

Calendar No. 566

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

**S. 1965**

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**A BILL**

To prevent the illegal manufacturing and use of  
methamphetamine.

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August 2, 1996

Ordered to be placed on the calendar

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

# S. 1965

To prevent the illegal manufacturing and use of methamphetamine.

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## IN THE SENATE OF THE UNITED STATES

JULY 17, 1996

Mr. HATCH (for himself, Mr. BIDEN, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. SPECTER, Mr. WYDEN, Mr. DEWINE, Mr. HARKIN, Mr. D'AMATO, Mr. KYL, Mr. REID, Mr. ASHCROFT, Mr. FEINGOLD, Mr. MCCAIN, and Mr. DASCHLE) introduced the following bill; which was read twice and ordered held at the desk

AUGUST 2, 1996

Ordered to be placed on the calendar

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## A BILL

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,*

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.  
 Sec. 2. Findings.

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.

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.

3 **SEC. 2. FINDINGS.**

4 The Congress finds the following:

1           (1) Methamphetamine is a very dangerous and  
2 harmful drug. It is highly addictive and is associated  
3 with permanent brain damage in long-term users.

4           (2) The abuse of methamphetamine has in-  
5 creased dramatically since 1990. This increased use  
6 has led to devastating effects on individuals and the  
7 community, including—

8                   (A) a dramatic increase in deaths associ-  
9 ated with methamphetamine ingestion;

10                   (B) an increase in the number of violent  
11 crimes associated with methamphetamine inges-  
12 tion; and

13                   (C) an increase in criminal activity associ-  
14 ated with the illegal importation of meth-  
15 amphetamine and precursor compounds to sup-  
16 port the growing appetite for this drug in the  
17 United States.

18           (3) Illegal methamphetamine manufacture and  
19 abuse presents an imminent public health threat  
20 that warrants aggressive law enforcement action, in-  
21 creased research on methamphetamine and other  
22 substance abuse, increased coordinated efforts to  
23 prevent methamphetamine abuse, and increased  
24 monitoring of the public health threat methamphet-

1 amine presents to the communities of the United  
2 States.

3 **TITLE I—IMPORTATION OF**  
4 **METHAMPHETAMINE AND**  
5 **PRECURSOR CHEMICALS**

6 **SEC. 101. SUPPORT FOR INTERNATIONAL EFFORTS TO CON-**  
7 **TROL DRUGS.**

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

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

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

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

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

1 (b) UNLAWFUL MANUFACTURE OR DISTRIBUTION.—  
2 Paragraphs (1) and (2) of section 1009(b) of the Con-  
3 trolled Substances Import and Export Act (21 U.S.C.  
4 959(b)) are amended by inserting “or listed chemical”  
5 after “controlled substance”.

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

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

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

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

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

17 **TITLE II—PROVISIONS TO CON-**  
18 **TROL THE MANUFACTURE OF**  
19 **METHAMPHETAMINE**

20 **SEC. 201. SEIZURE AND FORFEITURE OF REGULATED**  
21 **CHEMICALS.**

22 (a) PENALTIES FOR SIMPLE POSSESSION.—Section  
23 404 of the Controlled Substances Act (21 U.S.C. 844) is  
24 amended—

25 (1) in subsection (a)—

1 (A) by adding after the first sentence the  
2 following: “It shall be unlawful for any person  
3 knowingly or intentionally to possess any list I  
4 chemical obtained pursuant to or under author-  
5 ity of a registration issued to that person under  
6 section 303 of this title or section 1008 of title  
7 III if that registration has been revoked or sus-  
8 pended, if that registration has expired, or if  
9 the registrant has ceased to do business in the  
10 manner contemplated by his registration.”; and

11 (B) by striking “drug or narcotic” and in-  
12 serting “drug, narcotic, or chemical” each place  
13 it appears; and

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

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

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

21 (2) in paragraph (9), by—

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

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

1 (c) SEIZURE.—Section 607 of the Tariff Act of 1930  
2 (19 U.S.C. 1607) is amended—

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

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

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

11 **SEC. 202. STUDY AND REPORT ON MEASURES TO PREVENT**  
12 **SALES OF AGENTS USED IN METHAMPHET-**  
13 **AMINE PRODUCTION.**

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

22 (b) REPORT.—Not later than January 1, 1998, the  
23 Attorney General shall submit a report to the Congress  
24 of its findings pursuant to the study conducted under sub-



1 section (a) on the need for and advisability of preventive  
2 measures.

