

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3852

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 1996

Received

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## AN ACT

To prevent the illegal manufacturing and use of  
methamphetamine.

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. SHORT TITLE AND TABLE OF CONTENTS.**

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 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-

1       tion ephedrine products by retail distributors shall  
2       not be a regulated transaction (except as provided in  
3       section 401(d) of the Comprehensive Methamphet-  
4       amine Control Act of 1996”;

5               (2) in paragraph (39)(A)(iv)(II), by inserting  
6       before the semicolon the following: “, except that the  
7       threshold for any sale of pseudoephedrine, phenyl-  
8       propanolamine, or combination ephedrine products  
9       by retail distributors or by distributors required to  
10      submit reports by section 310(b)(3) of this title shall  
11      be 24 grams of pseudoephedrine, 24 grams of phen-  
12      ylpropanolamine, or 24 grams of ephedrine in a sin-  
13      gle transaction”;

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

16              (4) by adding at the end the following:

17              “(45) The term ‘ordinary over-the-counter  
18      pseudoephedrine, phenylpropanolamine, or combina-  
19      tion ephedrine product’ means any product contain-  
20      ing pseudoephedrine, phenylpropanolamine, or  
21      ephedrine (where the ephedrine is combined with  
22      therapeutically significant quantities of another ac-  
23      tive medicinal ingredient) that is—

24              “(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) FACCA.—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:

ROBIN H. CARLE,

*Clerk.*