

109TH CONGRESS
2^D SESSION

H. R. 6253

To modernize, shorten, and simplify the Federal criminal code.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2006

Mr. SENSENBRENNER introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To modernize, shorten, and simplify the Federal criminal
code.

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.**

4 This Act may be cited as the “Criminal Code Mod-
5 ernization and Simplification Act of 2006”.

6 **SEC. 2. REVISION OF PART I OF TITLE 18, UNITED STATES**
7 **CODE.**

8 Part I of title 18, United States Code, is to read as
9 follows:

**PART I—GENERAL PROVISIONS AND
OFFENSES**

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CHAPTER 1—DEFINITIONS

Sec.

1. Definitions for title.

§ 1. Definitions for title

In this title, the following definitions apply unless otherwise provided:

The term “**agency**” means any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest unless the context shows that such term was intended to be used in a more limited sense.

The term “**bodily injury**” means—

(A) a cut, abrasion, bruise, burn, or disfigurement;

(B) physical pain;

(C) illness;

(D) impairment of the function of a bodily member, organ, or mental or sensory faculty; or

(E) any other injury to the body, no matter how temporary.

1 The term “**child**” means an individual who is less
2 than 18 years of age.

3 The term “**court of the United States**” includes
4 the District Court of Guam, the District Court for the
5 Northern Mariana Islands, and the District Court of the
6 Virgin Islands.

7 The term “**crime of violence**” means—

8 (A) an offense that has as an element the use, at-
9 tempted use, or threatened use of physical force against
10 the person or property of another, or

11 (B) any other offense that is a felony and that, by
12 its nature, involves a substantial risk that physical
13 force against the person or property of another may be
14 used in the course of committing the offense.

15 The term “**department**” means one of the executive
16 departments enumerated in section 1 of title 5, unless the
17 context shows that such term was intended to describe the
18 executive, legislative, or judicial branches of the govern-
19 ment.

20 The term “**facility of interstate or foreign**
21 **commerce**” includes a means of transportation and com-
22 munication in or affecting interstate or foreign commerce;

23 The term “**Federal health care offense**” means
24 a violation of—

25 (A) section 656, 792, 806, or 1141;

26 (B) section 504, 652, 654, 772, 782, 801, 803, or
27 1017 if the violation relates to a health care benefit
28 program.

29 The term “**financial institution**” means—

30 (A) an institution, with deposits insured by the
31 Federal Deposit Insurance Corporation;

32 (B) the Federal Reserve or a member of the Fed-
33 eral Reserve including any Federal Reserve Bank;

34 (C) a credit union with accounts insured by the
35 National Credit Union Administration;

36 (D) a member of the Federal home loan bank sys-
37 tem and any home loan bank;

1 (E) any institution of the Farm Credit System
2 under the Farm Credit Act of 1971;

3 (F) a broker-dealer registered with the Securities
4 and Exchange Commission pursuant to section 15 of
5 the Securities Exchange Act of 1934;

6 (G) the Securities Investor Protection Corporation;

7 (H) a branch or agency of a foreign bank (as such
8 terms are defined in paragraphs (1) and (3) of section
9 1(b) of the International Banking Act of 1978); and

10 (I) an organization operating under section 25 or
11 section 25(a) of the Federal Reserve Act.

12 The term “**foreign commerce**” means commerce
13 with a foreign country.

14 The term “**foreign government**” except in sections
15 102, 112, 121, 144, or 959, includes any government, fac-
16 tion, or body of insurgents within a country with which the
17 United States is at peace, irrespective of recognition by the
18 United States.

19 The term “**health care benefit program**”
20 means any public or private plan or contract, affecting
21 commerce, under which any medical benefit, item, or serv-
22 ice is provided to any individual, and includes any indi-
23 vidual or entity who is providing a medical benefit, item,
24 or service for which payment may be made under the plan
25 or contract.

26 The term “**interstate commerce**” means com-
27 merce between two States.

28 The term “**national of the United States**” has
29 the meaning given in section 101(a)(22) of the Immigration
30 and Nationality Act (8 U.S.C. 1101(a)(22)).

31 The term “**national bank**” is synonymous with
32 “**national banking association**”;

33 The term “**obligation or other security of any**
34 **foreign government**” includes uncanceled stamps,
35 whether or not demonetized.

36 The term “**organization**” means a person other
37 than an individual.

1 The term “**person**” and the term “**whoever**”, un-
2 less the context otherwise requires, include any entity capa-
3 ble of holding a legal or beneficial interest in property as
4 well as an individual, and where used as a victim of an of-
5 fense, includes a government.

6 The term “**petty offense**” means a Class B mis-
7 demeanor, a Class C misdemeanor, or an infraction, for
8 which the maximum fine is no greater than the amount set
9 forth for such an offense in section 3571(b)(6) or (7) in
10 the case of an individual or section 3571(c)(6) or (7) in the
11 case of an organization.

12 The term “**Postal Service**” means the United
13 States Postal Service established under title 39, and every
14 officer and employee of that Service, whether or not such
15 officer or employee has taken the oath of office.

16 The term “**serious bodily injury**” means—

17 (A) bodily injury which involves—

18 (i) a substantial risk of death or unconscious-
19 ness;

20 (ii) extreme physical pain;

21 (iii) protracted and obvious disfigurement; or

22 (iv) protracted loss or impairment of the func-
23 tion of a bodily member, organ, or mental or sen-
24 sory faculty; or

25 (B) conduct that, had it occurred in the special
26 maritime or territorial jurisdiction of the United
27 States, would have violated subchapter A of chapter 13.

28 The term “**special maritime and territorial**
29 **jurisdiction of the United States**”, means the fol-
30 lowing:

31 (A) The high seas, any other waters within the ad-
32 miralty and maritime jurisdiction of the United States
33 and out of the jurisdiction of any particular State, and
34 any vessel belonging in whole or in part to the United
35 States or any citizen thereof, or to any corporation cre-
36 ated by or under the laws of the United States, or of
37 any State, Territory, District, or possession thereof,

1 when such vessel is within the admiralty and maritime
2 jurisdiction of the United States and out of the juris-
3 diction of any particular State.

4 (B) Any vessel registered, licensed, or enrolled
5 under the laws of the United States, and being on a
6 voyage upon the waters of any of the Great Lakes, or
7 any of the waters connecting them, or upon the Saint
8 Lawrence River where the same constitutes the Inter-
9 national Boundary Line.

10 (C) Any lands reserved or acquired for the use of
11 the United States, and under the exclusive or concur-
12 rent jurisdiction thereof, or any place purchased or oth-
13 erwise acquired by the United States by consent of the
14 legislature of the State in which the same shall be, for
15 the erection of a fort, magazine, arsenal, dockyard, or
16 other needful building.

17 (D) Any aircraft belonging in whole or in part to
18 the United States, or any citizen thereof, or to any cor-
19 poration created by or under the laws of the United
20 States, or any State, Territory, district, or possession
21 thereof, while such aircraft is in flight over the high
22 seas, or over any other waters within the admiralty and
23 maritime jurisdiction of the United States and out of
24 the jurisdiction of any particular State.

25 (E) Any vehicle used or designed for flight or
26 navigation in space and on the registry of the United
27 States pursuant to the Treaty on Principles Governing
28 the Activities of States in the Exploration and Use of
29 Outer Space, Including the Moon and Other Celestial
30 Bodies and the Convention on Registration of Objects
31 Launched into Outer Space, while that vehicle is in
32 flight, which is from the moment when all external
33 doors are closed on Earth following embarkation until
34 the moment when one such door is opened on Earth for
35 disembarkation or in the case of a forced landing, until
36 the competent authorities take over the responsibility
37 for the vehicle and for persons and property aboard.

1 (F) Any place outside the jurisdiction of any na-
2 tion with respect to an offense by or against a national
3 of the United States.

4 (G) To the extent permitted by international law,
5 any foreign vessel during a voyage having a scheduled
6 departure from or arrival in the United States with re-
7 spect to an offense committed by or against a national
8 of the United States.

9 (H) With respect to offenses committed by or
10 against a national of the United States—

11 (i) the premises of United States diplomatic,
12 consular, military or other United States Govern-
13 ment missions or entities in foreign States, includ-
14 ing the buildings, parts of buildings, and land ap-
15 purtenant or ancillary thereto or used for purposes
16 of those missions or entities, irrespective of owner-
17 ship; and

18 (ii) residences in foreign States and the land
19 appurtenant or ancillary thereto, irrespective of
20 ownership, used for purposes of those missions or
21 entities or used by United States personnel as-
22 signed to those missions or entities.

23 Nothing in clause (ii) supersedes any treaty or inter-
24 national agreement. Clause (ii) does not apply with re-
25 spect to an offense committed by a person described in
26 section 3261(a).

27 The term “**State**” means a State of the United
28 States, the District of Columbia, or any commonwealth,
29 territory, or possession of the United States.

30 The term “**substantial bodily injury**” means
31 bodily injury which involves—

32 (A) a temporary but substantial disfigurement; or

33 (B) a temporary but substantial loss or impair-
34 ment of the function of any bodily member, organ, or
35 mental or sensory faculty.

1 The term “**United States**”, unless the context oth-
 2 erwise requires, includes all places and waters, continental
 3 or insular, subject to the jurisdiction of the United States.

4 The term “**vessel of the United States**” means
 5 a vessel belonging in whole or in part to the United States,
 6 or any citizen thereof, or any corporation created by or
 7 under the laws of the United States, or of any State.

8 **CHAPTER 3—CRIMINAL RESPONSIBILITY**

Sec.

2. Principals.
3. Accessory after the fact.
4. Misprision of felony.
5. Conspiracy.
6. Attempt.
7. Solicitation to commit a crime of violence

9 **§ 2. Principals**

10 (a) **GENERALLY.**—Whoever commits an offense against
 11 the United States or aids, abets, counsels, commands, induces
 12 or procures its commission, is punishable as a principal.

13 (b) **FOR CONDUCT OF OTHERS.**—Whoever intentionally
 14 causes conduct by another that is an offense against the United
 15 States, is punishable as a principal for that offense.

16 **§ 3. Accessory after the fact**

17 (a) **OFFENSE.**—Whoever, knowing that an offense against
 18 the United States has been committed, receives, relieves, com-
 19 forts or assists the offender in order to hinder or prevent his
 20 apprehension, trial, or punishment, is an accessory after the
 21 fact.

22 (b) **PUNISHMENT.**—Except as otherwise expressly provided
 23 by Act of Congress, an accessory after the fact shall be impris-
 24 oned not more than one-half the maximum term of imprison-
 25 ment or (notwithstanding section 3571) fined not more than
 26 one-half the maximum fine prescribed for the punishment of
 27 the principal, or both; or if the principal is punishable by life
 28 imprisonment or death, the accessory shall be imprisoned not
 29 more than 15 years.

30 **§ 4. Misprision of felony**

31 Whoever, having knowledge of the actual commission of a
 32 felony offense against the United States, conceals and does not

1 as soon as possible make known the same to some judge or
2 other person in civil or military authority under the United
3 States, shall be imprisoned not more than three years.

4 **§ 5. Conspiracy**

5 Unless otherwise provided by law, if two or more persons
6 conspire to commit any offense against the United States, and
7 one or more of such persons do any act to effect the object of
8 the conspiracy, each shall be punished for the offense which is
9 the object of the conspiracy.

10 **§ 6. Attempt**

11 (a) GENERAL RULE.—Unless otherwise provided by law,
12 whoever attempts to commit an offense shall be punished as is
13 provided for the completed offense.

14 (b) EXCEPTIONS.—Subsection (a) does not apply to any
15 provision that specifically exempts itself from the application of
16 this section.

17 **§ 7. Solicitation to commit a crime of violence**

18 (a) OFFENSE.—Whoever, with intent that another person
19 engage in a Federal offense that is a felony crime of violence
20 and under circumstances strongly corroborative of that intent,
21 solicits such other person to engage in that offense, shall be im-
22 prisoned not more than one-half the maximum term of impris-
23 onment or (notwithstanding section 3571) fined not more than
24 one-half of the maximum fine prescribed for the punishment of
25 the crime solicited, or both; or if the crime solicited is punish-
26 able by life imprisonment or death, shall be imprisoned for not
27 more than 20 years.

28 (b) AFFIRMATIVE DEFENSE.—It is an affirmative defense
29 to a prosecution under this section that, under circumstances
30 manifesting a voluntary and complete renunciation of his crimi-
31 nal intent, the defendant prevented the commission of the
32 crime solicited. A renunciation is not “voluntary and complete”
33 if it is motivated in whole or in part by a decision to postpone
34 the commission of the crime until another time or to substitute
35 another victim or another but similar objective.

36 (c) LIMITATION ON DEFENSES.—It is not a defense to a
37 prosecution under this section that the person solicited could

1 not be convicted of the crime because that person lacked the
 2 state of mind required for its commission, was incompetent or
 3 irresponsible, or is immune from prosecution, or not subject to,
 4 prosecution.

5 **CHAPTER 5—OTHER GENERAL PROVISIONS**

Subchapter	Sec.
A. Defenses	21
B. General Rules Pertaining to Criminal Offenses	31

6 **SUBCHAPTER A—DEFENSES**

- 7 Sec.
 8 21. Affirmative defenses.
 9 22. Insanity defense.

10 **§21. Affirmative defenses**

11 If a provision of law provides an affirmative defense to a
 12 prosecution for an offense, the defendant must prove the ele-
 13 ments of that defense by a preponderance of the evidence.

14 **§22. Insanity defense**

15 (a) **AFFIRMATIVE DEFENSE.**—It is an affirmative defense
 16 to a prosecution under any Federal statute that, at the time
 17 of the commission of the acts constituting the offense, the de-
 18 fendant, as a result of a severe mental disease or defect, was
 19 unable to appreciate the nature and quality or the wrongfulness
 20 of his acts. Mental disease or defect does not otherwise con-
 21 stitute a defense.

22 (b) **BURDEN OF PROOF.**—The defendant has the burden
 23 of proving the defense of insanity by clear and convincing evi-
 24 dence.

25 **SUBCHAPTER B—GENERAL RULES PERTAINING TO**
 26 **CRIMINAL OFFENSES**

- 27 Sec.
 28 31. Non-preemption

29 **§31. Non-preemption**

The existence of a Federal criminal offense does not pre-
 25 clude the application of a State or local law to the conduct pro-
 26 scribed by the offense, unless the law specifically so provides
 27 or the State or local law requires conduct constituting the Fed-
 28 eral criminal offense.
 29

1 (i) the term “assault” means conduct that consists
2 an assault as described in section 111;

3 (ii) the term “child” means a child who is under
4 the perpetrator’s care or control or at least six years
5 younger than the perpetrator;

6 (iii) the term “child abuse” means intentionally caus-
7 ing death or serious bodily injury to a child;

8 (iv) the term “pattern or practice of assault or tor-
9 ture” means assault or torture engaged in on at least two
10 occasions;

11 (v) the term “torture” means conduct, whether or not
12 committed under the color of law, that otherwise satisfies
13 the definition of that term set forth in section 1293.

14 (2) MANSLAUGHTER.—Manslaughter is the unlawful kill-
15 ing of a human being without malice. It is of two kinds:

16 (A) VOLUNTARY.—Upon a sudden quarrel or heat of
17 passion.

18 (B) INVOLUNTARY.—In the commission of an unlawful
19 act not amounting to a felony, or in the commission in an
20 unlawful manner, or without due caution and circumspec-
21 tion, of a lawful act which might produce death.

22 **§ 102. Federally punishable homicides**

23 In addition to any other homicides made punishable by
24 law, the following are Federal offenses:

25 (1) SPECIAL MARITIME AND TERRITORIAL JURISDIC-
26 TION.—A killing in the special maritime and territorial ju-
27 risdiction of the United States.

28 (2) OFFICERS AND EMPLOYEES AND FORMER OFFI-
29 CERS AND EMPLOYEES OF THE UNITED STATES.—A kill-
30 ing of any officer or employee, or any former officer or em-
31 ployee, of the United States or of any agency in any branch
32 of the United States Government (including any member of
33 the uniformed services) while such officer or employee is
34 engaged in or on account of the performance of official du-
35 ties, or any individual assisting such an officer or employee
36 in the performance of such duties or on account of that as-
37 sistance.

1 (3) FAMILY MEMBERS OF OFFICERS AND EMPLOYEES
2 AND FORMER OFFICERS AND EMPLOYEES OF THE UNITED
3 STATES.—A killing, with the intent to impede, intimidate,
4 or interfere with an individual described in paragraph (2)
5 while that individual is engaged in the performance of offi-
6 cial duties, or with intent to retaliate against such indi-
7 vidual on account of the performance of official duties of
8 that individual, of a member of that individual’s family.

9 (4) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND
10 INTERNATIONALLY PROTECTED PERSONS.—A killing of a
11 foreign official, official guest, or internationally protected
12 person.

13 (5) BY NATIONAL OF THE UNITED STATES
14 ABROAD.—A killing, by a national of the United States, of
15 a national of the United States while the victim is outside
16 the United States but within the jurisdiction of another
17 country.

18 (6) KILLINGS BY ESCAPED PRISONERS.—A killing of
19 a person by an individual who has escaped from a Federal
20 correctional institution where the individual was confined
21 under a sentence for a term of life imprisonment.

22 (7) CONGRESSIONAL, CABINET, AND SUPREME COURT
23 ASSASSINATION.—A killing of an individual who is a Mem-
24 ber of Congress or a Member-of-Congress-elect, a member
25 of the executive branch of the Government who is the head,
26 or a person nominated to be head during the pendency of
27 such nomination, of a department listed in section 101 of
28 title 5 or the second ranking official in such department,
29 the Director (or a person nominated to be Director during
30 the pendency of such nomination) or Deputy Director of
31 Central Intelligence, or a Justice of the United States, as
32 defined in section 451 of title 28, or a person nominated
33 to be a Justice of the United States, during the pendency
34 of such nomination.

35 (8) PRESIDENTIAL AND PRESIDENTIAL STAFF ASSAS-
36 SINATION.—A killing of an individual who is—

1 (A) the President of the United States, the Presi-
 2 dent-elect, the Vice President, or, if there is no Vice
 3 President, the officer next in the order of succession to
 4 the Office of the President of the United States, the
 5 Vice President-elect, or any person who is acting as
 6 President under the Constitution and laws of the
 7 United States;

8 (B) a major Presidential or Vice Presidential can-
 9 didate (as defined in section 3056 of this title); or

10 (C) a person appointed under section 105(a)(2)(A)
 11 of title 3 employed in the Executive Office of the Presi-
 12 dent or appointed under section 106(a)(1)(A) of title 3
 13 employed in the Office of the Vice President.

14 (9) OF NATIONAL ABROAD.—The killing of an indi-
 15 vidual outside the United States who is a national of the
 16 United States.

17 (10) KILLINGS BY PRISONER.—The killing of another
 18 by a person confined under a sentence of life imprisonment
 19 in a Federal correctional facility.