3 (c) CONSIDERATIONS.—In developing recommenda-  
4 tions under subsection (b), the Attorney General shall con-  
5 sider—

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

9 (2) the use of red phosphorous, iodine, hydro-  
10 chloric gas, and other agents for legitimate, legal  
11 purposes, and the impact any regulations may have  
12 on these legitimate purposes; and

13 (3) comments and recommendations from law  
14 enforcement, manufacturers of such chemicals, and  
15 the consumers of such chemicals for legitimate, legal  
16 purposes.

17 **SEC. 203. INCREASED PENALTIES FOR MANUFACTURE AND**  
18 **POSSESSION OF EQUIPMENT USED TO MAKE**  
19 **CONTROLLED SUBSTANCES.**

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

22 (1) by striking “(d) Any person” and inserting  
23 “(d)(1) Except as provided in paragraph (2), any  
24 person”; and

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

1       “(2) Any person who, with the intent to manufacture  
2 or facilitate to manufacture methamphetamine, violates  
3 paragraph (6) or (7) of subsection (a), shall be sentenced  
4 to a term of imprisonment of not more than 10 years,  
5 a fine of not more than \$30,000, or both; except that if  
6 any person commits such a violation after one or more  
7 prior convictions of that person—

8               “(A) for a violation of paragraph (6) or (7) of  
9 subsection (a);

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

12              “(C) under any other law of the United States  
13 or any State relating to controlled substances or list-  
14 ed chemicals,

15 has become final, such person shall be sentenced to a term  
16 of imprisonment of not more than 20 years, a fine of not  
17 more than \$60,000, or both.”.

18       (b) SENTENCING COMMISSION.—The United States  
19 Sentencing Commission shall amend the sentencing guide-  
20 lines to ensure that the manufacture of methamphetamine  
21 in violation of section 403(d)(2) of the Controlled Sub-  
22 stances Act, as added by subsection (a), is treated as a  
23 significant violation.

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 at the end the following:

6 “(I) Iodine.

7 “(J) Hydrochloric gas.”.

8 (b) IMPORTATION REQUIREMENTS.—(1) Iodine shall  
9 not be subject to the requirements for listed chemicals pro-  
10 vided in section 1018 of the Controlled Substances Import  
11 and Export Act (21 U.S.C. 971).

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

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

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

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

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

25 (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 a firm distributes or continues to dis-  
15 tribute a laboratory supply to a customer where the Attor-  
16 ney General has previously notified, at least two weeks be-  
17 fore the transaction(s), the firm that a laboratory supply  
18 sold by the firm, or any other person or firm, has been  
19 used by that customer, or distributed further by that cus-  
20 tomer, for the unlawful production of controlled sub-  
21 stances or listed chemicals.”

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) Iso safrole.

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 **TITLE     III—INCREASED     PEN-**  
7 **ALTIES     FOR     TRAFFICKING**  
8 **AND     MANUFACTURE     OF**  
9 **METHAMPHETAMINE     AND**  
10 **PRECURSORS**

11 **SEC. 301. TRAFFICKING IN METHAMPHETAMINE PENALTY**  
12 **INCREASES.**

13 (a) CONTROLLED SUBSTANCES ACT.—

14           (1)           LARGE           AMOUNTS.—Section  
15 401(b)(1)(A)(viii) of the Controlled Substances Act  
16 (21 U.S.C. 841(b)(1)(A)(viii)) is amended by—

17           (A) striking “100 grams or more of meth-  
18 amphetamine,” and inserting “50 grams or  
19 more of methamphetamine,”; and

20           (B) striking “1 kilogram or more of a mix-  
21 ture or substance containing a detectable  
22 amount of methamphetamine” and inserting  
23 “500 grams or more of a mixture or substance  
24 containing a detectable amount of methamphet-  
25 amine”.



1           (2)           SMALLER           AMOUNTS.—Section  
2           401(b)(1)(B)(viii) of the Controlled Substances Act  
3           (21 U.S.C. 841(b)(1)(B)(viii)) is amended by—

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

7                   (B) striking “100 grams or more of a mix-  
8                   ture or substance containing a detectable  
9                   amount of methamphetamine” and inserting  
10                  “50 grams or more of a mixture or substance  
11                  containing a detectable amount of methamphet-  
12                  amine”.

