraph (35), by amending subpara-
3 graph (G) to read as follows:

4 “(G) 2-Butanone (or Methyl Ethyl Ke-
5 tone).”.

6 **SEC. 210. WITHDRAWAL OF REGULATIONS.**

7 The final rule concerning removal of exemption for
8 certain pseudoephedrine products marketed under the
9 Federal Food, Drug, and Cosmetic Act published in the
10 Federal Register on August 7, 1996 (61 FR 40981–
11 40993) is null and void and of no force or effect.

12 **TITLE III—INCREASED PEN-**
13 **ALTIES FOR TRAFFICKING**
14 **AND MANUFACTURE OF**
15 **METHAMPHETAMINE AND**
16 **PRECURSORS**

17 **SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY**
18 **INCREASES.**

19 (a) CONTROLLED SUBSTANCES ACT.—

20 (1) LARGE AMOUNTS.—Section
21 401(b)(1)(A)(viii) of the Controlled Substances Act
22 (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

23 (A) striking “100 grams or more of meth-
24 amphetamine,” and inserting “50 grams or
25 more of methamphetamine,”; and

1 (B) striking “1 kilogram or more of a mix-
2 ture or substance containing a detectable
3 amount of methamphetamine” and inserting
4 “500 grams or more of a mixture or substance
5 containing a detectable amount of methamphet-
6 amine”.

7 (2) SMALLER AMOUNTS.—Section
8 401(b)(1)(B)(viii) of the Controlled Substances Act
9 (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

10 (A) striking “10 grams or more of meth-
11 amphetamine,” and inserting “5 grams or more
12 of methamphetamine,”; and

13 (B) striking “100 grams or more of a mix-
14 ture or substance containing a detectable
15 amount of methamphetamine” and inserting
16 “50 grams or more of a mixture or substance
17 containing a detectable amount of methamphet-
18 amine”.

19 (b) IMPORT AND EXPORT ACT.—

20 (1) LARGE AMOUNTS.—Section 1010(b)(1)(H)
21 of the Controlled Substances Import and Export Act
22 (21 U.S.C. 960(b)(1)(H)) is amended by—

23 (A) striking “100 grams or more of meth-
24 amphetamine,” and inserting “50 grams or
25 more of methamphetamine,”; and

1 (B) striking “1 kilogram or more of a mix-
2 ture or substance containing a detectable
3 amount of methamphetamine” and inserting
4 “500 grams or more of a mixture or substance
5 containing a detectable amount of methamphet-
6 amine”.

7 (2) SMALLER AMOUNTS.—Section
8 1010(b)(2)(H) of the Controlled Substances Import
9 and Export Act (21 U.S.C. 960(b)(2)(H)) is amend-
10 ed by—

11 (A) striking “10 grams or more of meth-
12 amphetamine,” and inserting “5 grams or more
13 of methamphetamine,”; and

14 (B) striking “100 grams or more of a mix-
15 ture or substance containing a detectable
16 amount of methamphetamine” and inserting
17 “50 grams or more of a mixture or substance
18 containing a detectable amount of methamphet-
19 amine”.

20 **SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LIST-**
21 **ED CHEMICALS.**

22 (a) CONTROLLED SUBSTANCES ACT.—Section
23 401(d) of the Controlled Substances Act (21 U.S.C.
24 841(d)) is amended by striking the period and inserting
25 the following: “or, with respect to a violation of paragraph

1 (1) or (2) of this subsection involving a list I chemical,
2 if the Government proves the quantity of controlled sub-
3 stance that could reasonably have been manufactured in
4 a clandestine setting using the quantity of list I chemicals
5 possessed or distributed, the penalty corresponding to the
6 quantity of controlled substance that could have been pro-
7 duced under subsection (b).”.