20 **§ 103. Penalties for murders punishable under sec-**
 21 **tion 102; attempts and conspiracies**

22 (a) MURDER.—A murder that is an offense under section
 23 102 is punishable by—

24 (1) death or imprisonment for life for first degree
 25 murder; and

26 (2) imprisonment for any term of years or for life for
 27 second degree murder.

28 (b) ATTEMPTED MURDER.—

29 (1) GENERALLY.—Except as provided in paragraph
 30 (2), whoever attempts to commit a murder that is an of-
 31 fense under section 102 shall be imprisoned not more than
 32 20 years.

33 (2) SPECIAL RULE RELATING TO CONGRESSIONAL,
 34 CABINET, AND SUPREME COURT ASSASSINATIONS AND
 35 PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINA-
 36 TIONS.—If the offense attempted is against an individual

1 described in paragraph (9) or (10) of section 102 the pen-
2 alty is imprisonment for any term of years or for life.

3 (c) CONSPIRACY TO MURDER.—If two or more persons
4 conspire to commit an offense under section 102 and one or
5 more of such persons do any overt act to effect the object of
6 the conspiracy, each shall be punished by imprisonment for any
7 term of years or for life, but in the case of a conspiracy to com-
8 mit an offense against a individual described in paragraph (9)
9 or (10) of section 102, if death results to the individual whose
10 killing was the object of the conspiracy, the penalty is death
11 or imprisonment for any term of years or for life.

12 **§ 104. Penalties for manslaughters punishable**
13 **under section 102; attempts**

14 (a) PENALTY FOR MANSLAUGHTER.—A manslaughter that
15 is an offense under section 102 is punishable by—

16 (1) imprisonment for not more than ten years, for vol-
17 untary manslaughter; and

18 (2) imprisonment for not more than six years, for in-
19 voluntary manslaughter.

20 (b) ATTEMPTED MANSLAUGHTER.—Whoever attempts to
21 commit a manslaughter that would be punishable under section
22 102 shall be imprisoned not more than 7 years.

23 **§ 105. Misconduct or neglect of ship officers**

24 (a) OFFICERS.—Every captain, engineer, pilot, or other
25 person employed on any steamboat or vessel, by whose mis-
26 conduct, negligence, or inattention to his duties on such vessel
27 the life of any person is destroyed, and every owner, charterer,
28 inspector, or other public officer, through whose fraud, neglect,
29 connivance, misconduct, or violation of law the life of any per-
30 son is destroyed, shall be imprisoned not more than ten years.

31 (b) OWNERS.—When the owner or charterer of any steam-
32 boat or vessel is a corporation, any executive officer of such
33 corporation, for the time being actually charged with the con-
34 trol and management of the operation, equipment, or naviga-
35 tion of such steamboat or vessel, who has knowingly and will-
36 fully caused or allowed such fraud, neglect, connivance, mis-

1 conduct, or violation of law, by which the life of any person is
 2 destroyed, shall be imprisoned not more than ten years.

3 SUBCHAPTER B—ASSAULT AND RELATED
 4 OFFENSES

Sec.

111. Assault.

112. Individuals federally protected from assault.

113. Interference with Federal officers and employees.

5 **§ 111. Assault**

6 Unless otherwise provided by Act of Congress, if a Federal
 7 law prohibits an assault against an individual, the following
 8 punishments shall apply with respect to that offense:

9 (1) Assault with intent to commit murder, a felony
 10 under subchapter (A) of chapter 13, or with intent to
 11 maim, disfigure, or torture, by imprisonment for not more
 12 than 20 years.

13 (2) Assault with intent to commit any felony, except
 14 murder or a felony under subchapter (A) of chapter 13, by
 15 imprisonment for not more than ten years.

16 (3) Assault with a dangerous weapon, with intent to
 17 do bodily harm, and without just cause or excuse, by im-
 18 prisonment for not more than ten years.

19 (4) Assault resulting in serious bodily injury, by im-
 20 prisonment for not more than ten years.

21 (5) Assault resulting in substantial bodily injury to an
 22 individual who has not attained the age of 16 years, by im-
 23 prisonment for not more than 5 years.

24 (6) Assault by striking, beating, or wounding, by im-
 25 prisonment for not more than six months.

26 (7) Simple assault, by imprisonment for not more than
 27 six months, or if the victim of the assault is an individual
 28 who has not attained the age of 16 years, by imprisonment
 29 for not more than 1 year.

30 **§ 112. Individuals federally protected from assault**

31 It is an offense to assault any individual whose killing is
 32 a Federal offense under section 102.

1 **§ 113. Interference with Federal officers and em-**
 2 **ployees**

3 Whoever interferes with any officer or employee of the
 4 United States or of any agency in any branch of the United
 5 States Government (including any member of the uniformed
 6 services) while such officer or employee is engaged in or on ac-
 7 count of the performance of official duties, or any individual as-
 8 sisting such an officer or employee in the performance of such
 9 duties or on account of that assistance while that person is en-
 10 gaged in, or on account of, the performance, official duties
 11 shall be imprisoned not more than one year.

12 SUBCHAPTER C—KIDNAPPING

Sec.

- 121. Kidnapping.
- 122. Ransom money.
- 123. Hostage taking.
- 125. International parental kidnapping.

13 **§ 121. Kidnapping**

14 (a) BASIC OFFENSE.—Except in the case of a child by the
 15 parent thereof, whoever, as made applicable by subsection (b),
 16 kidnaps an individual shall be imprisoned any term of years or
 17 for life and, if death results to any individual, shall be punished
 18 by death or life imprisonment.

19 (b) CIRCUMSTANCES REQUIRED.—Subsection (a) applies
 20 if—

- 21 (1) the victim or the victim's body is transported in
 22 interstate or foreign commerce, regardless of whether the
 23 victim was alive when transported across a State boundary
 24 if the victim was alive when the transportation began; or
- 25 (2) the victim is an individual whose killing is a Fed-
 26 eral offense under section 102.

27 (c) PRESUMPTION.—With respect to a violation of sub-
 28 section (a), based on the circumstance described in subsection
 29 (b)(1), the failure to release the victim within 24 hours after
 30 the victim was kidnapped creates a rebuttable presumption that
 31 the victim has been transported in interstate or foreign com-
 32 merce. However, the fact that the presumption under this sec-

1 tion has not yet taken effect does not preclude a Federal inves-
2 tigation of a possible violation of this section.

3 (d) CONSPIRACY PENALTY.—If two or more persons con-
4 spire to violate subsection (a) and one or more of such persons
5 do any overt act to effect the object of the conspiracy, each
6 shall be punished by imprisonment for any term of years or for
7 life. If the individual whose kidnapping was the object of the
8 conspiracy is an individual listed in paragraph (9) or (10) of
9 section 102, the death penalty may be imposed if death results.

10 (e) ATTEMPTS.—Whoever attempts to violate subsection
11 (a) shall be punished by imprisonment for not more than 20
12 years but if the individual whose kidnapping was attempted is
13 described in paragraph (9) or (10) of section 102, the offender
14 shall be imprisoned for any term of years or for life.

15 (f) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING
16 CHILDREN.—If the victim of an offense under this section is
17 a child and the offender—

18 (1) is not a child; and

19 (2) is not—

20 (A) a parent;

21 (B) a grandparent;

22 (C) a brother;

23 (D) a sister;

24 (E) an aunt;

25 (F) an uncle; or

26 (G) an individual having legal custody of the vic-
27 tim;

28 the sentence under this section for such offense shall include
29 imprisonment for not less than 20 years.

30 (g) DEFINITION FOR SECTION.—As used in this section,
31 the term “parent” does not include a person whose parental
32 rights with respect to the victim of an offense under this sec-
33 tion have been terminated by a final court order.

34 **§ 122. Ransom money**

35 (a) FEDERAL.—Whoever receives, possesses, or disposes of
36 any money or other property, or any portion thereof, which has
37 at any time been delivered as ransom or reward in connection

1 with a violation of section 121, knowing it to be such, shall be
2 imprisoned not more than ten years.

3 (b) STATE.— Whoever transports, transmits, or transfers
4 in interstate or foreign commerce any proceeds of a kidnapping
5 punishable under State law by imprisonment for more than 1
6 year, or receives, possesses, conceals, or disposes of any such
7 proceeds after they have crossed a State or United States
8 boundary, knowing the proceeds to have been unlawfully ob-
9 tained, shall be imprisoned not more than 10 years.

10 **§ 123. Hostage taking**

11 (a) OFFENSE.—Except as provided in subsection (b) of
12 this section, whoever, whether inside or outside the United
13 States, seizes or detains and threatens to kill, to injure, or to
14 continue to detain another person in order to compel a third
15 person or a governmental organization to do or abstain from
16 doing any act as an explicit or implicit condition for the release
17 of the person detained, or attempts or conspires to do so, shall
18 be punished by imprisonment for any term of years or for life
19 and, if the death of any person results, shall be punished by
20 death or life imprisonment.

21 (b) EXCLUSIONS.—

22 (1) It is not an offense under this section if the con-
23 duct required for the offense occurred outside the United
24 States unless—

25 (A) the offender or the person seized or detained
26 is a national of the United States;

27 (B) the offender is found in the United States; or

28 (C) the governmental organization sought to be
29 compelled is the Government of the United States.

30 (2) It is not an offense under this section if the
31 conduct required for the offense occurred inside the
32 United States, each alleged offender and each person
33 seized or detained are nationals of the United States,
34 and each alleged offender is found in the United
35 States, unless the governmental organization sought to
36 be compelled is the Government of the United States.

1 **§ 125. International parental kidnapping**

2 (a) OFFENSE.—Whoever removes a child from the United
3 States, or attempts to do so, or retains a child (who has been
4 in the United States) outside the United States with intent to
5 obstruct the lawful exercise of parental rights shall be impris-
6 oned not more than 3 years.

7 (b) DEFINITIONS.—As used in this section—

8 (1) the term “child” means a person who has not at-
9 tained the age of 16 years; and

10 (2) the term “parental rights”, with respect to a child,
11 means the right to physical custody of the child—

12 (A) whether joint or sole (and includes visiting
13 rights); and

14 (B) whether arising by operation of law, court
15 order, or legally binding agreement of the parties.

16 (c) AFFIRMATIVE DEFENSE.—It is an affirmative defense
17 under this section that—

18 (1) the defendant acted within the provisions of a valid
19 court order granting the defendant legal custody or visita-
20 tion rights and that order was obtained pursuant to the
21 Uniform Child Custody Jurisdiction Act or the Uniform
22 Child Custody Jurisdiction and Enforcement Act and was
23 in effect at the time of the offense;

24 (2) the defendant was fleeing an incidence or pattern
25 of domestic violence; or

26 (3) the defendant had physical custody of the child
27 pursuant to a court order granting legal custody or visita-
28 tion rights and failed to return the child as a result of cir-
29 cumstances beyond the defendant’s control, and the defend-
30 ant notified or made reasonable attempts to notify the
31 other parent or lawful custodian of the child of such cir-
32 cumstances within 24 hours after the visitation period had
33 expired and returned the child as soon as possible.

34 (d) EFFECT ON HAGUE CONVENTION.—This section does
35 not limit The Hague Convention on the Civil Aspects of Inter-
36 national Parental Child Abduction, done at The Hague on Oc-
37 tober 25, 1980.

1 SUBCHAPTER D—THREATS AGAINST SPECIALLY
2 PROTECTED PERSONS

Sec.

131. Threats against officers or employees of the United States, and other specially protected persons.

3 **§ 131. Threats against officers or employees of the**
4 **United States, and other specially pro-**
5 **ected persons**

6 Whoever threatens to kill, kidnap, or inflict bodily harm
7 upon—

8 (1) an individual described in paragraph (2), or (3) of
9 section 102 on account of the performance of official du-
10 ties;

11 (2) an individual described in paragraph (4), (7), or
12 (8) of section 102;

13 (3) a former President of the United States;

14 (4) a member of the immediate family of the Presi-
15 dent, the President-elect, the Vice President, or the Vice
16 President-elect;

17 (5) a major candidate for the office of President or
18 Vice President, or a member of the immediate family of
19 such candidate; or

20 (6) a person protected by the Secret Service under sec-
21 tion 3056(a)(6);

22 shall be imprisoned not more than 10 years.

23 SUBCHAPTER E—DEFINITIONS AND GENERAL
24 PROVISIONS FOR SUBCHAPTERS A THROUGH D

Sec.

136. Definitions for subchapters A through D.

137. Special rules relating to offenses against certain types of victims.

25 **§ 136. Definitions for subchapters A through D**

26 Unless otherwise provided, in subchapters A through D,
27 the following definitions apply:

28 (1) The term “family” with respect to an individual,
29 means—

30 (A) a spouse, parent, brother or sister, child, or
31 person to whom the individual stands in loco parentis;

32 or

1 (B) any other person living in the individual's
2 household and related to the individual by blood or
3 marriage.

4 (2) The term "foreign government" means the govern-
5 ment of a foreign country, irrespective of recognition by the
6 United States.

7 (3) The term "foreign official" means—

8 (A) a Chief of State or the political equivalent,
9 President, Vice President, Prime Minister, Amba-
10 sador, Foreign Minister, or other officer of Cabinet
11 rank or above of a foreign government or the chief ex-
12 ecutive officer of an international organization, or any
13 person who has previously served in such capacity, and
14 any member of his family, while in the United States;
15 or

16 (B) any person of a foreign nationality who is duly
17 notified to the United States as an officer or employee
18 of a foreign government or international organization,
19 and who is in the United States on official business,
20 and any member of that person's family whose presence
21 in the United States is in connection with the presence
22 of such officer or employee.

23 (4) The term "internationally protected person"
24 means an individual who is—

25 (A) a Chief of State or the political equivalent,
26 head of government, or Foreign Minister whenever such
27 person is in a country other than his own and any
28 member of that individual's family accompanying that
29 individual; or

30 (B) any other representative, officer, employee, or
31 agent of the United States Government, a foreign gov-
32 ernment, or international organization who at the time
33 and place concerned is entitled pursuant to inter-
34 national law to special protection against attack upon
35 his person, freedom, or dignity, and any member of
36 that individual's family then forming part of his house-
37 hold.

1 (5) The term “international organization” means a
2 public international organization designated as such pursu-
3 ant to section 1 of the International Organizations Immu-
4 nities Act (22 U.S.C. 288) or a public organization created
5 pursuant to treaty or other agreement under international
6 law as an instrument through or by which two or more for-
7 eign governments engage in some aspect of their conduct
8 of international affairs.

9 (6) The term “official guest” means a citizen or na-
10 tional of a foreign country present in the United States as
11 an official guest of the Government of the United States
12 pursuant to designation as such by the Secretary of State.

13 (7) the terms “President-elect” and “Vice President-
14 elect” mean those persons who are the apparently success-
15 ful candidates for the offices of President and Vice Presi-
16 dent, respectively, as ascertained from the result of the
17 general elections held to determine the electors of President
18 and Vice President under section 1 and 2 of title 3.

19 **§ 137. Special rules relating to offenses against**
20 **certain types of victims**

21 (a) EXTRATERRITORIAL JURISDICTION.—

22 (1) PRESIDENTIAL AND CONGRESSIONAL VICTIMS.—

23 There is extraterritorial jurisdiction over an offense under
24 any of subchapters A through D against a victim described
25 in paragraph (9) or (10) of section 102.

26 (2) INTERNATIONALLY PROTECTED PERSONS.—There is
27 extraterritorial jurisdiction over an offense under any of sub-
28 chapters A through D the victim of which is an internationally
29 protected person outside the United States, if—

30 (A) the victim is a representative, officer, em-
31 ployee, or agent of the United States;

32 (B) an offender is a national of the United States;

33 or

34 (C) an offender is afterwards found in the United
35 States.

36 (b) USE OF MILITARY WITH RESPECT TO CERTAIN OF-
37 FENSES.—With respect to an offense under this chapter, or an

1 attempt or conspiracy to commit such an offense, if an element
2 of the offense is that the victim be individual described in para-
3 graph (9) or (10) of section 102, a foreign official, an inter-
4 nationally protected person, or an official guest, the Attorney
5 General may request assistance from any Federal, State, or
6 local agency, including the Army, Navy, and Air Force.

7 (c) SPECIAL PROVISIONS RELATING TO OFFENSES INVOLV-
8 ING PRESIDENTIAL OR CONGRESSIONAL VICTIMS.—With re-
9 spect to an offense under paragraph (9) or (10) of section
10 102—

11 (1) if Federal investigative or prosecutive jurisdiction
12 is asserted, that assertion suspends the exercise of jurisdic-
13 tion by a State or local authority, under any applicable
14 State or local law, until Federal action is terminated;

15 (2) the Federal Bureau of Investigation shall have in-
16 vestigative authority; and

17 (3) in a prosecution, the Government need not prove
18 that the defendant knew that the victim of the offense was
19 an individual who is protected by that paragraph.

20 (d) APPROVAL REQUIRED FOR PROSECUTIONS RELATING
21 TO UNITED STATES NATIONALS KILLED OVERSEAS.—

22 (1) APPROVAL REQUIRED.—No prosecution may be in-
23 stituted against any person under section 101(a)(5) except
24 upon the written approval of the Attorney General, the
25 Deputy Attorney General, or an Assistant Attorney Gen-
26 eral, which function of approving prosecutions may not be
27 delegated. No prosecution shall be approved if prosecution
28 has been previously undertaken by a foreign country for the
29 same conduct.

30 (2) BASIS FOR APPROVAL.—No prosecution shall be
31 approved under this subsection unless the Attorney Gen-
32 eral, in consultation with the Secretary of State, determines
33 that the conduct took place in a country in which the per-
34 son is no longer present, and the country lacks the ability
35 to lawfully secure the person's return. A determination by
36 the Attorney General under this paragraph is not subject
37 to judicial review.

1 (e) CERTIFICATION OF TERRORISM RELATION REQUIRED
 2 FOR CERTAIN PROSECUTIONS RELATING TO KILLING OR AT-
 3 TACKING NATIONALS OF THE UNITED STATES ABROAD.—No
 4 prosecution for any offense described in section 102(11) or 116
 5 shall be undertaken by the United States except on written cer-
 6 tification of the Attorney General or the highest ranking subor-
 7 dinate of the Attorney General with responsibility for criminal
 8 prosecutions that, in the judgment of the certifying official,
 9 such offense was intended to coerce, intimidate, or retaliate
 10 against a government or a civilian population.

11 SUBCHAPTER F—ROBBERY, EXTORTION, AND
 12 RELATED THREATS

Sec.

- 141. Robbery in special maritime and territorial jurisdiction.
- 142. Robbery of personal property of United States.
- 143. Bank robbery and incidental crimes.
- 144. Communication of ransom demands and other threatening commu-
 nications in or affecting commerce.
- 145. Extortion by officers or employees of the United States.
- 146. Receiving the proceeds of extortion.

13 **§ 141. Robbery in special maritime and territorial**
 14 **jurisdiction**

15 Whoever, within the special maritime and territorial juris-
 16 diction of the United States, by force and violence, or by in-
 17 timidation, takes or attempts to take from the person or pres-
 18 ence of another anything of value, shall be imprisoned not more
 19 than 15 years.