13           (b) IMPORT AND EXPORT ACT.—

14           (1) LARGE AMOUNTS.—Section 1010(b)(1)(H)  
15           of the Controlled Substances Import and Export Act  
16           (21 U.S.C. 960(b)(1)(H)) is amended by—

17                   (A) striking “100 grams or more of meth-  
18                   amphetamine,” and inserting “50 grams or  
19                   more of methamphetamine,”; and

20                   (B) striking “1 kilogram or more of a mix-  
21                   ture or substance containing a detectable  
22                   amount of methamphetamine” and inserting  
23                   “500 grams or more of a mixture or substance  
24                   containing a detectable amount of methamphet-  
25                   amine”.

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

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

8                   (B) striking “100 grams or more of a mix-  
9                   ture or substance containing a detectable  
10                  amount of methamphetamine” and inserting  
11                  “50 grams or more of a mixture or substance  
12                  containing a detectable amount of methamphet-  
13                  amine”.

14 **SEC. 302. PENALTY INCREASES FOR TRAFFICKING IN LIST-**  
15 **ED CHEMICALS.**

16           (a) CONTROLLED SUBSTANCES ACT.—Section  
17 401(d) of the Controlled Substances Act (21 U.S.C.  
18 841(d)) is amended by striking the period and inserting  
19 the following: “or, with respect to a violation of paragraph  
20 (1) or (2) of this subsection involving a list I chemical,  
21 if the government proves the quantity of controlled sub-  
22 stance that could reasonably have been manufactured in  
23 a clandestine setting using the quantity of list I chemicals  
24 possessed or distributed, the penalty corresponding to the

1 quantity of controlled substance that could have been pro-  
2 duced under subsection (b).”.

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

15 (c) DETERMINATION OF QUANTITY.—

16 (1) IN GENERAL.—For the purposes of this sec-  
17 tion and the amendments made by this section, the  
18 quantity of controlled substance that could reason-  
19 ably have been provided shall be determined by  
20 using a table of manufacturing conversion ratios for  
21 list I chemicals.

22 (2) TABLE.—The table shall be—

23 (A) established by the United States Sen-  
24 tencing Commission based on scientific, law en-

1           enforcement, and other data the Sentencing Com-  
2           mission deems appropriate; and

3                   (B) dispositive of this issue.

4 **SEC. 303. ENHANCED PENALTY FOR DANGEROUS HAN-**  
5                   **DLING OF CONTROLLED SUBSTANCES:**  
6                   **AMENDMENT OF SENTENCING GUIDELINES.**

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

15           (b) OFFENSE.—The offense referred to in subsection  
16 (a) is a violation of section 401(d), 401(g)(1), 403(a)(6),  
17 or 403(a)(7) of The Controlled Substances Act (21 U.S.C.  
18 841(d), 841(g)(1), 843(a)(6), and 843(a)(7)), in cases in  
19 which in the commission of the offense the defendant vio-  
20 lated—

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

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

6           (3) section 301(a), 307(d), 309(c)(2),  
7           309(c)(3), 311(b)(3), or 311(b)(5) of the Federal  
8           Water Pollution Control Act (relating to the unlaw-  
9           ful discharge of pollutants or hazardous substances,  
10          the operation of a source in violation of a  
11          pretreatment standard, and the failure to notify as  
12          to the release of a reportable quantity of a hazard-  
13          ous substance into the water); or

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

18 **TITLE IV—LEGAL MANUFAC-**  
19 **TURE, DISTRIBUTION, AND**  
20 **SALE OF PRECURSOR CHEMI-**  
21 **CALS**

22 **SEC. 401. DIVERSION OF CERTAIN PRECURSOR CHEMI-**  
23 **CALS.**

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

1           (1) in subparagraph (A)(iv)(I)(aa), by striking  
2           “as” through the semicolon and inserting  
3           “, pseudoephedrine or its salts, optical isomers, or  
4           salts of optical isomers, or phenylpropanolamine or  
5           its salts, optical isomers, or salts of optical isomers  
6           unless otherwise provided by regulation of the Attor-  
7           ney General issued pursuant to section 204(e) of  
8           this title;”; and

9           (2) in subparagraph (A)(iv)(II), by inserting  
10          “, pseudoephedrine, phenylpropanolamine,” after  
11          “ephedrine”.