8 (b) CONTROLLED SUBSTANCE IMPORT AND EXPORT
9 ACT.—Section 1010(d) of the Controlled Substance Im-
10 port and Export Act (21 U.S.C. 960(d)) is amended by
11 striking the period and inserting the following: “, or, with
12 respect to an importation violation of paragraph (1) or
13 (3) of this subsection involving a list I chemical, if the
14 Government proves the quantity of controlled substance
15 that could reasonably have been manufactured in a clan-
16 destine setting using the quantity of list I chemicals im-
17 ported, the penalty corresponding to the quantity of con-
18 trolled substance that could have been produced under
19 title II.”.

20 (c) DETERMINATION OF QUANTITY.—

21 (1) IN GENERAL.—For the purposes of this sec-
22 tion and the amendments made by this section, the
23 quantity of controlled substance that could reason-
24 ably have been manufactured shall be determined by

1 using a table of manufacturing conversion ratios for
 2 list I chemicals.

3 (2) TABLE.—The table shall be—

4 (A) established by the United States Sen-
 5 tencing Commission based on scientific, law en-
 6 forcement, and other data the Sentencing Com-
 7 mission deems appropriate; and

8 (B) dispositive of this issue.

9 **SEC. 303. ENHANCED PENALTY FOR DANGEROUS HAN-**
 10 **DLING OF CONTROLLED SUBSTANCES:**
 11 **AMENDMENT OF SENTENCING GUIDELINES.**

12 (a) IN GENERAL.—Pursuant to its authority under
 13 section 994 of title 28, United States Code, the United
 14 States Sentencing Commission shall determine whether
 15 the Sentencing Guidelines adequately punish an offense
 16 described in subsection (b) and, if not, promulgate guide-
 17 lines or amend existing guidelines to provide an appro-
 18 priate enhancement of the punishment for a defendant
 19 convicted of that offense.

20 (b) OFFENSE.—The offense referred to in subsection
 21 (a) is a violation of section 401(d), 401(g)(1), 403(a)(6),
 22 or 403(a)(7) of the Controlled Substances Act (21 U.S.C.
 23 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), if in the
 24 commission of the offense the defendant violated—

1 (1) subsection (d) or (e) of section 3008 of the
2 Solid Waste Disposal Act (relating to handling haz-
3 ardous waste in a manner inconsistent with Federal
4 or applicable State law);

5 (2) section 103(b) of the Comprehensive Envi-
6 ronmental Response, Compensation and Liability
7 Act (relating to failure to notify as to the release of
8 a reportable quantity of a hazardous substance into
9 the environment);

10 (3) section 301(a), 307(d), 309(c)(2),
11 309(c)(3), 311(b)(3), or 311(b)(5) of the Federal
12 Water Pollution Control Act (relating to the unlaw-
13 ful discharge of pollutants or hazardous substances,
14 the operation of a source in violation of a
15 pretreatment standard, and the failure to notify as
16 to the release of a reportable quantity of a hazard-
17 ous substance into the water); or

18 (4) section 5124 of title 49, United States Code
19 (relating to violations of laws and regulations en-
20 forced by the Department of Transportation with re-
21 spect to the transportation of hazardous material).

1 **TITLE IV—LEGAL MANUFAC-**
2 **TURE, DISTRIBUTION, AND**
3 **SALE OF PRECURSOR CHEMI-**
4 **CALS**

5 **SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMI-**
6 **CALS.**

7 (a) IN GENERAL.—Section 102(39) of the Controlled
8 Substances Act (21 U.S.C. 802(39)) is amended—

9 (1) in subparagraph (A)(iv)(I)(aa), by striking
10 “as” through the semicolon and inserting “,
11 pseudoephedrine or its salts, optical isomers, or salts
12 of optical isomers, or phenylpropanolamine or its
13 salts, optical isomers, or salts of optical isomers un-
14 less otherwise provided by regulation of the Attorney
15 General issued pursuant to section 204(e) of this
16 title;”; and

17 (2) in subparagraph (A)(iv)(II), by inserting “,
18 pseudoephedrine, phenylpropanolamine,” after
19 “ephedrine”.