20 **§ 142. Robbery of personal property of United**
 21 **States**

22 Whoever robs or attempts to rob another of any kind or
 23 description of personal property belonging to the United States,
 24 shall be imprisoned not more than 15 years.

25 **§ 143. Bank robbery and incidental crimes**

26 (a) AGGRAVATED OFFENSE.—Whoever—

27 (1) by force and violence, or by intimidation, takes, or
 28 attempts to take, from the person or presence of another,
 29 or obtains or attempts to obtain by extortion any property
 30 or money or any other thing of value belonging to, or in

1 the care, custody, control, management, or possession of,
2 any bank, credit union, or any savings and loan association;

3 (2) enters or attempts to enter any bank, credit union, or
4 any savings and loan association, or any building used in whole
5 or in part as a bank, credit union, or as a savings and loan
6 association, with intent to commit in such bank, credit union,
7 or in such savings and loan association, or building, or part
8 thereof, so used, any felony affecting such bank, credit union,
9 or such savings and loan association and in violation of any
10 statute of the United States, or any larceny;
11 shall be imprisoned not more than 20 years.

12 (b) TAKING AND CARRYING AWAY PROPERTY OVER \$1,000
13 IN VALUE.—Whoever takes and carries away, with intent to
14 steal or purloin any property or money or any other thing of
15 value exceeding \$1,000 belonging to, or in the care, custody,
16 control, management, or possession of any bank, credit union,
17 or any savings and loan association, shall be fined under this
18 title or imprisoned not more than ten years, or both; or

19 (c) TAKING AND CARRYING AWAY PROPERTY OF \$1,000 OR
20 LESS IN VALUE.—Whoever takes and carries away, with intent
21 to steal or purloin, any property or money or any other thing
22 of value not exceeding \$1,000 belonging to, or in the care, cus-
23 tody, control, management, or possession of any bank, credit
24 union, or any savings and loan association, shall be fined under
25 this title or imprisoned not more than one year, or both.

26 (c) RECEIVING STOLEN BANK PROPERTY.—Whoever re-
27 ceives, possesses, conceals, stores, barter, sells, or disposes of,
28 any property or money or other thing of value which has been
29 taken or stolen from a bank, credit union, or savings and loan
30 association in violation of subsection (b) or (c), knowing the
31 same to be property which has been stolen shall be subject to
32 the punishment provided in subsection (b) or (c) for the taker.

33 (d) ASSAULTING PERSON OR PLACING LIFE IN JEOP-
34 ARDY.—Whoever, in committing, or in attempting to commit,
35 any offense defined in subsections (a) through (c), assaults any
36 person, or puts in jeopardy the life of any person by the use

1 of a dangerous weapon or device, shall be imprisoned not more
2 than 25 years.

3 (e) KILLING AND KIDNAPING.—Whoever, in committing
4 any offense defined in this section, or in avoiding or attempting
5 to avoid apprehension for the commission of such offense, or
6 in freeing himself or attempting to free himself from arrest or
7 confinement for such offense, kills any person, or forces any
8 person to accompany him without the consent of such person,
9 shall be imprisoned not less than ten years, or if death results
10 shall be punished by death or life imprisonment.

11 (f) DEFINITIONS.— As used in this section—

12 (1) the term “bank” means any member bank of the
13 Federal Reserve System, and any bank, banking associa-
14 tion, trust company, savings bank, or other banking institu-
15 tion organized or operating under the laws of the United
16 States, including a branch or agency of a foreign bank (as
17 such terms are defined in paragraphs (1) and (3) of section
18 1(b) of the International Banking Act of 1978), and any
19 institution the deposits of which are insured by the Federal
20 Deposit Insurance Corporation; and

21 (2) the term “credit union” means any Federal credit
22 union and any State-chartered credit union the accounts of
23 which are insured by the National Credit Union Adminis-
24 tration Board, and any “Federal credit union” as defined
25 in section 2 of the Federal Credit Union Act. The term
26 “State-chartered credit union” includes a credit union
27 chartered under the laws of a State;

28 (3) the term “savings and loan association” means—

29 (A) a Federal savings association or State savings
30 association (as defined in section 3(b) of the Federal
31 Deposit Insurance Act (12 U.S.C. 1813(b))) having ac-
32 counts insured by the Federal Deposit Insurance Cor-
33 poration; and

34 (B) a corporation described in section 3(b)(1)(C)
35 of the Federal Deposit Insurance Act (12 U.S.C.
36 1813(b)(1)(C)) that is operating under the laws of the
37 United States.

1 **§ 144. Communication of ransom demands and**
2 **other threatening communications in or**
3 **affecting commerce**

4 (a) KIDNAP RANSOM.—Whoever knowingly transmits, in
5 or affecting interstate or foreign commerce, any communication
6 containing any demand or request for a ransom or reward for
7 the release of any kidnapped person shall be imprisoned not
8 more than 20 years.

9 (b) THREATS TO KIDNAP OR INJURE.—Whoever, with in-
10 tent to extort from any person any money or other thing of
11 value, knowingly transmits, in or affecting interstate commerce,
12 any communication containing any threat to kidnap any person
13 or any threat to injure the person of another, shall be impris-
14 oned not more than 20 years.

15 (d) THREATS TO PROPERTY OR REPUTATION WITH IN-
16 TENT TO EXTORT.—Whoever, with intent to extort from any
17 person any money or other thing of value, knowingly transmits,
18 in or affecting interstate or foreign commerce, any communica-
19 tion containing any threat—

20 (1) to injure the property or reputation of another or
21 the reputation of a deceased person;

22 (2) to accuse another of a crime;

23 shall be or imprisoned not more than 10 years.

24 **§ 145. Extortion by officers or employees of the**
25 **United States**

26 Whoever, being an officer, or employee of the United
27 States or any department or agency thereof, or representing
28 oneself to be or assuming to act as such, under color or pre-
29 tense of office or employment commits or attempts an act of
30 extortion, shall be imprisoned not more than three years; but
31 if the amount so extorted or demanded does not exceed \$1,000,
32 the offender shall be imprisoned not more than one year.

33 **§ 146. Receiving the proceeds of extortion**

34 Whoever receives, possesses, conceals, or disposes of any
35 money or other property which was obtained from the commis-
36 sion of any offense under this subchapter that is punishable by
37 imprisonment for more than 1 year, knowing the same to have

1 been unlawfully obtained, shall be imprisoned not more than 3
2 years.

3 SUBCHAPTER G—EXTORTIONATE CREDIT
4 TRANSACTIONS

Sec.

155. Making extortionate extensions of credit.
156. Financing extortionate extensions of credit.
157. Collection of extensions of credit by extortionate means.
158. Effect on State laws.
159. Definitions and rules of construction.

5 **§ 155. Making extortionate extensions of credit**

6 (a) OFFENSE.—Whoever makes any extortionate extension
7 of credit, or conspires to do so, shall be imprisoned not more
8 than 20 years.

9 (b) PRIMA FACIE EVIDENCE OF EXTORTIONATE TRANS-
10 ACTION.—In any prosecution under this section, if it is shown
11 that all of the following factors were present in connection with
12 the extension of credit in question, there is prima facie evidence
13 that the extension of credit was extortionate:

14 (1) The repayment of the extension of credit, or the
15 performance of any promise given in consideration thereof,
16 would be unenforceable, through civil judicial processes
17 against the debtor

18 (A) in the jurisdiction within which the debtor, if
19 a natural person, resided or

20 (B) in every jurisdiction within which the debtor,
21 if other than a natural person, was incorporated or
22 qualified to do business at the time the extension of
23 credit was made.

24 (2) The extension of credit was made at a rate of in-
25 terest in excess of an annual rate of 45 per centum cal-
26 culated according to the actuarial method of allocating pay-
27 ments made on a debt between principal and interest, pur-
28 suant to which a payment is applied first to the accumu-
29 lated interest and the balance is applied to the unpaid prin-
30 cipal.

31 (3) At the time the extension of credit was made, the
32 debtor reasonably believed that either

1 (A) one or more extensions of credit by the cred-
 2 itor had been collected or attempted to be collected by
 3 extortionate means, or the nonrepayment thereof had
 4 been punished by extortionate means; or

5 (B) the creditor had a reputation for the use of
 6 extortionate means to collect extensions of credit or to
 7 punish the nonrepayment thereof.

8 (4) Upon the making of the extension of credit, the
 9 total of the extensions of credit by the creditor to the debt-
 10 or then outstanding, including any unpaid interest or simi-
 11 lar charges, exceeded \$100.

12 (c) REPUTATION EVIDENCE.—In any prosecution under
 13 this section, if evidence is introduced tending to show the exist-
 14 ence of any of the circumstances described in subsection (b)(1)
 15 or (b)(2), and direct evidence of the actual belief of the debtor
 16 as to the creditor’s collection practices is not available, then for
 17 the purpose of showing the understanding of the debtor and the
 18 creditor at the time the extension of credit was made, the court
 19 may in its discretion allow evidence to be introduced tending
 20 to show the reputation as to collection practices of the creditor
 21 in any community of which the debtor was a member at the
 22 time of the extension.

23 **§ 156. Financing extortionate extensions of credit**

24 Whoever knowingly advances money or property, whether
 25 as a gift, as a loan, as an investment, pursuant to a partner-
 26 ship or profit-sharing agreement, or otherwise, to any person,
 27 with reason to believe that it is the intention of that person to
 28 use the money or property so advanced directly or indirectly for
 29 the purpose of making extortionate extensions of credit, shall
 30 be imprisoned not more than 20 years.

31 **§ 157. Collection of extensions of credit by extor-**
 32 **tionate means**

33 Whoever knowingly uses any extortionate means—

34 (1) to collect or attempt to collect any extension of
 35 credit, or

36 (2) to punish any person for nonrepayment of an ex-
 37 tension of credit;

1 shall be imprisoned not more than 20 years.

2 **§ 158. Effect on State laws**

3 This subchapter does not preempt State law that would be
4 permissible in the absence of this subchapter.

5 **§ 159. Definitions and rules of construction**

6 As used in this subchapter:

7 (1) To extend credit means to make or renew any loan,
8 or to enter into any agreement, tacit or express, whereby the
9 repayment or satisfaction of any debt or claim, whether ac-
10 knowledged or disputed, valid or invalid, and however arising,
11 may or will be deferred.

12 (2) The term “creditor”, with reference to any given ex-
13 tension of credit, refers to any person making that extension
14 of credit, or to any person claiming by, under, or through any
15 person making that extension of credit.

16 (3) The term “debtor”, with reference to any given exten-
17 sion of credit, refers to any person to whom that extension of
18 credit is made, or to any person who guarantees the repayment
19 of that extension of credit, or in any manner undertakes to in-
20 demnify the creditor against loss resulting from the failure of
21 any person to whom that extension of credit is made to repay
22 the same.

23 (4) The repayment of any extension of credit includes the
24 repayment, satisfaction, or discharge in whole or in part of any
25 debt or claim, acknowledged or disputed, valid or invalid, re-
26 sulting from or in connection with that extension of credit.

27 (5) To collect an extension of credit means to induce in
28 any way any person to make repayment thereof.

29 (6) An extortionate extension of credit is any extension of
30 credit with respect to which it is the understanding of the cred-
31 itor and the debtor at the time it is made that delay in making
32 repayment or failure to make repayment could result in the use
33 of violence or other criminal means to cause harm to the per-
34 son, reputation, or property of any person.

35 (7) An extortionate means is any means which involves the
36 use, or an express or implicit threat of use, of violence or other

1 criminal means to cause harm to the person, reputation, or
2 property of any person.

3 (9) State law, including conflict of laws rules, governing
4 the enforceability through civil judicial processes of repayment
5 of any extension of credit or the performance of any promise
6 given in consideration thereof shall be judicially noticed. This
7 paragraph does not impair any authority which any court
8 would otherwise have to take judicial notice of any matter of
9 State law.

10 SUBCHAPTER H—DOMESTIC VIOLENCE

Sec.

161. Interstate domestic violence; interstate stalking; interstate viola-
tions of custody orders.

162. Pretrial release of defendant.

163. Full faith and credit given to protection orders.

164. Definitions.

11 **§ 161. Interstate domestic violence; interstate**
12 **stalking; interstate violations of custody**
13 **orders**

14 (a) OFFENSES.—Whoever—

15 (1) travels in interstate or foreign commerce or enters
16 or leaves Indian country with the intent to kill, injure, har-
17 ass, or intimidate a spouse or intimate partner, and who,
18 in the course of or as a result of such travel, commits or
19 attempts to commit a crime of violence against that spouse
20 or intimate partner;

21 (2) causes a spouse or intimate partner to travel in
22 interstate or foreign commerce or to enter or leave Indian
23 country by force, coercion, duress, or fraud, and who, in
24 the course of, as a result of, or to facilitate such conduct
25 or travel, commits or attempts to commit a crime of vio-
26 lence against that spouse or intimate partner;

27 (3) travels in interstate or foreign commerce or within
28 the special maritime and territorial jurisdiction of the
29 United States, or enters or leaves Indian country, with the
30 intent to kill, injure, harass, or intimidate another indi-
31 vidual, and in the course of, or as a result of, such travel
32 places that individual in reasonable fear of the death of, or

1 serious bodily injury to, that individual, a member of that
2 individual's family (as defined in section 136), or the
3 spouse or intimate partner of that person;

4 (4) with the intent—

5 (A) to kill or injure an individual in another State
6 or tribal jurisdiction or within the special maritime and
7 territorial jurisdiction of the United States; or

8 (B) to place an individual in another State or trib-
9 al jurisdiction, or within the special maritime and terri-
10 torial jurisdiction of the United States, in reasonable
11 fear of the death of, or serious bodily injury to—

12 (i) that individual;

13 (ii) a member of that individual's family (as
14 defined in section 136); or

15 (iii) a spouse or intimate partner of that indi-
16 vidual;

17 uses the mail or any facility of interstate or foreign com-
18 merce to engage in a course of conduct that places that
19 person in reasonable fear of the death of, or serious bodily
20 injury to, any of the individuals described in clauses (i)
21 through (iii);

22 (5) travels in interstate or foreign commerce, or enters
23 or leaves Indian country, with the intent to engage in con-
24 duct that violates the portion of a protection order that
25 prohibits or provides protection against violence, threats, or
26 harassment against, contact or communication with, or
27 physical proximity to, another person, or that would violate
28 such a portion of a protection order in the jurisdiction in
29 which the order was issued, and subsequently engages in
30 such conduct; or

31 (6) causes another person to travel in interstate or for-
32 eign commerce or to enter or leave Indian country by force,
33 coercion, duress, or fraud, and in the course of, as a result
34 of, or to facilitate such conduct or travel engages in con-
35 duct that violates the portion of a protection order that
36 prohibits or provides protection against violence, threats, or
37 harassment against, contact or communication with, or

1 physical proximity to, another person, or that would violate
 2 such a portion of a protection order in the jurisdiction in
 3 which the order was issued;

4 shall be punished as provided in subsection (b).

5 (b) PUNISHMENT.—Whoever violates subsection (a) shall
 6 be imprisoned—

7 (1) for life or any term of years, if death of the victim
 8 results;

9 (2) for not more than 20 years if permanent disfigure-
 10 ment or life threatening bodily injury to the victim results;

11 (3) for not more than 10 years, if serious bodily injury
 12 to the victim results or if the offender uses a dangerous
 13 weapon during the offense;

14 (4) as provided for the applicable conduct under sub-
 15 chapter A of chapter 13 if the offense would constitute an
 16 offense under that subchapter (without regard to whether
 17 the offense was committed in the special maritime and ter-
 18 ritorial jurisdiction of the United States or in a Federal
 19 prison); and

20 (5) for not more than 5 years, in any other case.

21 **§ 162. Pretrial release of defendant**

22 In any proceeding pursuant to section 3142 for the pur-
 23 pose of determining whether a defendant charged under this
 24 subchapter shall be released pending trial, or for the purpose
 25 of determining conditions of such release, the alleged victim
 26 shall be given an opportunity to be heard regarding the danger
 27 posed by the defendant.

28 **§ 163. Full faith and credit given to protection or-**
 29 **ders**

30 (a) FULL FAITH AND CREDIT.—Any protection order con-
 31 sistent with subsection (b) issued by a court of one State or
 32 Indian tribe (hereinafter in this section referred to as the
 33 “issuing State or Indian tribe”) shall be accorded full faith and
 34 credit by the court of another State or Indian tribe (hereinafter
 35 in this section referred to as the “enforcing State or Indian
 36 tribe”) and enforced as if it were the order of the enforcing
 37 State or tribe.

1 (b) PROTECTION ORDER.—A protection order issued by a
2 State or tribal court is consistent with this subsection if—

3 (1) such court has jurisdiction over the parties and
4 matter under the law of such State or Indian tribe; and

5 (2) reasonable notice and opportunity to be heard is
6 given to the person against whom the order is sought suffi-
7 cient to protect that person’s right to due process. In the
8 case of ex parte orders, notice and opportunity to be heard
9 must be provided within the time required by State or trib-
10 al law, and in any event within a reasonable time after the
11 order is issued, sufficient to protect the respondent’s due
12 process rights.

13 (c) CROSS OR COUNTER PETITION.—A protection order
14 issued by a State or tribal court against one who has peti-
15 tioned, filed a complaint, or otherwise filed a written pleading
16 for protection against abuse by a spouse or intimate partner is
17 not entitled to full faith and credit if—

18 (1) no cross or counter petition, complaint, or other
19 written pleading was filed seeking such a protection order;
20 or

21 (2) a cross or counter petition has been filed and the
22 court did not make specific findings that each party was
23 entitled to such an order.

24 (d) NOTIFICATION AND REGISTRATION.—

25 (1) NOTIFICATION.—A State or Indian tribe according
26 full faith and credit to an order by a court of another State
27 or Indian tribe shall not notify or require notification of the
28 party against whom a protection order has been issued that
29 the protection order has been registered or filed in that en-
30 forcing State or tribal jurisdiction unless requested to do
31 so by the party protected under such order.

32 (2) NO PRIOR REGISTRATION OR FILING AS PRE-
33 REQUISITE FOR ENFORCEMENT.—Any protection order that
34 is otherwise consistent with this section shall be accorded
35 full faith and credit, notwithstanding failure to comply with
36 any requirement that the order be registered or filed in the
37 enforcing State or tribal jurisdiction.

1 (e) TRIBAL COURT JURISDICTION.—For purposes of this
 2 section, a tribal court shall have full civil jurisdiction to enforce
 3 protection orders, including authority to enforce any orders
 4 through civil contempt proceedings, exclusion of violators from
 5 Indian lands, and other appropriate mechanisms, in matters
 6 arising within the authority of the tribe.