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

14               (1) in paragraph (39)(A)(iv)(I)(aa), by adding  
15               before the semicolon the following: “, except that  
16               any sale of ordinary over-the-counter  
17               pseudoephedrine or phenylpropanolamine products  
18               by retail distributors shall not be a regulated trans-  
19               action (except as provided in section 401(d) of the  
20               Comprehensive Methamphetamine Control Act of  
21               1996)”;

22               (2) in paragraph (39)(A)(iv)(II), by adding be-  
23               fore the semicolon the following: “, except that any  
24               sale of products containing pseudoephedrine or  
25               phenylpropanolamine, other than ordinary over-the-

1 counter pseudoephedrine or phenylpropanolamine  
2 products, by retail distributors shall not be a regu-  
3 lated transaction if the distributor’s sales are limited  
4 to less than the threshold quantity of 24 grams of  
5 pseudoephedrine or 24 grams of phenylpropanola-  
6 mine in each single transaction”;

7 (3) by redesignating paragraph (43) relating to  
8 felony drug abuse as paragraph (44); and

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

10 “(45) The term ‘ordinary over-the-counter  
11 pseudoephedrine or phenylpropanolamine product’  
12 means any product containing pseudoephedrine or  
13 phenylpropanolamine that is—

14 “(A) regulated pursuant to this title; and

15 “(B)(i) except for liquids, sold in package  
16 sizes of not more than 3.0 grams of  
17 pseudoephedrine base or 3.0 grams of phenyl-  
18 propanolamine base, and that is packaged in  
19 blister packs, each blister containing not more  
20 than two dosage units, or where the use of blis-  
21 ter packs is technically infeasible, that is  
22 packaged in unit dose packets or pouches; and

23 “(ii) for liquids, sold in package sizes of  
24 not more than 3.0 grams of pseudoephedrine  
25 base or 3.0 grams of phenylpropanolamine base.

1 “(46)(A) The term ‘retail distributor’ means—

2 “(i) with respect to an entity that is a gro-  
3 cery store, general merchandise store, or drug  
4 store, a distributor whose activities relating to  
5 pseudoephedrine or phenylpropanolamine prod-  
6 ucts are limited almost exclusively to sales, both  
7 in number of sales and volume of sales, directly  
8 to walk-in customers; and

9 “(ii) with respect to any other entity, a  
10 distributor whose activities relating to ordinary  
11 over-the-counter pseudoephedrine or phenyl-  
12 propanolamine products are limited primarily to  
13 sales directly to walk-in customers for personal  
14 use.

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

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

22 “(i) A grocery store is an entity within SIC  
23 code 5411.



1           “(ii) A general merchandise store is an en-  
 2           tity within SIC codes 5300 through 5399 and  
 3           5499.

4           “(iii) A drug store is an entity within SIC  
 5           code 5912.”.

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

10          “(e) REINSTATEMENT OF EXEMPTION WITH RE-  
 11          SPECT TO EPHEDRINE, PSEUDOEPHEDRINE, AND PHEN-  
 12          YLPROPANOLAMINE DRUG PRODUCTS.—The Attorney  
 13          General shall by regulation reinstate the exemption with  
 14          respect to a particular ephedrine, pseudoephedrine, or  
 15          phenylpropanolamine drug product if the Attorney Gen-  
 16          eral determines that the drug product is manufactured  
 17          and distributed in a manner that prevents diversion. In  
 18          making this determination the Attorney General shall con-  
 19          sider the factors listed in subsection (d)(2). Any regulation  
 20          issued pursuant to this subsection may be amended or re-  
 21          voked based on the factors listed in subsection (d)(4).”.

22          (d) REGULATION OF RETAIL SALES.—

23                 (1) PSEUDOEPHEDRINE.—

24                         (A) LIMIT.—

1 (i) IN GENERAL.—Not sooner than  
2 the effective date of this section and sub-  
3 ject to the requirements of clause (ii), the  
4 Attorney General may establish by regula-  
5 tion a single-transaction limit of 24 grams  
6 of pseudoephedrine base for retail distribu-  
7 tors. Notwithstanding any other provision  
8 of law, the single-transaction threshold  
9 quantity for pseudoephedrine-containing  
10 compounds may not be lowered beyond  
11 that established in this paragraph.