20 (b) LEGITIMATE RETAILERS.—Section 102 of the
21 Controlled Substances Act (21 U.S.C. 802) is amended—

22 (1) in paragraph (39)(A)(iv)(I)(aa), by insert-
23 ing before the semicolon the following: “, except that
24 any sale of ordinary over-the-counter
25 pseudoephedrine, phenylpropanolamine, or combina-

tion ephedrine products by retail distributors shall not be a regulated transaction (except as provided in section 401(d) of the Comprehensive Methamphetamine Control Act of 1996)”;

(2) in paragraph (39)(A)(iv)(II), by inserting before the semicolon the following: “, except that the threshold for any sale of pseudoephedrine, phenylpropanolamine, or combination ephedrine products by retail distributors or by distributors required to submit reports by section 310(b)(3) of this title shall be 24 grams of pseudoephedrine, 24 grams of phenylpropanolamine, or 24 grams of ephedrine in a single transaction”;

(3) by redesignating paragraph (43) relating to felony drug offense as paragraph (44); and

(4) by adding at the end the following:

“(45) The term ‘ordinary over-the-counter pseudoephedrine, phenylpropanolamine, or combination ephedrine product’ means any product containing pseudoephedrine, phenylpropanolamine, or ephedrine (where the ephedrine is combined with therapeutically significant quantities of another active medicinal ingredient) that is—

“(A) regulated pursuant to this title; and

1 “(B)(i) except for liquids, sold in package
2 sizes of not more than 3.0 grams of
3 pseudoephedrine base, 3.0 grams of phenyl-
4 propanolamine base or 2.0 grams of ephedrine
5 base, and that is packaged in blister packs,
6 each blister containing not more than two dos-
7 age units, or where the use of blister packs is
8 technically infeasible, that is packaged in unit
9 dose packets or pouches; and

10 “(ii) for liquids, sold in package sizes of
11 not more than 3.0 grams of pseudoephedrine
12 base or 3.0 grams of phenylpropanolamine base.

13 “(46)(A) The term ‘retail distributor’ means a
14 grocery store, general merchandise store, drug store,
15 or other entity or person whose activities as a dis-
16 tributor relating to pseudoephedrine, phenyl-
17 propanolamine, or combination ephedrine products
18 are limited almost exclusively to sales for personal
19 use, both in number of sales and volume of sales, ei-
20 ther directly to walk-in customers or in face-to-face
21 transactions by direct sales.

22 “(B) For purposes of this paragraph, sale for
23 personal use means the sale of below-threshold quan-
24 tities in a single transaction to an individual for le-
25 gitimate medical use.

1 “(C) For purposes of this paragraph, entities
2 are defined by reference to the Standard Industrial
3 Classification (SIC) code, as follows:

4 “(i) A grocery store is an entity within SIC
5 code 5411.

6 “(ii) A general merchandise store is an en-
7 tity within SIC codes 5300 through 5399 and
8 5499.

9 “(iii) A drug store is an entity within SIC
10 code 5912.

11 “(47) The term ‘combination ephedrine prod-
12 uct’ means a drug product containing ephedrine or
13 its salts, optical isomers, or salts of optical isomers
14 and therapeutically significant quantities of another
15 active medicinal ingredient.”.

16 (c) REINSTATEMENT OF LEGAL DRUG EXEMP-
17 TION.—Section 204 of the Controlled Substances Act (21
18 U.S.C. 814) is amended by adding at the end the following
19 new subsection:

20 “(e) REINSTATEMENT OF EXEMPTION WITH RE-
21 SPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHEN-
22 YLPROPANOLAMINE DRUG PRODUCTS.—Pursuant to sub-
23 section (d)(1), the Attorney General shall by regulation
24 reinstate the exemption with respect to a particular ephed-
25 rine, pseudoephedrine, or phenylpropanolamine drug prod-

1 uct if the Attorney General determines that the drug prod-
2 uct is manufactured and distributed in a manner that pre-
3 vents diversion. In making this determination the Attorney
4 General shall consider the factors listed in subsection
5 (d)(2). Any regulation issued pursuant to this subsection
6 may be amended or revoked based on the factors listed
7 in subsection (d)(4).”.