7 **§ 164. Definitions**

8 As used in this subchapter—

9 (1) the term “course of conduct” means a pattern of
 10 conduct composed of 2 or more acts, demonstrating a con-
 11 tinuity of purpose;

12 (2) the term “enter or leave Indian country” includes
 13 leaving the jurisdiction of 1 tribal government and entering
 14 the jurisdiction of another tribal government;

15 (3) the term “protection order” includes any injunc-
 16 tion or other order issued for the purpose of preventing vio-
 17 lent or threatening acts or harassment against, or contact
 18 or communication with or physical proximity to, another
 19 person, including any temporary or final order issued by a
 20 civil and criminal court (other than a support or child cus-
 21 tody order issued pursuant to State divorce and child cus-
 22 tody laws, except to the extent that such an order is enti-
 23 tled to full faith and credit under other Federal law)
 24 whether obtained by filing an independent action or as a
 25 pendente lite order in another proceeding so long as any
 26 civil order was issued in response to a complaint, petition,
 27 or motion filed by or on behalf of a person seeking protec-
 28 tion;

29 (4) the term “spouse or intimate partner” includes—

30 (A) for purposes of—

31 (i) all provisions except paragraphs (3) and
 32 (4) of section 161, a spouse or former spouse of the
 33 abuser, a person who shares a child in common
 34 with the abuser, and a person who cohabits or has
 35 cohabited as a spouse with the abuser; and

36 (ii) paragraphs (3) and (4) of section 161, a
 37 spouse or former spouse of the target of the stalk-

1 ing, a person who shares a child in common with
 2 the target of the stalking, and a person who cohab-
 3 its or has cohabited as a spouse with the target of
 4 the stalking; and

5 (B) any other person similarly situated to a spouse
 6 who is protected by the domestic or family violence
 7 laws of the State or tribal jurisdiction in which the in-
 8 jury occurred or where the victim resides; and

9 (5) the term “travel in interstate or foreign com-
 10 merce” does not include travel from one State to another
 11 by an individual who is a member of an Indian tribe and
 12 who remains at all times in the territory of the Indian tribe
 13 of which the individual is a member.

14 SUBCHAPTER I—PROTECTION OF UNBORN
 15 CHILDREN

Sec.

171. Protection of unborn children.

172. Partial-birth abortions prohibited

16 **§ 171. Protection of unborn children**

17 (a)(1) Whoever engages in conduct that violates any of the
 18 provisions of law listed in subsection (b) and thereby causes the
 19 death of, or bodily injury to, a child, who is in utero at the
 20 time the conduct takes place, is guilty of a separate offense
 21 under this section.

22 (2)(A) Except as otherwise provided in this paragraph, the
 23 punishment for that separate offense is the same as the punish-
 24 ment provided under Federal law for that conduct had that in-
 25 jury or death occurred to the unborn child’s mother.

26 (B) An offense under this section does not require proof
 27 that—

28 (i) the person engaging in the conduct had knowledge
 29 or should have had knowledge that the victim of the under-
 30 lying offense was pregnant; or

31 (ii) the defendant intended to cause the death of, or
 32 bodily injury to, the unborn child.

33 (C) If the person engaging in the conduct thereby inten-
 34 tionally kills or attempts to kill the unborn child, that person

1 shall instead of being punished under subparagraph (A) and
 2 subject to subparagraph (D), be punished as provided under
 3 subchapter A for the like offense.

4 (D) Notwithstanding any other provision of law, the death
 5 penalty shall not be imposed for an offense under this section.

6 (b) The provisions referred to in subsection (a) are the fol-
 7 lowing:

8 (1) Sections 101, 102, 111, 121, 123, 143, 161, 165,
 9 201, 204, 271, 273, 413(e), 501, 502, 506, 507, 584, 593,
 10 601, 614, 631, 873, 892, 895, 897, 1112, 1131, 1133,
 11 1137, 1138, 1204, 1216, 1291, 1296, 1306, and 1373 of
 12 this title.

13 (2) Section 202 of the Atomic Energy Act of 1954 (42
 14 U.S.C. 2283).

15 (c) Nothing in this section shall be construed to permit the
 16 prosecution—

17 (1) of any person for conduct relating to an abortion
 18 for which the consent of the pregnant woman, or a person
 19 authorized by law to act on her behalf, has been obtained
 20 or for which such consent is implied by law;

21 (2) of any person for any medical treatment of the
 22 pregnant woman or her unborn child; or

23 (3) of any woman with respect to her unborn child.

24 (d) As used in this section, the term “unborn child”
 25 means a child in utero, and the term “child in utero” or “child,
 26 who is in utero” means a member of the species homo sapiens,
 27 at any stage of development, who is carried in the womb.

28 **§ 172. Partial-birth abortions prohibited**

29 (a) Any physician who, in or affecting interstate or foreign
 30 commerce, knowingly performs a partial-birth abortion and
 31 thereby kills a human fetus shall be fined under this title or
 32 imprisoned not more than 2 years, or both. This subsection
 33 does not apply to a partial-birth abortion that is necessary to
 34 save the life of a mother whose life is endangered by a physical
 35 disorder, physical illness, or physical injury, including a life-en-
 36 dangering physical condition caused by or arising from the
 37 pregnancy itself.

1 (b) As used in this section—

2 (1) the term “partial-birth abortion” means an abor-
3 tion in which the person performing the abortion—

4 (A) deliberately and intentionally vaginally delivers
5 a living fetus until, in the case of a head-first presen-
6 tation, the entire fetal head is outside the body of the
7 mother, or, in the case of breech presentation, any part
8 of the fetal trunk past the navel is outside the body of
9 the mother, for the purpose of performing an overt act
10 that the person knows will kill the partially delivered
11 living fetus; and

12 (B) performs the overt act, other than completion
13 of delivery, that kills the partially delivered living fetus;
14 and

15 (2) the term “physician” means a doctor of medicine
16 or osteopathy legally authorized to practice medicine and
17 surgery by the State in which the doctor performs such ac-
18 tivity, or any other individual legally authorized by the
19 State to perform abortions: Provided, however, That any
20 individual who is not a physician or not otherwise legally
21 authorized by the State to perform abortions, but who nev-
22 ertheless directly performs a partial-birth abortion, shall be
23 subject to the provisions of this section.

24 (c)(1) The father, if married to the mother at the time she
25 receives a partial-birth abortion procedure, and if the mother
26 has not attained the age of 18 years at the time of the abor-
27 tion, the maternal grandparents of the fetus, may in a civil ac-
28 tion obtain appropriate relief, unless the pregnancy resulted
29 from the plaintiff’s criminal conduct or the plaintiff consented
30 to the abortion.

31 (2) Such relief shall include—

32 (A) money damages for all injuries, psychological and
33 physical, occasioned by the violation of this section; and

34 (B) statutory damages equal to three times the cost of
35 the partial-birth abortion.

36 (d)(1) A defendant accused of an offense under this sec-
37 tion may seek a hearing before the State Medical Board on

1 whether the physician’s conduct was necessary to save the life
 2 of the mother whose life was endangered by a physical disorder,
 3 physical illness, or physical injury, including a life-endangering
 4 physical condition caused by or arising from the pregnancy
 5 itself.

6 (2) The findings on that issue are admissible on that issue
 7 at the trial of the defendant. Upon a motion of the defendant,
 8 the court shall delay the beginning of the trial for not more
 9 than 30 days to permit such a hearing to take place.

10 (e) A woman upon whom a partial-birth abortion is per-
 11 formed may not be prosecuted under this section, for a con-
 12 spiracy to violate this section, or for an offense under section
 13 2, 3, or 4 based on a violation of this section.

14 **CHAPTER 13—SEX CRIMES**

Subchapter	Sec.
A. Sexual abuse	201
B. Transport for illegal sexual activity	211
C. Sexual exploitation of children	221
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15 **SUBCHAPTER A—SEXUAL ABUSE**

Sec.	
201.	Sexual Abuse.
202.	Abusive sexual contact.
203.	Special rules and defenses.
204.	Sexual abuse resulting in death.
205.	Definitions for subchapter.

16 **§ 201. Sexual Abuse**

17 (a) ELEMENTS OF OFFENSE.—As made applicable and
 18 punished in subsection (b), the following offenses have the fol-
 19 lowing elements:

20 (1) AGGRAVATED SEXUAL ABUSE.—Whoever—

21 (A) knowingly causes another person to engage in
 22 a sexual act—

23 (i) by using force against that other person; or

24 (ii) by threatening or placing that other person
 25 in fear that any person will be subjected to death,
 26 serious bodily injury, substantial risk of uncon-
 27 sciousness, or kidnapping;

28 (B) knowingly—

1 (i) renders another person unconscious and
2 thereby engages in a sexual act with that other per-
3 son; or

4 (ii) administers to another person by force or
5 threat of force, or without the knowledge or per-
6 mission of that person, a drug, intoxicant, or other
7 similar substance and thereby—

8 (I) substantially impairs the ability of that
9 other person to appraise or control conduct;
10 and

11 (II) engages in a sexual act with that
12 other person; or

13 (C) knowingly engages in a sexual act with an-
14 other person—

15 (i) who has not attained the age of 12 years;

16 or

17 (ii) who has attained the age of 12 years but
18 has not attained the age of 16 years (and is at
19 least 4 years younger than the person so engaging);

20 is guilty of aggravated sexual abuse.

21 (2) SEXUAL ABUSE.—Whoever knowingly—

22 (A) causes another person to engage in a sexual
23 act by threatening or placing that other person in fear
24 (other than by threatening or placing that other person
25 in fear that any person will be subjected to death, seri-
26 ous bodily injury, substantial risk of unconsciousness,
27 or kidnapping); or

28 (B) engages in a sexual act with another person
29 if that other person is—

30 (i) incapable of appraising the nature of the
31 conduct; or

32 (ii) physically incapable of declining participa-
33 tion in, or communicating unwillingness to engage
34 in, that sexual act;

35 is guilty of sexual abuse.

36 (3) SEXUAL ABUSE OF A WARD.—Whoever knowingly
37 engages in a sexual act with another person who is—

1 (A) in official detention; and
 2 (B) under the custodial, supervisory, or discipli-
 3 nary authority of the person so engaging;
 4 is guilty of sexual abuse of a ward.

5 (b) PENALTIES AND CIRCUMSTANCES FOR FEDERAL OF-
 6 FENSE.—

7 (1) AGGRAVATED SEXUAL ABUSE.—Whoever commits
 8 aggravated sexual abuse in the special maritime and terri-
 9 torial jurisdiction of the United States or attempts to do
 10 so, shall be imprisoned for any term of years or for life.

11 (2) SEXUAL ABUSE.—Whoever commits sexual abuse
 12 in the special maritime and territorial jurisdiction of the
 13 United States, or attempts to do so, shall be imprisoned
 14 not more than 20 years.

15 (3) SEXUAL ABUSE OF A WARD.—Whoever commits
 16 sexual abuse of a ward in the special maritime and terri-
 17 torial jurisdiction of the United States, or attempts to do
 18 so, shall be imprisoned not more than one year.

19 **§ 202. Abusive sexual contact**

20 (a) SEXUAL CONTACT IN CIRCUMSTANCES WHERE SEX-
 21 UAL ACTS ARE PUNISHABLE.—Whoever engages in sexual con-
 22 tact with another person—

23 (1) under circumstances in which, if the sexual contact
 24 had been a sexual act, the sexual contact would be punish-
 25 able under section 201(b)(1), shall be imprisoned not more
 26 than 10 years;

27 (2) under circumstances in which, if the sexual contact
 28 had been a sexual act, the sexual contact would be punish-
 29 able under section 201(b)(2), shall be imprisoned not more
 30 than 3 years;and

31 (3) under circumstances in which, if the sexual contact
 32 had been a sexual act, the sexual contact would be punish-
 33 able under section 201(b)(3), shall be imprisoned not more
 34 than 6 months.

35 (b) ENHANCED PENALTY WHERE CONTACT IS WITH A
 36 CHILD UNDER 12 YEARS OF AGE.—If the sexual contact that
 37 violates this section is with an individual who has not attained

1 the age of 12 years, the maximum term of imprisonment that
 2 may be imposed for the offense is twice that otherwise provided
 3 in this section.

4 **§ 203. Special rules and defenses**

5 (a) PROOF OF STATE OF MIND AS TO AGE.—In a prosecu-
 6 tion under this subchapter involving a sexual act or sexual con-
 7 tact with a child, the Government need not prove that the de-
 8 fendant knew the age of the child or that any age difference
 9 required for the offense did not exist.

10 (b) DEFENSES.—

11 (1) SEXUAL ABUSE OR SEXUAL CONTACT INVOLVING
 12 A CHILD.—It is a affirmative defense to a prosecution
 13 under this subchapter for an offense involving a child where
 14 an element of the offense is that the child not be 16 years
 15 of age or older that the defendant reasonably believed the
 16 child to be 16 years of age or older.

17 (2) MARRIAGE IN CERTAIN CASES.—It is an affirma-
 18 tive defense to prosecution for an offense under this sub-
 19 chapter involving a sexual act or sexual contact with a
 20 ward, that the ward was married to the person engaging
 21 in the sexual act or contact at the time of the alleged of-
 22 fense.

23 **§ 204. Sexual abuse resulting in death**

24 Whoever, in the course of an offense under this sub-
 25 chapter, engages in conduct that results in the death of a per-
 26 son, shall be punished by death or imprisoned for any term of
 27 years or for life.

28 **§ 205. Definitions for subchapter**

29 As used in this subchapter—

30 (2) the term “sexual act” means—

31 (A) contact between the penis and the vulva or the
 32 penis and the anus, and for purposes of this subpara-
 33 graph contact involving the penis occurs upon penetra-
 34 tion, however slight;

35 (B) contact between the mouth and the penis, the
 36 mouth and the vulva, or the mouth and the anus;

1 (C) the penetration, however slight, of the anal or
2 genital opening of another by a hand or finger or by
3 any object, with an intent to abuse, humiliate, harass,
4 degrade, or arouse or gratify the sexual desire of any
5 person; or

6 (D) the intentional touching, not through the
7 clothing, of the genitalia of another person who has not
8 attained the age of 16 years with an intent to abuse,
9 humiliate, harass, degrade, or arouse or gratify the sex-
10 ual desire of any person;

11 (3) the term “sexual contact” means the intentional
12 touching, either directly or through the clothing, of the
13 genitalia, anus, groin, breast, inner thigh, or buttocks of
14 any person with an intent to abuse, humiliate, harass, de-
15 grade, or arouse or gratify the sexual desire of any person;

16 (4) the term “official detention” means—

17 (A) detention by a Federal officer or employee, or
18 under the direction of a Federal officer or employee,
19 following arrest for an offense; following surrender in
20 lieu of arrest for an offense; following a charge or con-
21 viction of an offense, or an allegation or finding of ju-
22 venile delinquency; following commitment as a material
23 witness; following civil commitment in lieu of criminal
24 proceedings or pending resumption of criminal pro-
25 ceedings that are being held in abeyance, or pending
26 extradition, deportation, or exclusion; or

27 (B) custody by a Federal officer or employee, or
28 under the direction of a Federal officer or employee,
29 for purposes incident to any detention described in sub-
30 paragraph (A) of this paragraph, including transpor-
31 tation, medical diagnosis or treatment, court appear-
32 ance, work, and recreation;

33 but does not include supervision or other control (other
34 than custody during specified hours or days) after release
35 on bail, probation, or parole, or after release following a
36 finding of juvenile delinquency.

1 SUBCHAPTER B—TRANSPORT FOR ILLEGAL SEXUAL
2 ACTIVITY

Sec.

211. Transportation generally.

212. Coercion and enticement.

213. Transportation of children.

214. Use of interstate facilities to transmit information about a child.

3 **§ 211. Transportation generally**

4 Whoever knowingly transports an individual in interstate
5 or foreign commerce, or in any territory or possession of the
6 United States, with intent that such individual engage in pros-
7 titution, or in any sexual activity for which any person can be
8 charged with a criminal offense, or attempts to do so, shall be
9 imprisoned not more than 10 years.

10 **§ 212. Coercion and enticement**

11 (a) Whoever knowingly persuades, induces, entices, or co-
12 erces any individual to travel in interstate or foreign commerce,
13 or in any territory or possession of the United States, to en-
14 gage in prostitution, or in any sexual activity for which any
15 person can be charged with a criminal offense, or attempts to
16 do so, shall be imprisoned not more than 20 years.

17 (b) Whoever, using any facility of interstate or foreign
18 commerce, or within the special maritime and territorial juris-
19 diction of the United States, knowingly persuades, induces, en-
20 tices, or coerces any child to engage in prostitution or any sex-
21 ual activity for which any person can be charged with a crimi-
22 nal offense, or attempts to do so, shall be imprisoned not less
23 than 5 years and not more than 30 years.

24 **§ 213. Transportation of children**

25 (a) TRANSPORTATION WITH INTENT TO ENGAGE IN
26 CRIMINAL SEXUAL ACTIVITY.—Whoever transports a child in
27 interstate or foreign commerce, or in any territory or posses-
28 sion of the United States, with intent that the child engage in
29 prostitution, or in any sexual activity for which any person can
30 be charged with a criminal offense, shall be imprisoned not less
31 than 5 years and not more than 30 years.

32 (b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT SEX-
33 UAL CONDUCT.—Whoever travels in interstate commerce or

1 travels into the United States, or, being a United States citizen
2 or an alien admitted for permanent residence in the United
3 States, travels in foreign commerce, for the purpose of engag-
4 ing in any illicit sexual conduct shall be imprisoned not more
5 than 30 years.

6 (c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN FOREIGN
7 PLACES.—Any United States citizen or alien admitted for per-
8 manent residence who travels in foreign commerce, and engages
9 in any illicit sexual conduct shall be imprisoned not more than
10 30 years.

11 (d) ANCILLARY OFFENSES.—Whoever, for the purpose of
12 commercial advantage or private financial gain, arranges, in-
13 duces, procures, or facilitates the travel of a person knowing
14 that such a person is traveling in interstate commerce or for-
15 eign commerce for the purpose of engaging in illicit sexual con-
16 duct shall be imprisoned not more than 30 years.

17 (e) ATTEMPT AND CONSPIRACY.—Whoever attempts or
18 conspires to violate subsection (a), (b), (c), or (d) shall be pun-
19 ishable in the same manner as a completed violation of that
20 subsection.

21 (f) DEFINITION.—As used in this section, the term “illicit
22 sexual conduct” means—

23 (1) a sexual act (as defined in section 205) with a
24 child that would be in violation of subchapter A if the sex-
25 ual act occurred in the special maritime and territorial ju-
26 risdiction of the United States;

27 (2) any commercial sex act (as defined in section
28 1265) with a child; or

29 (3) the production of child pornography, as defined in
30 section 229.

31 (g) DEFENSE.—In a prosecution under this section based
32 on illicit sexual conduct as defined in subsection (f)(2), it is an
33 affirmative defense that the defendant reasonably believed that
34 the person with whom the defendant engaged in the commercial
35 sex act had attained the age of 18 years.