12 (ii) CONDITIONS.—In order to estab-  
13 lish a single-transaction limit of 24 grams  
14 of pseudoephedrine base, the Attorney  
15 General shall establish, following notice,  
16 comment, and an informal hearing that  
17 since the effective date of this section there  
18 are a significant number of instances  
19 where ordinary over-the-counter  
20 pseudoephedrine products as established in  
21 paragraph (45) of section 102 of the Con-  
22 trolled Substances Act (21 U.S.C. 802  
23 (45)), as added by this Act, sold by retail  
24 distributors as established in paragraph  
25 (46) in section 102 of the Controlled Sub-

1           stances Act (21 U.S.C. 802(46)), are being  
2           used as a significant source of precursor  
3           chemicals for illegal manufacture of a con-  
4           trolled substance in bulk.

5           (B) VIOLATION.—Any individual or busi-  
6           ness that violates the thresholds established in  
7           this paragraph shall, with respect to the first  
8           such violation, receive a warning letter from the  
9           Attorney General and, if a business, the busi-  
10          ness shall be required to conduct mandatory  
11          education of the sales employees of the firm  
12          with regard to the legal sales of  
13          pseudoephedrine. For a second violation occur-  
14          ring within 2 years of the first violation, the  
15          business or individual shall be subject to a civil  
16          penalty of not more than \$5,000. For any sub-  
17          sequent violation occurring within 2 years of  
18          the previous violation, the business or individual  
19          shall be subject to a civil penalty not to exceed  
20          the amount of the previous civil penalty plus  
21          \$5,000.

22          (2) PHENYLPROPANOLAMINE.—

23                 (A) LIMIT.—

24                         (i) IN GENERAL.—Not sooner than  
25                         the effective date of this section and sub-

1           ject to the requirements of clause (ii), the  
2           Attorney General may establish by regula-  
3           tion a single-transaction limit of 24 grams  
4           of phenylpropanolamine base for retail dis-  
5           tributors. Notwithstanding any other provi-  
6           sion of law, the single-transaction thresh-  
7           old quantity for phenylpropanolamine-con-  
8           taining compounds may not be lowered be-  
9           yond that established in this paragraph.

10           (ii) CONDITIONS.—In order to estab-  
11           lish a single-transaction limit of 24 grams  
12           of phenylpropanolamine base, the Attorney  
13           General shall establish, following notice,  
14           comment, and an informal hearing, that  
15           since the effective date of this section there  
16           are a significant number of instances  
17           where ordinary over-the-counter phenyl-  
18           propanolamine products as established in  
19           paragraph (45) of section 102 of the Con-  
20           trolled Substances Act (21 U.S.C.  
21           802(45)), as added by this Act, sold by re-  
22           tail distributors as established in para-  
23           graph (46) in section 102 of the Controlled  
24           Substances Act (21 U.S.C. 802(46)), are  
25           being used as a significant source of pre-

1 cursor chemicals for illegal manufacture of  
2 a controlled substance in bulk.

3 (B) VIOLATION.—Any individual or busi-  
4 ness that violates the thresholds established in  
5 this paragraph shall, with respect to the first  
6 such violation, receive a warning letter from the  
7 Attorney General and, if a business, the busi-  
8 ness shall be required to conduct mandatory  
9 education of the sales employees of the firm  
10 with regard to the legal sales of  
11 pseudoephedrine. For a second violation occur-  
12 ring within 2 years of the first violation, the  
13 business or individual shall be subject to a civil  
14 penalty of not more than \$5,000. For any sub-  
15 sequent violation occurring within 2 years of  
16 the previous violation, the business or individual  
17 shall be subject to a civil penalty not to exceed  
18 the amount of the previous civil penalty plus  
19 \$5,000.

20 (3) DEFINITION OF BUSINESS.—For purposes  
21 of this subsection, the term “business” means the  
22 entity that makes the direct sale and does not in-  
23 clude the parent company of a business not involved  
24 in a direct sale regulated by this subsection.

1           (4) JUDICIAL REVIEW.—Any regulation promul-  
2           gated by the Attorney General under this section  
3           shall be subject to judicial review pursuant to section  
4           507 of the Controlled Substances Act (21 U.S.C.  
5           877).