8 (d) REGULATION OF RETAIL SALES.—

9 (1) PSEUDOEPHEDRINE.—

10 (A) LIMIT.—

11 (i) IN GENERAL.—Not sooner than
12 the effective date of this section and sub-
13 ject to the requirements of clause (ii), the
14 Attorney General may establish by regula-
15 tion a single-transaction limit of 24 grams
16 of pseudoephedrine base for retail distribu-
17 tors. Notwithstanding any other provision
18 of law, the single-transaction threshold
19 quantity for pseudoephedrine-containing
20 compounds may not be lowered beyond
21 that established in this paragraph.

22 (ii) CONDITIONS.—In order to estab-
23 lish a single-transaction limit of 24 grams
24 of pseudoephedrine base, the Attorney
25 General shall determine, following notice,

1 comment, and an informal hearing that
2 since the date of the enactment of this Act
3 there are a significant number of instances
4 where ordinary over-the-counter
5 pseudoephedrine products as established in
6 paragraph (45) of section 102 of the Con-
7 trolled Substances Act (21 U.S.C. 802
8 (45)), as added by this Act, sold by retail
9 distributors as established in paragraph
10 (46) in section 102 of the Controlled Sub-
11 stances Act (21 U.S.C. 802(46)), are being
12 widely used as a significant source of pre-
13 cursor chemicals for illegal manufacture of
14 a controlled substance for distribution or
15 sale.

16 (B) VIOLATION.—Any individual or busi-
17 ness that violates the thresholds established in
18 this paragraph shall, with respect to the first
19 such violation, receive a warning letter from the
20 Attorney General and, if a business, the busi-
21 ness shall be required to conduct mandatory
22 education of the sales employees of the firm
23 with regard to the legal sales of
24 pseudoephedrine. For a second violation occur-
25 ring within 2 years of the first violation, the

1 business or individual shall be subject to a civil
2 penalty of not more than \$5,000. For any sub-
3 sequent violation occurring within 2 years of
4 the previous violation, the business or individual
5 shall be subject to a civil penalty not to exceed
6 the amount of the previous civil penalty plus
7 \$5,000.

8 (2) PHENYLPROPANOLAMINE.—

9 (A) LIMIT.—

10 (i) IN GENERAL.—Not sooner than
11 the effective date of this section and sub-
12 ject to the requirements of clause (ii), the
13 Attorney General may establish by regula-
14 tion a single-transaction limit of 24 grams
15 of phenylpropanolamine base for retail dis-
16 tributors. Notwithstanding any other provi-
17 sion of law, the single-transaction thresh-
18 old quantity for phenylpropanolamine-con-
19 taining compounds may not be lowered be-
20 yond that established in this paragraph.

21 (ii) CONDITIONS.—In order to estab-
22 lish a single-transaction limit of 24 grams
23 of phenylpropanolamine base, the Attorney
24 General shall determine, following notice,
25 comment, and an informal hearing, that

1 since the date of the enactment of this Act
2 there are a significant number of instances
3 where ordinary over-the-counter phenyl-
4 propanolamine products as established in
5 paragraph (45) of section 102 of the Con-
6 trolled Substances Act (21 U.S.C.
7 802(45)), as added by this Act, sold by re-
8 tail distributors as established in para-
9 graph (46) in section 102 of the Controlled
10 Substances Act (21 U.S.C. 802(46)), are
11 being widely used as a significant source of
12 precursor chemicals for illegal manufacture
13 of a controlled substance for distribution
14 or sale.