1 **§ 214. Use of interstate facilities to transmit infor-**
 2 **mation about a child**

3 Whoever, using a facility of interstate or foreign com-
 4 merce, or within the special maritime and territorial jurisdic-
 5 tion of the United States, knowingly transmits of the name, ad-
 6 dress, telephone number, social security number, or electronic
 7 mail address of another individual, knowing that such other in-
 8 dividual has not attained the age of 16 years, with the intent
 9 to entice, encourage, offer, or solicit any person to engage in
 10 any sexual activity for which any person can be charged with
 11 a criminal offense, or attempts to do so, shall be imprisoned
 12 not more than 5 years.

13 SUBCHAPTER C—SEXUAL EXPLOITATION OF
 14 CHILDREN

Sec.

221. Sexual exploitation of children.
 222. Selling or buying of children.
 223. Certain activities relating to material involving the sexual exploi-
 tation of children and child pornography.
 225. Misleading domain names on the Internet.
 229. Definitions for subchapter.
 230. Record keeping requirements.
 231. Failure to report child abuse.

15 **§ 221. Sexual exploitation of children**

16 (a) OFFENSE.—Whoever, as made applicable in subsection

17 (b)—

18 (1) either—

19 (A) employs, uses, persuades, induces, entices, or
 20 coerces any child to engage in, or who has a child assist
 21 any other person to engage in, any sexually explicit
 22 conduct for the purpose of producing any visual depic-
 23 tion of such conduct; or

24 (B) transports any child in interstate or foreign
 25 commerce, or in any territory or possession of the
 26 United States, with the intent that such child engage
 27 in such conduct for such purpose; or

28 (2) being a parent, legal guardian, or person having
 29 custody or control of a child knowingly permits such child
 30 to engage in, or to assist any other person to engage in,

1 sexually explicit conduct for the purpose of producing any
2 visual depiction of such conduct;
3 or attempts or conspires to do so shall be punished as provided
4 under subsection (e).

5 (b) APPLICABILITY.—Subsection (a) applies if—

6 (1) the person engaging in that conduct knows or has
7 reason to know that such visual depiction will be trans-
8 ported in or affecting interstate or foreign commerce;

9 (2) such visual depiction was produced using materials
10 that have been transported in or affecting interstate or for-
11 eign commerce; or

12 (3) such visual depiction has actually been transported
13 in or affecting interstate or foreign commerce.

14 (c) EXTRATERRITORIAL JURISDICTION.—There is
15 extraterritorial jurisdiction over an offense under subsection
16 (a)(1) if the offender—

17 (1) intends such visual depiction to be transported to
18 the United States; or

19 (2) transports such visual depiction to the United
20 States.

21 (d) ADVERTISEMENTS.—(1) Whoever, as made applicable
22 by paragraph (2), knowingly makes, prints, or publishes, or
23 causes to be made, printed, or published, any notice or adver-
24 tisement seeking or offering—

25 (A) to receive, exchange, buy, produce, display, dis-
26 tribute, or reproduce, any visual depiction, if the production
27 of such visual depiction involves the use of a child engaging
28 in sexually explicit conduct and such visual depiction is of
29 such conduct; or

30 (B) participation in any act of sexually explicit con-
31 duct by or with any child for the purpose of producing a
32 visual depiction of such conduct;

33 shall be punished as provided under subsection (e).

34 (2) Paragraph (1) applies if—

35 (A) such person knows or has reason to know that
36 such notice or advertisement will be transported in or af-
37 fecting interstate or foreign commerce; or

1 (B) such notice or advertisement is transported in or
2 affecting interstate or foreign commerce.

3 (e) PUNISHMENT.—Whoever violates, or attempts or con-
4 spires to violate, this section shall be imprisoned not less than
5 15 years nor more than 30 years, but if such person has one
6 prior conviction under this subchapter, subchapter F of chapter
7 35, or under section 920 of title 10 (article 120 of the Uniform
8 Code of Military Justice), or under the laws of any State relat-
9 ing to the sexual exploitation of children, such person shall be
10 imprisoned for not less than 25 years nor more than 50 years,
11 but if such person has 2 or more such prior convictions, such
12 person shall be imprisoned not less than 35 years nor more
13 than life. Whoever, in the course of an offense under this sec-
14 tion, engages in conduct that results in the death of a person,
15 shall be punished by death or imprisoned for any term of years
16 or for life.

17 **§ 222. Selling or buying of children**

18 (a) TRANSFER OF CUSTODY.—Whoever, as made applica-
19 ble by subsection (d) and with a mental state described in sub-
20 section (c) having custody or control of a child, transfers that
21 custody or control, or offers to do so, shall be punished by im-
22 prisonment for not less than 30 years or for life.

23 (b) OBTAINING CUSTODY.—Whoever, as made applicable
24 by subsection (d) and with a mental state described in sub-
25 section (c), obtains custody or control of a child, or offers to
26 do so, shall be punished by imprisonment for not less than 30
27 years or for life.

28 (c) MENTAL STATE.—The mental state referred to in sub-
29 sections (a) and (b) is—

30 (1) knowledge that, as a consequence of the transfer
31 of custody, the child will be portrayed in a visual depiction
32 engaging in, or assisting another person to engage in, sexu-
33 ally explicit conduct; or

34 (2) intent to promote either—

35 (A) the engaging in of sexually explicit conduct by
36 such child for the purpose of producing any visual de-
37 picture of such conduct; or

1 (B) the rendering of assistance by the child to any
 2 other person to engage in sexually explicit conduct for
 3 the purpose of producing any visual depiction of such
 4 conduct.

5 (d) FEDERAL NEXUS.—Conduct described in subsection
 6 (a) and (b) is an offense if—

7 (1) in the course of the conduct the child or the person
 8 engaging in the conduct travel in interstate or foreign com-
 9 merce;

10 (2) any offer described in such subsections was com-
 11 municated or transported in or affecting interstate or for-
 12 eign commerce; or

13 (3) the conduct took place in any territory or posses-
 14 sion of the United States.

15 **§ 223. Certain activities relating to material in-**
 16 **volving the sexual exploitation of children**
 17 **and child pornography**

18 (a) OFFENSE.—Whoever, as made applicable by subsection
 19 (b)—

20 (1) knowingly—

21 (A) transports an exploitative visual depiction or
 22 child pornography;

23 (B) receives, or distributes, any exploitative visual
 24 depiction or child pornography; or

25 (C) reproduces any exploitative visual depiction or
 26 child pornography for distribution;

27 (2) knowingly—

28 (A) sells or possesses with intent to sell any ex-
 29 ploitative visual depiction or child pornography; or

30 (B) knowingly possesses an exploitative visual de-
 31 pication or child pornography;

32 (3) advertises, promotes, presents, distributes, or solici-
 33 its any material or purported material in a manner that re-
 34 flects the belief, or that is intended to cause another to be-
 35 lieve, that the material or purported material contains an
 36 exploitative visual depiction or child pornography;

1 or attempts or conspires to do so shall be punished as provided
2 in subsection (c).

3 (b) APPLICABILITY.—Subsection (a) applies if—

4 (1) the conduct occurs in the special maritime and ter-
5 ritorial jurisdiction of the United States, or in the Indian
6 country as defined in section 871 of this title; or

7 (2) the exploitative visual depiction or child pornog-
8 raphy is transported in or affecting interstate or foreign
9 commerce, or was produced using materials which have
10 been so transported.

11 (c) PUNISHMENT.—The punishment for a violation of this
12 section is as follows:

13 (1) Whoever violates paragraph (1) or (2)(A) of sub-
14 section (a) shall be imprisoned not less than 5 years and
15 not more than 20 years, but if such person has a prior con-
16 viction under this chapter, subchapter F of chapter 35, or
17 under section 920 of title 10 (article 120 of the Uniform
18 Code of Military Justice), or under the laws of any State
19 relating to aggravated sexual abuse, sexual abuse, or abu-
20 sive sexual conduct involving a child or ward, or the pro-
21 duction, possession, receipt, mailing, sale, distribution,
22 shipment, or transportation of child pornography, such per-
23 son shall be imprisoned for not less than 15 years nor more
24 than 40 years.

25 (2) Whoever violates, or attempts or conspires to vio-
26 late, paragraph (2)(B) of subsection (a) shall be imprisoned
27 not more than 10 years, or both, but if such person has
28 a prior conviction under this subchapter, subchapter F of
29 chapter 35, or under section 920 of title 10 (article 120 of
30 the Uniform Code of Military Justice), or under the laws
31 of any State relating to aggravated sexual abuse, sexual
32 abuse, or abusive sexual conduct involving a child or ward,
33 or the production, possession, receipt, mailing, sale, dis-
34 tribution, shipment, or transportation of child pornography,
35 such person shall be imprisoned for not less than 10 years
36 nor more than 20 years.

1 (d) AFFIRMATIVE DEFENSE.—It is an affirmative defense
2 to a charge of violating paragraph (2)(B) of subsection (a) that
3 the defendant—

4 (1) possessed less than three matters containing any
5 visual depiction proscribed by that paragraph; and

6 (2) promptly and in good faith, and without retaining
7 or allowing any person, other than a law enforcement agen-
8 cy, to access any visual depiction or copy thereof—

9 (A) took reasonable steps to destroy each such vis-
10 ual depiction; or

11 (B) reported the matter to a law enforcement
12 agency and afforded that agency access to each such
13 visual depiction.

14 (e) ADMISSIBILITY OF EVIDENCE.—On motion of the gov-
15 ernment, in any prosecution under this subchapter or section
16 1444, except for good cause shown, the name, address, social
17 security number, or other nonphysical identifying information,
18 other than the age or approximate age, of any child who is de-
19 picted in any child pornography shall not be admissible and
20 may be redacted from any otherwise admissible evidence, and
21 the jury shall be instructed, upon request of the United States,
22 that it can draw no inference from the absence of such evidence
23 in deciding whether the child pornography depicts an actual
24 child.

25 (f) EXPLOITATIVE VISUAL DEPICTION DEFINED.—In this
26 section, a visual depiction is an exploitative visual depiction if—

27 (1) the producing of such visual depiction involves the
28 use of a child engaging in sexually explicit conduct; and

29 (2) such visual depiction is of such conduct.

30 **§ 225. Misleading domain names on the Internet**

31 (a) OBSCENITY.—Whoever knowingly uses a misleading
32 domain name on the Internet with the intent to deceive a per-
33 son into viewing material constituting obscenity shall be impris-
34 oned not more than 2 years.

35 (b) MATERIAL HARMFUL TO CHILDREN.—Whoever know-
36 ingly uses a misleading domain name on the Internet with the
37 intent to deceive a child into viewing material that is harmful

1 to Children on the Internet shall be imprisoned not more than
2 4 years.

3 (c) DEFINITION.—For the purposes of this section—

4 (1) a domain name that includes a word or words to
5 indicate the sexual content of the site, such as “sex” or
6 “porn”, is not misleading;

7 (2) the term “material that is harmful to children”
8 means any communication, consisting of nudity, sex, or ex-
9 cretion, that, taken as a whole and with reference to its
10 context—

11 (A) predominantly appeals to a prurient interest of
12 children;

13 (B) is patently offensive to prevailing standards in
14 the adult community as a whole with respect to what
15 is suitable material for children; and

16 (C) lacks serious literary, artistic, political, or sci-
17 entific value for children; and

18 (3) as used in this subsection, the term “sex” means
19 acts of masturbation, sexual intercourse, or physical con-
20 tact with a person’s genitals, or the condition of human
21 male or female genitals when in a state of sexual stimula-
22 tion or arousal.

23 § 229. Definitions for subchapter

24 In this subchapter the following definitions apply:

25 (1)(A) Except as provided in subparagraph (B), the
26 term “sexually explicit conduct” means actual or simu-
27 lated—

28 (i) sexual intercourse, including genital-genital,
29 oral-genital, anal-genital, or oral-anal, whether between
30 persons of the same or opposite sex;

31 (ii) bestiality;

32 (iii) masturbation;

33 (iv) sadistic or masochistic abuse; or

34 (v) lascivious exhibition of the genitals or pubic
35 area of any person;

36 (B) For purposes of paragraph 5(B), the term “sexu-
37 ally explicit conduct” means—

1 (i) graphic sexual intercourse, including genital-
2 genital, oral-genital, anal-genital, or oral-anal, whether
3 between persons of the same or opposite sex, or lasciv-
4 ious simulated sexual intercourse where the genitals,
5 breast, or pubic area of any person is exhibited;

6 (ii) graphic or lascivious simulated—

7 (I) bestiality;

8 (II) masturbation; or

9 (III) sadistic or masochistic abuse; or

10 (iii) graphic or simulated lascivious exhibition of
11 the genitals or pubic area of any person.

12 (2) The term “producing” means producing, directing,
13 manufacturing, issuing, publishing, or advertising.

14 (3) The term “visual depiction” includes undeveloped
15 film and videotape, and data stored on computer disk or by
16 electronic means which is capable of conversion into a vis-
17 ual image.

18 (4) The term “custody or control” includes temporary
19 supervision over or responsibility for a child whether legally
20 or illegally obtained.

21 (5) The term “child pornography” means any visual
22 depiction, including any photograph, film, video, picture, or
23 computer or computer-generated image or picture, whether
24 made or produced by electronic, mechanical, or other
25 means, of sexually explicit conduct, where—

26 (A) the production of such visual depiction in-
27 volves the use of a child engaging in sexually explicit
28 conduct;

29 (B) such visual depiction is a digital image, com-
30 puter image, or computer-generated image that is, or
31 is indistinguishable from, that of a child engaging in
32 sexually explicit conduct; or

33 (C) such visual depiction has been created, adapt-
34 ed, or modified to appear that an identifiable child is
35 engaging in sexually explicit conduct.

36 (6) The term “identifiable child”—

37 (A) means a person—

1 (i)(I) who was a child at the time the visual
2 depiction was created, adapted, or modified; or

3 (II) whose image as a child was used in cre-
4 ating, adapting, or modifying the visual depiction;
5 and

6 (ii) who is recognizable as an actual person by
7 the person's face, likeness, or other distinguishing
8 characteristic, such as a unique birthmark or other
9 recognizable feature; and

10 (B) shall not be construed to require proof of the
11 actual identity of the identifiable child.

12 (7) The term "graphic", when used with respect to a
13 depiction of sexually explicit conduct, means that a viewer
14 can observe any part of the genitals or pubic area of any
15 depicted person or animal during any part of the time that
16 the sexually explicit conduct is being depicted.

17 (8) The term "indistinguishable" used with respect to
18 a depiction, means virtually indistinguishable, in that the
19 depiction is such that an ordinary person viewing the depic-
20 tion would conclude that the depiction is of an actual child
21 engaged in sexually explicit conduct. This definition does
22 not apply to depictions that are drawings, cartoons, sculp-
23 tures, or paintings depicting minors or adults.

24 **§ 230. Record keeping requirements**

25 (a) DUTY TO KEEP RECORDS.—Whoever produces any
26 book, magazine, periodical, film, videotape, or other matter
27 which—

28 (1) contains one or more visual depictions made after
29 November 1, 1990 of actual sexually explicit conduct; and

30 (2) is produced in whole or in part with materials
31 which have been mailed or shipped in interstate or foreign
32 commerce, or is shipped or transported or is intended for
33 shipment or transportation in interstate or foreign com-
34 merce;

35 shall create and maintain individually identifiable records per-
36 taining to every performer portrayed in such a visual depiction.

1 (b) DUTY TO ASCERTAIN CERTAIN INFORMATION.—Any
2 person to whom subsection (a) applies shall, with respect to
3 every performer portrayed in a visual depiction of actual sexu-
4 ally explicit conduct—

5 (1) ascertain, by examination of an identification docu-
6 ment containing such information, the performer's name
7 and date of birth, and require the performer to provide
8 such other indicia of his or her identity as may be pre-
9 scribed by regulations;

10 (2) ascertain any name, other than the performer's
11 present and correct name, ever used by the performer in-
12 cluding maiden name, alias, nickname, stage, or profes-
13 sional name; and

14 (3) record in the records required by subsection (a)
15 the information required by paragraphs (1) and (2) of this
16 subsection and such other identifying information as may
17 be prescribed by regulation.

18 (c) WHERE RECORDS MAINTAINED AND AVAILABILITY
19 FOR INSPECTION.—Any person to whom subsection (a) applies
20 shall maintain the records required by this section at his busi-
21 ness premises, or at such other place as the Attorney General
22 may by regulation prescribe and shall make such records avail-
23 able to the Attorney General for inspection at all reasonable
24 times.

25 (d) EXCLUSION OF EVIDENCE.—

26 (1) No information or evidence obtained from records
27 required to be created or maintained by this section shall,
28 except as provided in this section, directly or indirectly, be
29 used as evidence against any person with respect to any
30 violation of law.

31 (2) Paragraph (1) of this subsection does not preclude
32 the use of such information or evidence in a prosecution or
33 other action for a violation of this subchapter or subchapter
34 F of chapter 35, or for a violation of any applicable provi-
35 sion of law with respect to the furnishing of false informa-
36 tion.

37 (e) STATEMENT.—

1 (1) Any person to whom subsection (a) applies shall
2 cause to be affixed to every copy of any matter described
3 in paragraph (1) of subsection (a) of this section, in such
4 manner and in such form as the Attorney General shall by
5 regulations prescribe, a statement describing where the
6 records required by this section with respect to all per-
7 formers depicted in that copy of the matter may be located.

8 (2) If the person to whom subsection (a) of this section
9 applies is an organization the statement required by this sub-
10 section shall include the name, title, and business address of
11 the individual employed by such organization responsible for
12 maintaining the records required by this section.

13 (f) UNLAWFUL ACTS.—It shall be unlawful—

14 (1) for any person to whom subsection (a) applies to
15 fail to create or maintain the records as required by sub-
16 sections (a) and (c) or by any regulation promulgated
17 under this section;

18 (2) for any person to whom subsection (a) applies
19 knowingly to make any false entry in or knowingly to fail
20 to make an appropriate entry in, any record required by
21 subsection (b) of this section or any regulation promulgated
22 under this section;

23 (3) for any person to whom subsection (a) applies
24 knowingly to fail to comply with subsection (e) or any regu-
25 lation promulgated pursuant to that subsection; and

26 (4) for any person knowingly to sell or otherwise
27 transfer, or offer for sale or transfer, any book, magazine,
28 periodical, film, video, or other matter, produce in whole or
29 in part with materials which have been mailed or shipped
30 in interstate or foreign commerce or which is intended for
31 shipment in interstate or foreign commerce, which—

32 (A) contains one or more visual depictions made
33 after the made after November 1, 1990 of actual sexu-
34 ally explicit conduct; and

35 (B) is produced in whole or in part with materials
36 which have been mailed or shipped in interstate or for-
37 eign commerce, or is shipped or transported or is in-

1 tended for shipment or transportation in interstate or
2 foreign commerce;
3 which does not have affixed thereto, in a manner prescribed
4 as set forth in subsection (e)(1), a statement describing
5 where the records required by this section may be located,
6 but such person shall have no duty to determine the accu-
7 racy of the contents of the statement or the records re-
8 quired to be kept.