6           (e) EFFECT ON THRESHOLDS.—Nothing in the  
7           amendments made by subsection (b) or the provisions of  
8           subsection (d) shall affect the authority of the Attorney  
9           General to modify thresholds (including cumulative  
10          thresholds) for retail distributors for products other than  
11          ordinary over-the-counter pseudoephedrine or phenyl-  
12          propranolamine products (as defined in section 102(45) of  
13          the Controlled Substances Act, as added by this section)  
14          or for non-retail distributors, importers, or exporters.

15          (f) EFFECTIVE DATE OF THIS SECTION.—Notwith-  
16          standing any other provision of this Act, this section shall  
17          not apply to the sale of any over-the-counter  
18          pseudoephedrine or phenylpropranolamine product initially  
19          introduced into interstate commerce prior to 9 months  
20          after the date of enactment of this Act.

21       **SEC. 402. MAIL ORDER RESTRICTIONS.**

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

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

4                   “(i) involves ephedrine, pseudoephedrine,  
5                   or phenylpropanolamine (including drug prod-  
6                   ucts containing these chemicals); and

7                   “(ii) uses or attempts to use the Postal  
8                   Service or any private or commercial carrier;  
9           shall, on a monthly basis, submit a report of each  
10           such transaction conducted during the previous  
11           month to the Attorney General in such form, con-  
12           taining such data, and at such times as the Attorney  
13           General shall establish by regulation.

14           “(B) The data required for such reports shall  
15           include—

16                   “(i) the name of the purchaser;

17                   “(ii) the quantity and form of the ephed-  
18                   rine, pseudoephedrine, or phenylpropanolamine  
19                   purchased; and

20                   “(iii) the address to which such ephedrine,  
21                   pseudoephedrine, or phenylpropanolamine was  
22                   sent.”.





1 tices and strategies of the Federal Government with re-  
2 spect to methamphetamine and other synthetic stimulants.

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

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

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

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

12 **SEC. 502. PUBLIC HEALTH MONITORING.**

13 The Secretary of Health and Human Services shall  
14 develop a public health monitoring program to monitor  
15 methamphetamine abuse in the United States. The pro-  
16 gram shall include the collection and dissemination of data  
17 related to methamphetamine abuse which can be used by  
18 public health officials in policy development.

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

20 (a) ADVISORY PANEL.—The Attorney General shall  
21 establish an advisory panel consisting of an appropriate  
22 number of representatives from Federal, State, and local  
23 law enforcement and regulatory agencies with experience  
24 in investigating and prosecuting illegal transactions of  
25 precursor chemicals. The Attorney General shall convene

1 the panel as often as necessary to develop and coordinate  
2 educational programs for wholesale and retail distributors  
3 of precursor chemicals and supplies.

4 (b) CONTINUATION OF CURRENT EFFORTS.—The  
5 Attorney General shall continue to—

6 (1) maintain an active program of seminars and  
7 training to educate wholesale and retail distributors  
8 of precursor chemicals and supplies regarding the  
9 identification of suspicious transactions and their re-  
10 sponsibility to report such transactions; and

11 (2) provide assistance to State and local law en-  
12 forcement and regulatory agencies to facilitate the  
13 establishment and maintenance of educational pro-  
14 grams for distributors of precursor chemicals and  
15 supplies.

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

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

20 (1) appropriate personnel from the Drug En-  
21 forcement Administration (the “DEA”) and other  
22 Federal, State, and local law enforcement and regu-  
23 latory agencies with the experience in investigating  
24 and prosecuting illegal transactions of listed chemi-  
25 cals and supplies; and

1           (2) representatives from the chemical and phar-  
2           maceutical industry.

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

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

19          (d) REPORT.—The Task Force shall present a report  
20          to the Attorney General on its proposals with regard to  
21          suspicious orders and the electronic reporting of sus-  
22          picious orders within one year of the date of enactment  
23          of this Act. Copies of the report shall be forwarded to the  
24          Committees of the Senate and House of Representatives

1 having jurisdiction over the regulation of listed chemical  
2 and controlled substances.

3 (e) FUNDING.—The administrative expenses of the  
4 Task Force shall be paid out of existing Department of  
5 Justice funds.

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

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