15 (B) VIOLATION.—Any individual or busi-
16 ness that violates the thresholds established in
17 this paragraph shall, with respect to the first
18 such violation, receive a warning letter from the
19 Attorney General and, if a business, the busi-
20 ness shall be required to conduct mandatory
21 education of the sales employees of the firm
22 with regard to the legal sales of
23 pseudoephedrine. For a second violation occur-
24 ring within 2 years of the first violation, the
25 business or individual shall be subject to a civil

1 penalty of not more than \$5,000. For any sub-
2 sequent violation occurring within 2 years of
3 the previous violation, the business or individual
4 shall be subject to a civil penalty not to exceed
5 the amount of the previous civil penalty plus
6 \$5,000.

7 (3) COMBINATION EPHEDRINE PRODUCTS.—

8 (A) LIMIT.—

9 (i) IN GENERAL.—Not sooner than
10 the effective date of this section and sub-
11 ject to the requirements of clause (ii), the
12 Attorney General may establish by regula-
13 tion a single-transaction limit of 24 grams
14 of ephedrine base for retail distributors of
15 combination ephedrine products. Notwith-
16 standing any other provision of law, the
17 single-transaction threshold quantity for
18 combination ephedrine products may not
19 be lowered beyond that established in this
20 paragraph.

21 (ii) CONDITIONS.—In order to estab-
22 lish a single-transaction limit of 24 grams
23 of ephedrine base, the Attorney General
24 shall determine, following notice, comment,
25 and an informal hearing, that since the

1 date of the enactment of this Act there are
2 a significant number of instances where or-
3 dinary over-the-counter combination
4 ephedrine products as established in para-
5 graph (45) of section 102 of the Controlled
6 Substances Act (21 U.S.C. 802(45)), as
7 added by this Act, sold by retail distribu-
8 tors as established in paragraph (46) in
9 section 102 of the Controlled Substances
10 Act (21 U.S.C. 802(46)), are being widely
11 used as a significant source of precursor
12 chemicals for illegal manufacture of a con-
13 trolled substance for distribution or sale.

14 (B) VIOLATION.—Any individual or busi-
15 ness that violates the thresholds established in
16 this paragraph shall, with respect to the first
17 such violation, receive a warning letter from the
18 Attorney General and, if a business, the busi-
19 ness shall be required to conduct mandatory
20 education of the sales employees of the firm
21 with regard to the legal sales of combination
22 ephedrine products. For a second violation oc-
23 curring within 2 years of the first violation, the
24 business or individual shall be subject to a civil
25 penalty of not more than \$5,000. For any sub-

1 sequent violation occurring within 2 years of
2 the previous violation, the business or individual
3 shall be subject to a civil penalty not to exceed
4 the amount of the previous civil penalty plus
5 \$5,000.

6 (4) SIGNIFICANT NUMBER OF INSTANCES.—(A)

7 For purposes of this subsection, isolated or infre-
8 quent use, or use in insubstantial quantities, of ordi-
9 nary over-the-counter pseudoephedrine, over-the-
10 counter phenylpropanolamine, or over the counter
11 combination ephedrine, and sold at the retail level,
12 for the illicit manufacture of a controlled substance
13 may not be used by the Attorney General as the
14 basis for establishing the conditions for establishing
15 a single transaction limit under this section.

16 (B) In making a determination under para-
17 graph (1)(A)(ii), paragraph (2)(A)(ii), or paragraph
18 (3)(A)(ii), the Attorney General shall consult with
19 the Secretary of Health and Human Services in
20 order to consider the effects on public health that
21 would occur from the establishment of new single
22 transaction limits under this section.

23 (C) After making a determination under para-
24 graph (1)(A)(ii), paragraph (2)(A)(ii), or paragraph
25 (3)(A)(ii), the Attorney General shall transmit a re-

1 port to the Committees on the Judiciary of the
2 House of Representatives and the Senate in which
3 the Attorney General will provide the factual basis
4 for establishing the new single transaction limits
5 under this section.

6 (5) DEFINITION OF BUSINESS.—For purposes
7 of this subsection, the term “business” means the
8 entity that makes the direct sale and does not in-
9 clude the parent company of a business not involved
10 in a direct sale regulated by this subsection.