9 (g) REGULATIONS.—The Attorney General shall issue ap-
10 propriate regulations to carry out this section.

11 (h) DEFINITIONS.—As used in this section—

12 (1) the term “actual sexually explicit conduct” means
13 actual but not simulated conduct as defined in subpara-
14 graphs (A) through (D) of paragraph (2) of section 229 of
15 this title;

16 (2) “identification document” has the meaning given
17 that term in section 783;

18 (3) the term “produces” means to produce, manufac-
19 ture, or publish any book, magazine, periodical, film, video
20 tape, computer generated image, digital image, or picture,
21 or other similar matter and includes the duplication, repro-
22 duction, or reissuing of any such matter, but does not in-
23 clude mere distribution or any other activity which does not
24 involve hiring, contracting for managing, or otherwise ar-
25 ranging for the participation of the performers depicted;
26 and

27 (4) the term “performer” includes any person por-
28 trayed in a visual depiction engaging in, or assisting an-
29 other person to engage in, actual sexually explicit conduct.

30 (i) PENALTY FOR ANY VIOLATION OF THIS SECTION.—
31 Whoever violates this section shall be imprisoned for not more
32 than 5 years. Whoever violates this section after having been
33 convicted of a violation punishable under this section shall be
34 imprisoned for any period of years not more than 10 years but
35 not less than 2 years.

(b) Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

**CHAPTER 15—NATIONAL SECURITY AND
RELATED CRIMES**

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SUBCHAPTER A—TREASON, SEDITION, AND
SUBVERSIVE ACTIVITIES

Sec.	
261.	Treason.
262.	Misprision of treason.
263.	Rebellion or insurrection.
264.	Seditious conspiracy.
265.	Advocating overthrow of Government.

§ 261. Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death or be imprisoned for any term of years not less than five, and shall be incapable of holding any office under the United States.

§ 262. Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be imprisoned not more than seven years.

§ 263. Rebellion or insurrection

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall

1 be imprisoned not more than ten years and shall be incapable
2 of holding any office under the United States.

3 **§ 264. Seditious conspiracy**

4 If two or more persons in any State or Territory, or in
5 any place subject to the jurisdiction of the United States, con-
6 spire to overthrow, put down, or to destroy by force the Gov-
7 ernment of the United States, or to levy war against them, or
8 to oppose by force the authority thereof, or by force to prevent,
9 hinder, or delay the execution of any law of the United States,
10 or by force to seize, take, or possess any property of the United
11 States contrary to the authority thereof, they shall each be im-
12 prisoned not more than 20 years.

13 **§ 265. Advocating overthrow of Government**

14 (a) IN GENERAL.—Whoever—

15 (1) knowingly advocates, advises, or teaches the duty,
16 necessity, desirability, or propriety of overthrowing or de-
17 stroying the Government of the United States or the gov-
18 ernment of any State, or the government of any political
19 subdivision therein, by force or violence, or by the assas-
20 sination of any officer of any such government;

21 (2) with intent to cause the overthrow or destruction
22 of any such government, prints, publishes, edits, issues, cir-
23 culates, sells, distributes, or publicly displays any written or
24 printed matter advocating, advising, or teaching the duty,
25 necessity, desirability, or propriety of overthrowing or de-
26 stroying any government in the United States by force or
27 violence; or

28 (3) organizes or helps to organize any society, group,
29 or assembly of persons who teach, advocate, or encourage
30 the overthrow or destruction of any such government by
31 force or violence; or becomes or is a member of, or affiliates
32 with, any such society, group, or assembly of persons,
33 knowing the purposes thereof;

34 shall be imprisoned not more than 20 years, and shall be ineli-
35 gible for employment by the United States or any department
36 or agency thereof, for the five years next following the convic-
37 tion.

1 (b) CONSPIRACY.—If two or more persons conspire to
 2 commit any offense named in this section, each shall be impris-
 3 oned not more than 20 years and shall be ineligible for employ-
 4 ment by the United States or any department or agency there-
 5 of, for the five years next following the conviction.

6 (c) DEFINITION.—As used in this section, the term “orga-
 7 nize”, with respect to any society, group, or assembly of per-
 8 sons, includes the recruiting of new members, the forming of
 9 new units, and the regrouping or expansion of existing clubs,
 10 classes, and other units of such society, group, or assembly of
 11 persons.

12 SUBCHAPTER B—TERRORISM

Sec.

- 271. Weapons of mass destruction, and explosives and other lethal de-
 vices.
- 272. Atomic weapons.
- 273. Acts of terrorism transcending national boundaries.
- 273. Financial transactions.
- 274. Missile systems designed to destroy aircraft.
- 275. Radiological dispersal devices.
- 276. Harboring or concealing terrorists.
- 277. Providing material support to terrorists.
- 278. Providing material support or resources to designated foreign ter-
 rorist organizations.
- 279. Prohibitions against the financing of terrorism.
- 280. Receiving military-type training from a foreign terrorist organiza-
 tion.
- 281. Civil remedies.
- 282. Definitions for subchapter.

13 § 271. Weapons of mass destruction, and explo- 14 sives and other lethal devices

15 (a) OFFENSE.—Whoever, without lawful authority, uses,
 16 threatens, to use, a weapon of mass destruction or an explosive
 17 or other lethal device—

18 (1) against any property that is owned, leased or used
 19 by the United States or by any department or agency of
 20 the United States, whether the property is within or out-
 21 side of the United States; or

22 (2) against a national of the United States while such
 23 national is outside of the United States;

1 (3) against any person or property within the United
2 States, if the offense is in, or affects, interstate or foreign
3 commerce;

4 (4) against any person or property outside of the
5 United States, if the offender is a national of the United
6 States;

7 shall be imprisoned for any term of years or for life, and if
8 death results, shall be punished by death or imprisoned for any
9 term of years or for life.

10 (b) DEFINITIONS.—As used in this section—

11 (1) the term “weapon of mass destruction” means—

12 (A) any destructive device as defined in section
13 581;

14 (B) any weapon that is designed or intended to
15 cause death or serious bodily injury through the re-
16 lease, dissemination, or impact of toxic or poisonous
17 chemicals, or their precursors;

18 (C) any weapon involving a biological agent, toxin,
19 or vector (as those terms are in defined in section 627);

20 (D) any weapon that is designed to release radi-
21 ation or radioactivity at a level dangerous to human
22 life; or

23 (E) any lethal device or explosive; and

24 (2) the term “property” includes all real and personal
25 property;

26 (3) “explosive” has the meaning given in section
27 844(j) of this title insofar that it is designed, or has the
28 capability, to cause death, serious bodily injury, or substan-
29 tial material damage; and

30 (4) “other lethal device” means any weapon or device
31 that is designed or has the capability to cause death, seri-
32 ous bodily injury, or substantial damage to property
33 through the release, dissemination, or impact of toxic
34 chemicals, biological agents, or toxins (as those terms are
35 defined in section 178 of this title) or radiation or radio-
36 active material.

1 **§ 272. Atomic weapons**

2 (a) OFFENSE.—Whoever, except as provided in section 91
3 of the Atomic Energy Act of 1954, in or affecting interstate
4 or foreign commerce in the United States or, as made applica-
5 ble by subsection (b) outside the United States, knowingly par-
6 ticipates in the development of, manufactures, produces, trans-
7 fers, acquires, receives, possesses, imports, exports, or uses, or
8 possesses and threatens to use, any atomic weapon. Nothing in
9 this section modifies section 31 a. or section 101 of the Atomic
10 Energy Act of 1954.

11 (b) FEDERAL NEXUS TO CONDUCT OUTSIDE OF THE
12 UNITED STATES.— Conduct outside the United States is pro-
13 hibited by subsection (a) if—

14 (1) the offense is committed by a national of the
15 United States; or

16 (2) the offense is committed against a national of the
17 United States.

18 **§ 273. Acts of terrorism transcending national**
19 **boundaries**

20 (a) PROHIBITED ACTS.—

21 (1) OFFENSES.—Whoever, involving conduct tran-
22 scending national boundaries and as made applicable by
23 subsection (b)—

24 (A) kills, kidnaps, maims, commits an assault re-
25 sulting in serious bodily injury, or assaults with a dan-
26 gerous weapon any person within the United States; or

27 (B) creates a substantial risk of serious bodily in-
28 jury to any other person by destroying or damaging
29 any structure, conveyance, or other real or personal
30 property within the United States or by attempting or
31 conspiring to destroy or damage any structure, convey-
32 ance, or other real or personal property within the
33 United States;

34 in violation of the laws of any State, or the United States,
35 shall be punished as prescribed in subsection (c).

36 (2) TREATMENT OF THREATS, ATTEMPTS AND CON-
37 SPIRACIES.—Whoever threatens to commit an offense

1 under paragraph (1), or attempts or conspires to do so,
2 shall be punished under subsection (c).

3 (b) APPLICABILITY.—

4 (1) IN GENERAL.—Subsection (a) applies if—

5 (A) the mail or any facility of interstate or foreign
6 commerce is used in furtherance of the offense;

7 (B) the offense obstructs, delays, or affects inter-
8 state or foreign commerce, or would have so obstructed,
9 delayed, or affected interstate or foreign commerce if
10 the offense had been consummated;

11 (C) the victim, or intended victim, is the United
12 States Government, a member of the uniformed serv-
13 ices, or any official, officer, employee, or agent of the
14 legislative, executive, or judicial branches, or of any de-
15 partment or agency, of the United States;

16 (D) the structure, conveyance, or other real or
17 personal property is, in whole or in part, owned, pos-
18 sessed, or leased to the United States, or any depart-
19 ment or agency of the United States;

20 (E) the offense is committed in the territorial sea
21 (including the airspace above and the seabed and sub-
22 soil below, and artificial islands and fixed structures
23 erected thereon) of the United States; or

24 (F) the offense is committed within the special
25 maritime and territorial jurisdiction of the United
26 States.

27 (2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE
28 FACT.—Subsection (a) applies with respect to all principals
29 and co-conspirators of an offense under this section, and
30 accessories after the fact to any offense under this section,
31 if at least one of the circumstances described in subpara-
32 graphs (A) through (F) of paragraph (1) is applicable to
33 at least one offender.

34 (c) PENALTIES.—

35 (1) GENERALLY.—Whoever violates this section shall
36 be punished—

1 (A) for a killing, or if death results to any person
2 from any other conduct prohibited by this section, by
3 death, or by imprisonment for any term of years or for
4 life;

5 (B) for kidnapping, by imprisonment for any term
6 of years or for life;

7 (C) for maiming, by imprisonment for not more
8 than 35 years;

9 (D) for assault with a dangerous weapon or as-
10 sult resulting in serious bodily injury, by impris-
11 onment for not more than 30 years;

12 (E) for destroying or damaging any structure, con-
13 veyance, or other real or personal property, by impris-
14 onment for not more than 25 years;

15 (F) for attempting or conspiring to commit an of-
16 fense, for any term of years up to the maximum pun-
17 ishment that would have applied had the offense been
18 completed; and

19 (G) for threatening to commit an offense under
20 this section, by imprisonment for not more than 10
21 years.

22 (2) CONSECUTIVE SENTENCE.—Notwithstanding any
23 other provision of law, the court shall not place on proba-
24 tion any person convicted of a violation of this section; nor
25 shall the term of imprisonment imposed under this section
26 run concurrently with any other term of imprisonment.

27 (d) PROOF REQUIREMENTS.—The following shall apply to
28 prosecutions under this section:

29 (1) KNOWLEDGE.—The prosecution is not required to
30 prove knowledge by any defendant of a jurisdictional base
31 alleged in the indictment.

32 (2) STATE LAW.—In a prosecution under this section
33 that is based upon the adoption of State law, only the ele-
34 ments of the offense under State law, and not any provi-
35 sions pertaining to criminal procedure or evidence, are
36 adopted.

1 (e) EXTRATERRITORIAL JURISDICTION.—There is
2 extraterritorial Federal jurisdiction—

3 (1) over any offense under subsection (a), including
4 any threat, attempt, or conspiracy to commit such offense;
5 and

6 (2) over conduct which, under section 3, renders any
7 person an accessory after the fact to an offense under sub-
8 section (a).

9 (f) INVESTIGATIVE AUTHORITY.—In addition to any other
10 investigative authority with respect to violations of this title,
11 the Attorney General shall have primary investigative responsi-
12 bility for all Federal crimes of terrorism, and any violation of
13 section 102, 112, 614, 955, 1201, or 1205 and the Secretary
14 of the Treasury shall assist the Attorney General at the request
15 of the Attorney General. Nothing in this section shall be con-
16 strued to interfere with the authority of the United States Se-
17 cret Service under section 3056.

18 (g) REQUESTS FOR MILITARY ASSISTANCE.—The Attor-
19 ney General may request the Secretary of Defense to provide
20 assistance under section 382 of title 10 in support of Depart-
21 ment of Justice activities relating to the enforcement of section
22 271 during an emergency situation involving a weapon of mass
23 destruction. The authority to make such a request may be exer-
24 cised by another official of the Department of Justice in ac-
25 cordance with section 382(f)(2) of title 10.

26 (h) DEFINITIONS.—As used in this section—

27 (1) the term “conduct transcending national bound-
28 aries” means conduct occurring outside of the United
29 States in addition to the conduct occurring in the United
30 States;

31 (2) the term “territorial sea of the United States”
32 means all waters extending seaward to 12 nautical miles
33 from the baselines of the United States, determined in ac-
34 cordance with international law; and

35 (3) the term “Federal crime of terrorism” means an
36 offense that—

1 (A) is calculated to influence or affect the conduct
2 of government by intimidation or coercion, or to retali-
3 ate against government conduct; and

4 (B) is a violation of—

5 (i) section 1301 (relating to destruction of air-
6 craft or aircraft facilities), 1306 (relating to vio-
7 lence at international airports), 571 (relating to
8 arson within special maritime and territorial juris-
9 diction), 621 or 623 (relating to biological weap-
10 ons), 624 (relating to variola virus), 631 (relating
11 to chemical weapons), 271 (relating weapons of
12 mass destruction and explosives and other lethal
13 devices), 612(m) or (n) (relating to plastic explo-
14 sives), 614(f)(2) or (3) (relating to arson and
15 bombing of Government property risking or causing
16 death), 614(i) (relating to arson and bombing of
17 property used in interstate commerce), 593(c) (re-
18 lating to killing or attempted killing during an at-
19 tack on a Federal facility with a dangerous weap-
20 on), 955(a)(1) (relating to conspiracy to murder,
21 kidnap, or maim persons abroad), 787(a)(1) (relat-
22 ing to protection of computers), 787(a)(5)(A)(i) re-
23 sulting in damage as defined in 787(a)(5)(B)(ii)
24 through (v) (relating to protection of computers),
25 102(2), (4), or (8) (relating to killing of officers
26 and employees of the United States foreign offi-
27 cials, official guests, or internationally protected
28 persons), 123 (relating to hostage taking), 1201
29 (relating to government property or contracts),
30 1202 (relating to destruction of communication
31 lines, stations, or systems), 1203 (relating to injury
32 to buildings or property within special maritime
33 and territorial jurisdiction of the United States),
34 1205(a) (relating to destruction of an energy facil-
35 ity), 1331 (relating to terrorist attacks and other
36 acts of violence against mass transportation sys-
37 tems), 273 (relating to financial transactions), 276

1 (relating to missile systems designed to destroy air-
2 craft), 275 (relating to radiological dispersal de-
3 vices), 277 (relating to harboring terrorists), 278
4 (relating to providing material support to terror-
5 ists), 279 (relating to providing material support to
6 terrorist organizations), 280 (relating to financing
7 of terrorism, or 1292 (relating to torture) of this
8 title;

9 (ii) sections 92 (relating to prohibitions gov-
10 erning atomic weapons) or 236 (relating to sabo-
11 tage of nuclear facilities or fuel) of the Atomic En-
12 ergy Act of 1954 (42 U.S.C. 2122 or 2284); or

13 (iii) section 46502 (relating to aircraft piracy),
14 the second sentence of section 46504 (relating to
15 assault on a flight crew with a dangerous weapon),
16 section 46505(b)(3) or (c) (relating to explosive or
17 incendiary devices, or endangerment of human life
18 by means of weapons, on aircraft), section 46506
19 if homicide or attempted homicide is involved (re-
20 lating to application of certain criminal laws to acts
21 on aircraft), or section 60123(b) (relating to de-
22 struction of interstate gas or hazardous liquid pipe-
23 line facility) of title 49.

24 **§ 273. Financial transactions**

25 (a) OFFENSE.—Except as provided in regulations issued
26 by the Secretary of the Treasury, in consultation with the Sec-
27 retary of State, whoever, being a United States person, know-
28 ing or having reasonable cause to know that a country is des-
29 ignated under section 6(j) of the Export Administration Act of
30 1979 (50 U.S.C. App. 2405) as a country supporting inter-
31 national terrorism, engages in a financial transaction with the
32 government of that country, shall be imprisoned for not more
33 than 10 years.

34 (b) DEFINITIONS.—As used in this section—

35 (1) the term “financial transaction” has the same
36 meaning as in section 1451; and

37 (2) the term “United States person” means any—

- 1 (A) United States citizen or national;
- 2 (B) permanent resident alien;
- 3 (C) juridical person organized under the laws of
- 4 the United States; or
- 5 (D) any person in the United States.

6 **§ 274. Missile systems designed to destroy aircraft**

7 (a) UNLAWFUL CONDUCT.—

8 (1) IN GENERAL.—Except as provided in paragraph
9 (3), it shall be unlawful for any person to knowingly
10 produce, construct, otherwise acquire, transfer directly or
11 indirectly, receive, possess, import, export, or use, or pos-
12 sess and threaten to use—

13 (A) an explosive or incendiary rocket or missile
14 that is guided by any system designed to enable the
15 rocket or missile to—

16 (i) seek or proceed toward energy radiated or
17 reflected from an aircraft or toward an image locat-
18 ing an aircraft; or

19 (ii) otherwise direct or guide the rocket or
20 missile to an aircraft;

21 (B) any device designed or intended to launch or
22 guide a rocket or missile described in subparagraph
23 (A); or

24 (C) any part or combination of parts designed or
25 redesigned for use in assembling or fabricating a rock-
26 et, missile, or device described in subparagraph (A) or
27 (B).

28 (2) NONWEAPON.—Paragraph (1)(A) does not apply
29 to any device that is neither designed nor redesigned for
30 use as a weapon.

31 (3) EXCLUDED CONDUCT.—This subsection does not
32 apply with respect to—

33 (A) conduct by or under the authority of the
34 United States or any department or agency thereof or
35 of a State or any department or agency thereof; or

36 (B) conduct pursuant to the terms of a contract
37 with the United States or any department or agency

1 thereof or with a State or any department or agency
2 thereof.