11 (6) JUDICIAL REVIEW.—Any regulation promul-
12 gated by the Attorney General under this section
13 shall be subject to judicial review pursuant to section
14 507 of the Controlled Substances Act (21 U.S.C.
15 877).

16 (e) EFFECT ON THRESHOLDS.—Nothing in the
17 amendments made by subsection (b) or the provisions of
18 subsection (d) shall affect the authority of the Attorney
19 General to modify thresholds (including cumulative
20 thresholds) for retail distributors for products other than
21 ordinary over-the-counter pseudoephedrine, phenyl-
22 propanolamine, or combination ephedrine products (as de-
23 fined in section 102(45) of the Controlled Substances Act,
24 as added by this section) or for non-retail distributors, im-
25 porters, or exporters.

1 (f) EFFECTIVE DATE OF THIS SECTION.—Notwith-
2 standing any other provision of this Act, this section shall
3 not apply to the sale of any pseudoephedrine, phenyl-
4 propanolamine, or combination ephedrine product prior to
5 12 months after the date of enactment of this Act.

6 **SEC. 402. MAIL ORDER RESTRICTIONS.**

7 Section 310(b) of the Controlled Substances Act (21
8 U.S.C. 830(b)) is amended by adding at the end the fol-
9 lowing:

10 “(3) MAIL ORDER REPORTING.—(A) Each regu-
11 lated person who engages in a transaction with a
12 nonregulated person which—

13 “(i) involves ephedrine, pseudoephedrine,
14 or phenylpropanolamine (including drug prod-
15 ucts containing these chemicals); and

16 “(ii) uses or attempts to use the Postal
17 Service or any private or commercial carrier;
18 shall, on a monthly basis, submit a report of each
19 such transaction conducted during the previous
20 month to the Attorney General in such form, con-
21 taining such data, and at such times as the Attorney
22 General shall establish by regulation.

23 “(B) The data required for such reports shall
24 include—

25 “(i) the name of the purchaser;

1 “(ii) the quantity and form of the ephed-
2 rine, pseudoephedrine, or phenylpropanolamine
3 purchased; and

4 “(iii) the address to which such ephedrine,
5 pseudoephedrine, or phenylpropanolamine was
6 sent.”.

7 **TITLE V—EDUCATION AND**
8 **RESEARCH**

9 **SEC. 501. INTERAGENCY METHAMPHETAMINE TASK FORCE.**

10 (a) ESTABLISHMENT.—There is established a “Meth-
11 amphetamine Interagency Task Force” (referred to as the
12 “interagency task force”) which shall consist of the follow-
13 ing members:

14 (1) The Attorney General, or a designee, who
15 shall serve as chair.

16 (2) 2 representatives selected by the Attorney
17 General.

18 (3) The Secretary of Education or a designee.

19 (4) The Secretary of Health and Human Serv-
20 ices or a designee.

21 (5) 2 representatives of State and local law en-
22 forcement and regulatory agencies, to be selected by
23 the Attorney General.

24 (6) 2 representatives selected by the Secretary
25 of Health and Human Services.

1 (7) 5 nongovernmental experts in drug abuse
2 prevention and treatment to be selected by the At-
3 torney General.

4 (b) RESPONSIBILITIES.—The interagency task force
5 shall be responsible for designing, implementing, and eval-
6 uating the education and prevention and treatment prac-
7 tices and strategies of the Federal Government with re-
8 spect to methamphetamine and other synthetic stimulants.

9 (c) MEETINGS.—The interagency task force shall
10 meet at least once every 6 months.

11 (d) FUNDING.—The administrative expenses of the
12 interagency task force shall be paid out of existing Depart-
13 ment of Justice appropriations.

14 (e) FACA.—The Federal Advisory Committee Act (5
15 U.S.C. App. 2) shall apply to the interagency task force.