3 (b) JURISDICTION.—Conduct prohibited by subsection (a)
4 is within the jurisdiction of the United States if—

5 (1) the offense occurs in or affects interstate or for-
6 eign commerce;

7 (2) the offense occurs outside of the United States and
8 is committed by a national of the United States;

9 (3) the offense is committed against a national of the
10 United States while the national is outside the United
11 States;

12 (4) the offense is committed against any property that
13 is owned, leased, or used by the United States or by any
14 department or agency of the United States, whether the
15 property is within or outside the United States; or

16 (5) an offender aids or abets any person over whom
17 jurisdiction exists under this subsection in committing an
18 offense under this section or conspires with any person over
19 whom jurisdiction exists under this subsection to commit
20 an offense under this section.

21 (c) CRIMINAL PENALTIES.—

22 (1) IN GENERAL.—Any person who violates, or at-
23 tempts or conspires to violate, subsection (a) shall be fined
24 not more than \$2,000,000 and shall be sentenced to a term
25 of imprisonment not less than 25 years or to imprisonment
26 for life.

27 (2) OTHER CIRCUMSTANCES.—Any person who, in the
28 course of a violation of subsection (a), uses, attempts or
29 conspires to use, or possesses and threatens to use, any
30 item or items described in subsection (a), shall be fined not
31 more than \$2,000,000 and imprisoned for not less than 30
32 years or imprisoned for life.

33 (3) SPECIAL CIRCUMSTANCES.—If the death of an-
34 other results from a person's violation of subsection (a), the
35 person shall be fined not more than \$2,000,000 and pun-
36 ished by imprisonment for life.

1 (d) DEFINITION.—As used in this section, the term “air-
2 craft” has the definition set forth in section 40102(a)(6) of
3 title 49.

4 **§ 275. Radiological dispersal devices**

5 (a) UNLAWFUL CONDUCT.—

6 (1) IN GENERAL.—Except as provided in paragraph
7 (2), it shall be unlawful for any person to knowingly
8 produce, construct, otherwise acquire, transfer directly or
9 indirectly, receive, possess, import, export, or use, or pos-
10 sess and threaten to use—

11 (A) any weapon that is designed or intended to re-
12 lease radiation or radioactivity at a level dangerous to
13 human life; or

14 (B) any device or other object that is capable of
15 and designed or intended to endanger human life
16 through the release of radiation or radioactivity.

17 (2) EXCEPTION.—This subsection does not apply with
18 respect to—

19 (A) conduct by or under the authority of the
20 United States or any department or agency thereof; or

21 (B) conduct pursuant to the terms of a contract
22 with the United States or any department or agency
23 thereof.

24 (b) JURISDICTION.—Conduct prohibited by subsection (a)
25 is within the jurisdiction of the United States if—

26 (1) the offense occurs in or affects interstate or for-
27 eign commerce;

28 (2) the offense occurs outside of the United States and
29 is committed by a national of the United States;

30 (3) the offense is committed against a national of the
31 United States while the national is outside the United
32 States;

33 (4) the offense is committed against any property that
34 is owned, leased, or used by the United States or by any
35 department or agency of the United States, whether the
36 property is within or outside the United States; or

1 (5) an offender aids or abets any person over whom
2 jurisdiction exists under this subsection in committing an
3 offense under this section or conspires with any person over
4 whom jurisdiction exists under this subsection to commit
5 an offense under this section.

6 (c) CRIMINAL PENALTIES.—

7 (1) IN GENERAL.—Whoever violates, or attempts or
8 conspires to violate, subsection (a) shall be fined not more
9 than \$2,000,000 and shall be sentenced to a term of im-
10 prisonment not less than 25 years or to imprisonment for
11 life.

12 (2) OTHER CIRCUMSTANCES.—Any person who, in the
13 course of a violation of subsection (a), uses, attempts or
14 conspires to use, or possesses and threatens to use, any
15 item or items described in subsection (a), shall be fined not
16 more than \$2,000,000 and imprisoned for not less than 30
17 years or imprisoned for life.

18 (3) SPECIAL CIRCUMSTANCES.—If the death of an-
19 other results from a person's violation of subsection (a), the
20 person shall be fined not more than \$2,000,000 and pun-
21 ished by imprisonment for life.

22 **§ 276. Harboring or concealing terrorists**

23 (a) OFFENSE.—Whoever harbors or conceals any person
24 who he knows, or has reasonable grounds to believe, has com-
25 mitted, or is about to commit, an offense under section 1301
26 (relating to destruction of aircraft or aircraft facilities), section
27 621 (relating to biological weapons), section 631 (relating to
28 chemical weapons), section 601 (relating to nuclear materials),
29 paragraph (2) or (3) of section 614(f) (relating to arson and
30 bombing of government property risking or causing injury or
31 death), section 1205(a) (relating to the destruction of an en-
32 ergy facility), section 1651 (relating to violence against mari-
33 time navigation), section 271 (relating to weapons of mass de-
34 struction), or section 273 (relating to acts of terrorism tran-
35 scending national boundaries) of this title, section 236(a) (re-
36 lating to sabotage of nuclear facilities or fuel) of the Atomic
37 Energy Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (re-

1 relating to aircraft piracy) of title 49, shall imprisoned not more
2 than ten years.

3 (b) VENUE.—A violation of this section may be prosecuted
4 in any Federal judicial district in which the underlying offense
5 was committed, or in any other Federal judicial district as pro-
6 vided by law.

7 **§ 277. Providing material support to terrorists**

8 (a) OFFENSE.—Whoever provides material support or re-
9 sources or conceals or disguises the nature, location, source, or
10 ownership of material support or resources, knowing or intend-
11 ing that they are to be used in preparation for, or in carrying
12 out, a violation of section 271, 273, 276, 1301, 1306, 571,
13 621, 631, 102, 112, 121(m) or (n), 601, 1201, 1202, 1203,
14 1205, 1331, 1651, 1291, 278, or 279 of this title, section 236
15 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) section
16 46502 or 60123(b) of title 49, or any offense listed in section
17 273(g)(5)(B) (except for sections 278 and 279) or in prepara-
18 tion for, or in carrying out, the concealment of an escape from
19 the commission of any such violation, or attempts or conspires
20 to do such an act, shall be fined under this title, imprisoned
21 not more than 15 years, or both. A violation of this section may
22 be prosecuted in any Federal judicial district in which the un-
23 derlying offense was committed, or in any other Federal judi-
24 cial district as provided by law, and, if the death of any person
25 results, shall be imprisoned for any term of years or for life.

26 (b) DEFINITIONS.—As used in this section—

27 (1) the term “material support or resources” means
28 any property, tangible or intangible, or service, including
29 currency or monetary instruments or financial securities, fi-
30 nancial services, lodging, training, expert advice or assist-
31 ance, safehouses, false documentation or identification,
32 communications equipment, facilities, weapons, lethal sub-
33 stances, explosives, personnel (1 or more individuals who
34 may be or include oneself), and transportation, except med-
35 icine or religious materials;

1 (2) the term “training” means instruction or teaching
2 designed to impart a specific skill, as opposed to general
3 knowledge; and

4 (3) the term “expert advice or assistance” means ad-
5 vice or assistance derived from scientific, technical or other
6 specialized knowledge.

7 **§ 278. Providing material support or resources to**
8 **designated foreign terrorist organizations**

9 (a) PROHIBITED ACTIVITIES.—

10 (1) UNLAWFUL CONDUCT.—Whoever as made applica-
11 ble by subsection (d) knowingly provides material support
12 or resources to a foreign terrorist organization, or attempts
13 or conspires to do so, shall be imprisoned not more than
14 15 years, or both, and if the death of any person results,
15 shall be imprisoned for any term of years or for life. To
16 violate this paragraph, a person must have knowledge that
17 the organization is a designated terrorist organization (as
18 defined in subsection (g)(6)), that the organization has en-
19 gaged or engages in terrorist activity (as defined in section
20 212(a)(3)(B) of the Immigration and Nationality Act), or
21 that the organization has engaged or engages in terrorism
22 (as defined in section 140(d)(2) of the Foreign Relations
23 Authorization Act, Fiscal Years 1988 and 1989).

24 (2) FINANCIAL INSTITUTIONS.—Except as authorized
25 by the Secretary, any financial institution that becomes
26 aware that it has possession of, or control over, any funds
27 in which a foreign terrorist organization, or its agent, has
28 an interest, shall—

29 (A) retain possession of, or maintain control over,
30 such funds; and

31 (B) report to the Secretary the existence of such
32 funds in accordance with regulations issued by the Sec-
33 retary.

34 (b) CIVIL PENALTY.—Any financial institution that know-
35 ingly fails to comply with subsection (a)(2) shall be subject to
36 a civil penalty in an amount that is the greater of—

37 (A) \$50,000 per violation; or

1 (B) twice the amount of which the financial institution
2 was required under subsection (a)(2) to retain possession
3 or control.

4 (c) INJUNCTION.—Whenever it appears to the Secretary or
5 the Attorney General that any person is engaged in, or is about
6 to engage in, any act that constitutes, or would constitute, a
7 violation of this section, the Attorney General may initiate civil
8 action in a district court of the United States to enjoin such
9 violation.

10 (d) FEDERAL NEXUS.—Subsection (a) applies if—

11 (1) an offender is a national of the United States or
12 an alien lawfully admitted for permanent residence in the
13 United States (as defined in section 101(a)(20) of the Im-
14 migration and Nationality Act (8 U.S.C. 1101(a)(20)));

15 (2) an offender is a stateless person whose habitual
16 residence is in the United States;

17 (3) after the conduct required for the offense occurs,
18 an offender is brought into or found in the United States,
19 even if the conduct required for the offense occurs outside
20 the United States;

21 (4) the offense occurs in whole or in part within the
22 United States;

23 (5) the offense occurs in or affects interstate or for-
24 eign commerce; or

25 (6) an offender aids or abets any person over whom
26 jurisdiction exists under this paragraph in committing an
27 offense under subsection (a) or conspires with any person
28 over whom jurisdiction exists under this paragraph to com-
29 mit an offense under subsection (a).

30 (e) INVESTIGATIONS.—

31 (1) IN GENERAL.—The Attorney General shall conduct
32 any investigation of a possible violation of this section, or
33 of any license, order, or regulation issued pursuant to this
34 section.

35 (2) COORDINATION WITH THE DEPARTMENT OF THE
36 TREASURY.—The Attorney General shall work in coordina-
37 tion with the Secretary in investigations relating to—

1 (A) the compliance or noncompliance by a finan-
2 cial institution with the requirements of subsection
3 (a)(2); and

4 (B) civil penalty proceedings authorized under
5 subsection (b).

6 (3) REFERRAL.—Any evidence of a criminal violation
7 of this section arising in the course of an investigation by
8 the Secretary or any other Federal agency shall be referred
9 immediately to the Attorney General for further investiga-
10 tion. The Attorney General shall timely notify the Secretary
11 of any action taken on referrals from the Secretary, and
12 may refer investigations to the Secretary for remedial li-
13 censing or civil penalty action.

14 (f) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS
15 BROUGHT BY THE UNITED STATES.—

16 (1) DISCOVERY OF CLASSIFIED INFORMATION BY DE-
17 FENDANTS.—

18 (A) REQUEST BY UNITED STATES.—In any civil
19 proceeding under this section, upon request made ex
20 parte and in writing by the United States, a court,
21 upon a sufficient showing, may authorize the United
22 States to—

23 (i) redact specified items of classified informa-
24 tion from documents to be introduced into evidence
25 or made available to the defendant through dis-
26 covery under the Federal Rules of Civil Procedure;

27 (ii) substitute a summary of the information
28 for such classified documents; or

29 (iii) substitute a statement admitting relevant
30 facts that the classified information would tend to
31 prove.

32 (B) ORDER GRANTING REQUEST.—If the court en-
33 ters an order granting a request under this paragraph,
34 the entire text of the documents to which the request
35 relates shall be sealed and preserved in the records of
36 the court to be made available to the appellate court in
37 the event of an appeal.

1 (C) DENIAL OF REQUEST.—If the court enters an
2 order denying a request of the United States under this
3 paragraph, the United States may take an immediate,
4 interlocutory appeal in accordance with paragraph (5).
5 For purposes of such an appeal, the entire text of the
6 documents to which the request relates, together with
7 any transcripts of arguments made ex parte to the
8 court in connection therewith, shall be maintained
9 under seal and delivered to the appellate court.

10 (2) INTRODUCTION OF CLASSIFIED INFORMATION;
11 PRECAUTIONS BY COURT.—

12 (A) EXHIBITS.—To prevent unnecessary or inad-
13 vertent disclosure of classified information in a civil
14 proceeding brought by the United States under this
15 section, the United States may petition the court ex
16 parte to admit, in lieu of classified writings, recordings,
17 or photographs, one or more of the following:

18 (i) Copies of items from which classified infor-
19 mation has been redacted.

20 (ii) Stipulations admitting relevant facts that
21 specific classified information would tend to prove.

22 (iii) A declassified summary of the specific
23 classified information.

24 (B) DETERMINATION BY COURT.—The court shall
25 grant a request under this paragraph if the court finds
26 that the redacted item, stipulation, or summary is suf-
27 ficient to allow the defendant to prepare a defense.

28 (3) TAKING OF TRIAL TESTIMONY.—

29 (A) OBJECTION.—During the examination of a
30 witness in any civil proceeding brought by the United
31 States under this subsection, the United States may
32 object to any question or line of inquiry that may re-
33 quire the witness to disclose classified information not
34 previously found to be admissible.

35 (B) ACTION BY COURT.—In determining whether
36 a response is admissible, the court shall take pre-

1 cautions to guard against the compromise of any classi-
2 fied information, including—

3 (i) permitting the United States to provide the
4 court, *ex parte*, with a proffer of the witness's re-
5 sponse to the question or line of inquiry; and

6 (ii) requiring the defendant to provide the
7 court with a proffer of the nature of the informa-
8 tion that the defendant seeks to elicit.

9 (C) OBLIGATION OF DEFENDANT.—In any civil
10 proceeding under this section, it shall be the defend-
11 ant's obligation to establish the relevance and materi-
12 ality of any classified information sought to be intro-
13 duced.

14 (4) APPEAL.—If the court enters an order denying a
15 request of the United States under this subsection, the
16 United States may take an immediate interlocutory appeal
17 in accordance with paragraph (5).

18 (5) INTERLOCUTORY APPEAL.—

19 (A) SUBJECT OF APPEAL.—An interlocutory ap-
20 peal by the United States shall lie to a court of appeals
21 from a decision or order of a district court—

22 (i) authorizing the disclosure of classified in-
23 formation;

24 (ii) imposing sanctions for nondisclosure of
25 classified information; or

26 (iii) refusing a protective order sought by the
27 United States to prevent the disclosure of classified
28 information.

29 (B) EXPEDITED CONSIDERATION.—

30 (i) IN GENERAL.—An appeal taken pursuant
31 to this paragraph, either before or during trial,
32 shall be expedited by the court of appeals.

33 (ii) APPEALS PRIOR TO TRIAL.—If an appeal
34 is of an order made prior to trial, an appeal shall
35 be taken not later than 10 days after the decision
36 or order appealed from, and the trial shall not com-
37 mence until the appeal is resolved.

1 (iii) APPEALS DURING TRIAL.—If an appeal is
2 taken during trial, the trial court shall adjourn the
3 trial until the appeal is resolved, and the court of
4 appeals—

5 (I) shall hear argument on such appeal
6 not later than 4 days after the adjournment of
7 the trial;

8 (II) may dispense with written briefs other
9 than the supporting materials previously sub-
10 mitted to the trial court;

11 (II) may dispense with written briefs other
12 than the supporting materials previously sub-
13 mitted to the trial court;

14 (III) shall render its decision not later
15 than 4 days after argument on appeal; and

16 (IV) may dispense with the issuance of a
17 written opinion in rendering its decision.

18 (C) EFFECT OF RULING.—An interlocutory appeal
19 and decision shall not affect the right of the defendant,
20 in a subsequent appeal from a final judgment, to claim
21 as error reversal by the trial court on remand of a rul-
22 ing appealed from during trial.

23 (6) CONSTRUCTION.—Nothing in this subsection shall
24 prevent the United States from seeking protective orders or
25 asserting privileges ordinarily available to the United States
26 to protect against the disclosure of classified information,
27 including the invocation of the military and State secrets
28 privilege.

29 (g) DEFINITIONS.—As used in this section—

30 (1) the term “classified information” has the meaning
31 given that term in section 1(a) of the Classified Informa-
32 tion Procedures Act (18 U.S.C. App.);

33 (2) the term “funds” includes coin or currency of the
34 United States or any other country, traveler’s checks, per-
35 sonal checks, bank checks, money orders, stocks, bonds, de-
36 bentures, drafts, letters of credit, any other negotiable in-

1 strument, and any electronic representation of any of the
2 foregoing;

3 (3) the term “material support or resources” has the
4 same meaning given that term in section 2339A (including
5 the definitions of “training” and “expert advice or assist-
6 ance” in that section);

7 (4) the term “Secretary” means the Secretary of the
8 Treasury; and

9 (6) the term “terrorist organization” means an organi-
10 zation designated as a terrorist organization under section
11 219 of the Immigration and Nationality Act.

12 (h) PROVISION OF PERSONNEL.—No person may be pros-
13 ecuted under this section in connection with the term “per-
14 sonnel” unless that person has knowingly provided, attempted
15 to provide, or conspired to provide a foreign terrorist organiza-
16 tion with 1 or more individuals (who may be or include himself)
17 to work under that terrorist organization’s direction or control
18 or to organize, manage, supervise, or otherwise direct the oper-
19 ation of that organization. Individuals who act entirely inde-
20 pendently of the foreign terrorist organization to advance its
21 goals or objectives shall not be considered to be working under
22 the foreign terrorist organization’s direction and control.

23 (i) RULE OF CONSTRUCTION.—Nothing in this section
24 shall be construed or applied so as to abridge the exercise of
25 rights guaranteed under the First Amendment to the Constitu-
26 tion of the United States.

27 (j) EXCEPTION.—No person may be prosecuted under this
28 section in connection with the term “personnel”, “training”, or
29 “expert advice or assistance” if the provision of that material
30 support or resources to a foreign terrorist organization was ap-
31 proved by the Secretary of State with the concurrence of the
32 Attorney General. The Secretary of State may not approve the
33 provision of any material support that may be used to carry out
34 terrorist activity (as defined in section 212(a)(3)(B)(iii) of the
35 Immigration and Nationality Act).

1 **§ 279. Prohibitions against the financing of ter-**
2 **rorism**

3 (a) OFFENSES.—

4 (1) IN GENERAL.—Whoever, in a circumstance de-
5 scribed in subsection (b), by any means, directly or indi-
6 rectly, unlawfully and knowingly provides or collects funds
7 with the intention that such funds be used, or with the
8 knowledge that such funds are to be used, in full or in
9 part, in order to carry out—

10 (A) an act which constitutes an offense within the
11 scope of a treaty specified in subsection (e)(7), as im-
12 plemented by the United States, or

13 (B) any other act intended to cause death or seri-
14 ous bodily injury to a civilian, or to any other person
15 not taking an active part in the hostilities in a situation
16 of armed conflict, when the purpose of such act, by its
17 nature or context, is to intimidate a population, or to
18 compel a government or an international organization
19 to do or to abstain from doing any act,

20 shall be punished as prescribed in subsection (d)(1).