16 (f) TERMINATION.—The interagency task force shall
17 terminate 4 years after the date of enactment of this Act.

18 **SEC. 502. PUBLIC HEALTH MONITORING.**

19 The Secretary of Health and Human Services shall
20 develop a public health monitoring program to monitor
21 methamphetamine abuse in the United States. The pro-
22 gram shall include the collection and dissemination of data
23 related to methamphetamine abuse which can be used by
24 public health officials in policy development.

1 **SEC. 503. PUBLIC-PRIVATE EDUCATION PROGRAM.**

2 (a) ADVISORY PANEL.—The Attorney General shall
3 establish an advisory panel consisting of an appropriate
4 number of representatives from Federal, State, and local
5 law enforcement and regulatory agencies with experience
6 in investigating and prosecuting illegal transactions of
7 precursor chemicals. The Attorney General shall convene
8 the panel as often as necessary to develop and coordinate
9 educational programs for wholesale and retail distributors
10 of precursor chemicals and supplies.

11 (b) CONTINUATION OF CURRENT EFFORTS.—The
12 Attorney General shall continue to—

13 (1) maintain an active program of seminars and
14 training to educate wholesale and retail distributors
15 of precursor chemicals and supplies regarding the
16 identification of suspicious transactions and their re-
17 sponsibility to report such transactions; and

18 (2) provide assistance to State and local law en-
19 forcement and regulatory agencies to facilitate the
20 establishment and maintenance of educational pro-
21 grams for distributors of precursor chemicals and
22 supplies.

23 **SEC. 504. SUSPICIOUS ORDERS TASK FORCE.**

24 (a) IN GENERAL.—The Attorney General shall estab-
25 lish a “Suspicious Orders Task Force” (the “Task
26 Force”) which shall consist of—

1 (1) appropriate personnel from the Drug En-
2 forcement Administration (the “DEA”) and other
3 Federal, State, and local law enforcement and regu-
4 latory agencies with the experience in investigating
5 and prosecuting illegal transactions of listed chemi-
6 cals and supplies; and

7 (2) representatives from the chemical and phar-
8 maceutical industry, including representatives from
9 the DEA/Distributor Working Committee and the
10 DEA/Pharmacy Working Committee.

11 (b) RESPONSIBILITIES.—The Task Force shall be re-
12 sponsible for developing proposals to define suspicious or-
13 ders of listed chemicals, and particularly to develop quan-
14 tifiable parameters which can be used by registrants in
15 determining if an order is a suspicious order which must
16 be reported to DEA. The quantifiable parameters to be
17 addressed will include frequency of orders, deviations from
18 prior orders, and size of orders. The Task Force shall also
19 recommend provisions as to what types of payment prac-
20 tices or unusual business practices shall constitute prima
21 facie suspicious orders. In evaluating the proposals, the
22 Task Force shall consider effectiveness, cost and feasibil-
23 ity for industry and Government, an other relevant fac-
24 tors.

1 (c) MEETINGS.—The Task Force shall meet at least
2 two times per year and at such other times as may be
3 determined necessary by the Task Force.

4 (d) REPORT.—The Task Force shall present a report
5 to the Attorney General on its proposals with regard to
6 suspicious orders and the electronic reporting of sus-
7 picious orders within one year of the date of enactment
8 of this Act. Copies of the report shall be forwarded to the
9 Committees of the Senate and House of Representatives
10 having jurisdiction over the regulation of listed chemical
11 and controlled substances.

12 (e) FUNDING.—The administrative expenses of the
13 Task Force shall be paid out of existing Department of
14 Justice funds or appropriations.

15 (f) FACA.—The Federal Advisory Committee Act (5
16 U.S.C. App. 2) shall apply to the Task Force.

17 (g) TERMINATION.—The Task Force shall terminate
18 upon presentation of its report to the Attorney General,
19 or two years after the date of enactment of this Act,
20 whichever is sooner.

Passed the House of Representatives September 26,
1996.

Attest:

Clerk.