21 (2) ATTEMPTS AND CONSPIRACIES.—Whoever at-
22 tempts or conspires to commit an offense under paragraph
23 (1) shall be punished as prescribed in subsection (d)(1).

24 (3) RELATIONSHIP TO PREDICATE ACT.—For an act
25 to constitute an offense set forth in this subsection, it shall
26 not be necessary that the funds were actually used to carry
27 out a predicate act.

28 (b) JURISDICTION.—There is jurisdiction over the offenses
29 in subsection (a) in the following circumstances—

30 (1) the offense takes place in the United States and—

31 (A) a perpetrator was a national of another state
32 or a stateless person;

33 (B) on board a vessel flying the flag of another
34 state or an aircraft which is registered under the laws
35 of another state at the time the offense is committed;

36 (C) on board an aircraft which is operated by the
37 government of another state;

1 (D) a perpetrator is found outside the United
2 States;

3 (E) was directed toward or resulted in the car-
4 rying out of a predicate act against—

5 (i) a national of another state; or

6 (ii) another state or a government facility of
7 such state, including its embassy or other diplo-
8 matic or consular premises of that state;

9 (F) was directed toward or resulted in the car-
10 rying out of a predicate act committed in an at-
11 tempt to compel another state or international or-
12 ganization to do or abstain from doing any act; or

13 (G) was directed toward or resulted in the car-
14 rying out of a predicate act—

15 (i) outside the United States; or

16 (ii) within the United States, and either
17 the offense or the predicate act was conducted
18 in, or the results thereof affected, interstate or
19 foreign commerce;

20 (2) the offense takes place outside the United States
21 and—

22 (A) a perpetrator is a national of the United
23 States or is a stateless person whose habitual residence
24 is in the United States;

25 (B) a perpetrator is found in the United States;
26 or

27 (C) was directed toward or resulted in the carrying
28 out of a predicate act against—

29 (i) any property that is owned, leased, or used
30 by the United States or by any department or
31 agency of the United States, including an embassy
32 or other diplomatic or consular premises of the
33 United States;

34 (ii) any person or property within the United
35 States;

36 (iii) any national of the United States or the
37 property of such national; or

1 (iv) any property of any legal entity organized
2 under the laws of the United States, including any
3 of its States, districts, commonwealths, territories,
4 or possessions;

5 (3) the offense is committed on board a vessel flying
6 the flag of the United States or an aircraft which is reg-
7 istered under the laws of the United States at the time the
8 offense is committed;

9 (4) the offense is committed on board an aircraft
10 which is operated by the United States; or

11 (5) the offense was directed toward or resulted in the
12 carrying out of a predicate act committed in an attempt to
13 compel the United States to do or abstain from doing any
14 act.

15 (c) CONCEALMENT.—Whoever—

16 (1)(A) is in the United States; or

17 (B) is outside the United States and is a national of
18 the United States or a legal entity organized under the
19 laws of the United States (including any of its States, dis-
20 tricts, commonwealths, territories, or possessions); and

21 (2) knowingly conceals or disguises the nature, loca-
22 tion, source, ownership, or control of any material support
23 or resources, or any funds or proceeds of such funds—

24 (A) knowing or intending that the support or re-
25 sources are to be provided, or knowing that the support
26 or resources were provided, in violation of section
27 2339B of this title; or

28 (B) knowing or intending that any such funds are
29 to be provided or collected, or knowing that the funds
30 were provided or collected, in violation of subsection
31 (a),

32 shall be punished as prescribed in subsection (d)(2).

33 (d) PENALTIES.—

34 (1) SUBSECTION (A).—Whoever violates subsection (a)
35 shall be imprisoned for not more than 20 years.

36 (2) SUBSECTION (C).—Whoever violates subsection (c)
37 shall be imprisoned for not more than 10 years.

1 (e) DEFINITIONS.—In this section—

2 (1) the term “funds” means assets of every kind,
3 whether tangible or intangible, movable or immovable, how-
4 ever acquired, and legal documents or instruments in any
5 form, including electronic or digital, evidencing title to, or
6 interest in, such assets, including coin, currency, bank cred-
7 its, travelers checks, bank checks, money orders, shares, se-
8 curities, bonds, drafts, and letters of credit;

9 (2) the term “government facility” means any perma-
10 nent or temporary facility or conveyance that is used or oc-
11 cupied by representatives of a state, members of a govern-
12 ment, the legislature, or the judiciary, or by officials or em-
13 ployees of a state or any other public authority or entity
14 or by employees or officials of an intergovernmental organi-
15 zation in connection with their official duties;

16 (3) the term “proceeds” means any funds derived
17 from or obtained, directly or indirectly, through the com-
18 mission of an offense set forth in subsection (a);

19 (4) the term “provides” includes giving, donating, and
20 transmitting;

21 (5) the term “collects” includes raising and receiving;

22 (6) the term “predicate act” means any act referred
23 to in subparagraph (A) or (B) of subsection (a)(1);

24 (7) the term “treaty” means—

25 (A) the Convention for the Suppression of Unlaw-
26 ful Seizure of Aircraft, done at The Hague on Decem-
27 ber 16, 1970;

28 (B) the Convention for the Suppression of Unlaw-
29 ful Acts against the Safety of Civil Aviation, done at
30 Montreal on September 23, 1971;

31 (C) the Convention on the Prevention and Punish-
32 ment of Crimes against Internationally Protected Per-
33 sons, including Diplomatic Agents, adopted by the Gen-
34 eral Assembly of the United Nations on December 14,
35 1973;

1 (D) the International Convention against the Tak-
2 ing of Hostages, adopted by the General Assembly of
3 the United Nations on December 17, 1979;

4 (E) the Convention on the Physical Protection of
5 Nuclear Material, adopted at Vienna on March 3,
6 1980;

7 (F) the Protocol for the Suppression of Unlawful
8 Acts of Violence at Airports Serving International Civil
9 Aviation, supplementary to the Convention for the Sup-
10 pression of Unlawful Acts against the Safety of Civil
11 Aviation, done at Montreal on February 24, 1988;

12 (G) the Convention for the Suppression of Unlaw-
13 ful Acts against the Safety of Maritime Navigation,
14 done at Rome on March 10, 1988;

15 (H) the Protocol for the Suppression of Unlawful
16 Acts against the Safety of Fixed Platforms located on
17 the Continental Shelf, done at Rome on March 10,
18 1988; or

19 (I) the International Convention for the Suppres-
20 sion of Terrorist Bombings, adopted by the General As-
21 sembly of the United Nations on December 15, 1997;

22 (8) the term “intergovernmental organization” in-
23 cludes international organizations;

24 (9) the term “international organization” has the
25 same meaning as in section 136;

26 (10) the term “armed conflict” does not include inter-
27 nal disturbances and tensions, such as riots, isolated and
28 sporadic acts of violence, and other acts of a similar na-
29 ture;

30 (13) the term “material support or resources” has the
31 same meaning given that term in section 2339B(g)(4) of
32 this title; and

33 (14) the term “state” has the same meaning as that
34 term has under international law, and includes all political
35 subdivisions thereof.

36 (f) CIVIL PENALTY.—In addition to any other criminal,
37 civil, or administrative liability or penalty, any legal entity lo-

1 cated within the United States or organized under the laws of
2 the United States, including any of the laws of its States, dis-
3 tricts, commonwealths, territories, or possessions, shall be liable
4 to the United States for the sum of at least \$10,000, if a per-
5 son responsible for the management or control of that legal en-
6 tity has, in that capacity, committed an offense set forth in
7 subsection (a).

8 **§ 280. Receiving military-type training from a for-**
9 **eign terrorist organization**

10 (a) OFFENSE.—Whoever, if a circumstance exists that is
11 described in section 279(d), knowingly receives military-type
12 training from or on behalf of any organization designated at
13 the time of the training by the Secretary of State under section
14 219(a)(1) of the Immigration and Nationality Act as a foreign
15 terrorist organization shall be imprisoned for ten years. To vio-
16 late this subsection, a person must have knowledge that the or-
17 ganization is a designated terrorist organization (as defined in
18 subsection (c)(4)), that the organization has engaged or en-
19 gages in terrorist activity (as defined in section 212 of the Im-
20 migration and Nationality Act), or that the organization has
21 engaged or engages in terrorism (as defined in section
22 140(d)(2) of the Foreign Relations Authorization Act, Fiscal
23 Years 1988 and 1989).

24 (b) DEFINITIONS.—As used in this section—

25 (1) the term “military-type training” includes training
26 in means or methods that can cause death or serious bodily
27 injury, destroy or damage property, or disrupt services to
28 critical infrastructure, or training on the use, storage, pro-
29 duction, or assembly of any explosive, firearm or other
30 weapon, including any weapon of mass destruction (as de-
31 fined in section 2232a(c)(2));

32 (3) the term “critical infrastructure” means systems
33 and assets vital to national defense, national security, eco-
34 nomic security, public health or safety including both re-
35 gional and national infrastructure. Critical infrastructure
36 may be publicly or privately owned; examples of critical in-
37 frastructure include gas and oil production, storage, or de-

1 livery systems, water supply systems, telecommunications
2 networks, electrical power generation or delivery systems,
3 financing and banking systems, emergency services (includ-
4 ing medical, police, fire, and rescue services), and transpor-
5 tation systems and services (including highways, mass tran-
6 sit, airlines, and airports); and

7 (4) the term “foreign terrorist organization” means an
8 organization designated as a terrorist organization under
9 section 219(a)(1) of the Immigration and Nationality Act.

10 **§ 281. Civil remedies**

11 (a) ACTION AND JURISDICTION.—Any national of the
12 United States who suffers any loss by reason of an act of inter-
13 national terrorism, or the estate, survivors, or heirs of that na-
14 tional, may in a civil action in any appropriate district court
15 of the United States recover threefold the damages sustained
16 and the cost of the suit, including attorney’s fees.

17 (b) ESTOPPEL UNDER UNITED STATES LAW.—A final
18 judgment or decree rendered in favor of the United States in
19 any criminal proceeding under section 102, 111, 112, 121, or
20 123 of this title or section 46314, 46502, 46505, or 46506 of
21 title 49 shall estop the defendant from denying the essential al-
22 legations of the criminal offense in any subsequent civil pro-
23 ceeding under this section.

24 (c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment
25 or decree rendered in favor of any foreign state in any criminal
26 proceeding shall, to the extent that such judgment or decree
27 may be accorded full faith and credit under the law of the
28 United States, estop the defendant from denying the essential
29 allegations of the criminal offense in any subsequent civil pro-
30 ceeding under this section.

31 (d) GENERAL VENUE.—A civil action under this section
32 may be instituted the United States district court for any dis-
33 trict where any plaintiff resides or where any defendant resides
34 or is served, or has an agent. Process in such a civil action may
35 be served in any district where the defendant resides, is found,
36 or has an agent.

1 (e) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—

2 If the actions giving rise to the claim occurred within the spe-
3 cial maritime and territorial jurisdiction of the United States,
4 then a civil action under this section may be instituted in the
5 United States district court for any district in which any plain-
6 tiff resides or the defendant resides, is served, or has an agent.

7 (f) SERVICE ON WITNESSES.—A witness in a civil action

8 brought under this section may be served in any other district
9 where the defendant resides, is found, or has an agent.

10 (g) CONVENIENCE OF THE FORUM.—The district court

11 shall not dismiss any action brought under this section on the
12 grounds of the inconvenience or inappropriateness of the forum
13 chosen, unless—

14 (1) the action may be maintained in a foreign court
15 that has jurisdiction over the subject matter and over all
16 the defendants;

17 (2) that foreign court is significantly more convenient
18 and appropriate; and

19 (3) that foreign court offers a remedy which is sub-
20 stantially the same as the one available in the courts of the
21 United States.

22 (h) STATUTE OF LIMITATIONS.—

23 (1) Subject to subsection (b), a civil action under this
24 section shall not be maintained unless commenced within 4
25 years after the date the cause of action accrued.

26 (2) The time of the absence of the defendant from the
27 United States or from any jurisdiction in which the same
28 or a similar action arising from the same facts may be
29 maintained by the plaintiff, or of any concealment of the
30 defendant's whereabouts, shall not be included in the 4-
31 year period set forth in paragraph (1).

32 (i) ACTS OF WAR.—No action shall be maintained under
33 this section of this title for injury or loss by reason of an act
34 of war.

35 (j) LIMITATION ON DISCOVERY.—If a party to an action
36 under this section seeks to discover the investigative files of the
37 Department of Justice, the Assistant Attorney General, Deputy

1 Attorney General, or Attorney General may object on the
2 ground that compliance will interfere with a criminal investiga-
3 tion or prosecution of the incident, or a national security oper-
4 ation related to the incident, which is the subject of the civil
5 litigation. The court shall evaluate any such objections in cam-
6 era and shall stay the discovery if the court finds that granting
7 the discovery request will substantially interfere with a criminal
8 investigation or prosecution of the incident or a national secu-
9 rity operation related to the incident. The court shall consider
10 the likelihood of criminal prosecution by the Government and
11 other factors it deems to be appropriate. A stay of discovery
12 under this subsection shall constitute a bar to the granting of
13 a motion to dismiss under rules 12(b)(6) and 56 of the Federal
14 Rules of Civil Procedure. If the court grants a stay of discovery
15 under this subsection, it may stay the action in the interests
16 of justice.

17 (k) STAY OF ACTION FOR CIVIL REMEDIES.—

18 (1) The Attorney General may intervene in any civil
19 action brought under this section for the purpose of seeking
20 a stay of the civil action. A stay shall be granted if the
21 court finds that the continuation of the civil action will sub-
22 stantially interfere with a criminal prosecution which in-
23 volves the same subject matter and in which an indictment
24 has been returned, or interfere with national security oper-
25 ations related to the terrorist incident that is the subject
26 of the civil action. A stay may be granted for up to 6
27 months. The Attorney General may petition the court for
28 an extension of the stay for additional 6-month periods
29 until the criminal prosecution is completed or dismissed.

30 (2) In a proceeding under this subsection, the Attor-
31 ney General may request that any order issued by the court
32 for release to the parties and the public omit any reference
33 to the basis on which the stay was sought.

34 (l) SUITS AGAINST GOVERNMENTS.—No action shall be
35 maintained under this section against—

36 (1) the United States, an agency of the United States,
37 or an officer or employee of the United States or any agen-

1 cy thereof acting within his or her official capacity or under
2 color of legal authority; or

3 (2) a foreign state, an agency of a foreign state, or an
4 officer or employee of a foreign state or an agency thereof
5 acting within his or her official capacity or under color of
6 legal authority.

7 (m) EXCLUSIVE JURISDICTION.—The district courts of the
8 United States shall have exclusive original jurisdiction over an
9 action brought under this section.

10 **§ 282. Definitions for subchapter**

11 As used in this subchapter—

12 (1) the term “international terrorism” means activities
13 that—

14 (A) involve violent acts or acts dangerous to
15 human life that are a violation of the criminal laws of
16 the United States or of any State, or that would be a
17 criminal violation if committed within the jurisdiction
18 of the United States or of any State;

19 (B) appear to be intended—

20 (i) to intimidate or coerce a civilian popu-
21 lation;

22 (ii) to influence the policy of a government by
23 intimidation or coercion; or

24 (iii) to affect the conduct of a government by
25 mass destruction, assassination, or kidnapping; and

26 (C) occur primarily outside the territorial jurisdic-
27 tion of the United States, or transcend national bound-
28 aries in terms of the means by which they are accom-
29 plished, the persons they appear intended to intimidate
30 or coerce, or the locale in which their perpetrators op-
31 erate or seek asylum;

32 (3) the term “person” means any individual or entity
33 capable of holding a legal or beneficial interest in property;

34 (4) the term “act of war” means any act occurring in
35 the course of—

36 (A) declared war;

1 (B) armed conflict, whether or not war has been
2 declared, between two or more nations; or

3 (C) armed conflict between military forces of any
4 origin; and

5 (5) the term “domestic terrorism” means activities
6 that—

7 (A) involve acts dangerous to human life that are
8 a violation of the criminal laws of the United States or
9 of any State;

10 (B) appear to be intended—

11 (i) to intimidate or coerce a civilian popu-
12 lation;

13 (ii) to influence the policy of a government by
14 intimidation or coercion; or

15 (iii) to affect the conduct of a government by
16 mass destruction, assassination, or kidnapping; and

17 (C) occur primarily within the territorial jurisdic-
18 tion of the United States.

19 SUBCHAPTER C—MILITARY AND NAVY

Sec.

292. Entering military, naval, or Coast Guard property.

293. Use of Army and Air Force as posse comitatus.

20 **§ 292. Entering military, naval, or Coast Guard**
21 **property**

22 Whoever—

23 (1) within the jurisdiction of the United States, goes
24 upon any military, naval, or Coast Guard reservation, post,
25 fort, arsenal, yard, station, or installation, for any purpose
26 prohibited by law or lawful regulation; or

27 (2) reenters or is found within any such reservation,
28 post, fort, arsenal, yard, station, or installation, after hav-
29 ing been removed therefrom or ordered not to reenter by
30 any officer or person in command or charge thereof;

31 shall be or imprisoned not more than six months.

1 **§ 293. Use of Army and Air Force as posse com-**
 2 **itatus**

3 Whoever, except in cases and under circumstances ex-
 4 pressly authorized by the Constitution or Act of Congress,
 5 knowingly uses any part of the Army or the Air Force as a
 6 posse comitatus or otherwise to execute the laws shall be im-
 7 prisoned not more than two years.

8 SUBCHAPTER D—CIVIL DISORDERS AND RIOTS

Sec.

296. Civil disorders.

9 **§ 296. Civil disorders**

10 (a) OFFENSE WHOEVER—

11 (1) teaches or demonstrates to any other person the
 12 use, application, or making of any firearm or explosive or
 13 incendiary device, or technique capable of causing injury or
 14 death to persons, knowing or having reason to know or in-
 15 tending that the same will be unlawfully employed for use
 16 in, or in furtherance of, a civil disorder which is in or af-
 17 fects interstate or foreign commerce or the performance of
 18 any federally protected function;

19 (2) transports or manufactures for transportation in or af-
 20 fecting interstate or foreign commerce any firearm or explosive
 21 or incendiary device, knowing or having reason to know or in-
 22 tending that the same will be used unlawfully in furtherance of
 23 a civil disorder; or

24 (3) commits or attempts to commit any act to obstruct,
 25 impede, or interfere with any fireman or law enforcement offi-
 26 cer lawfully engaged in the lawful performance of official duties
 27 incident to and during the commission of a civil disorder which
 28 is in or affects commerce or the conduct or performance of any
 29 federally protected function;

30 shall be imprisoned not more than five years.

31 (b) LAW ENFORCEMENT EXCLUSION.—Nothing in this sec-
 32 tion makes unlawful any act of any law enforcement officer
 33 which is performed in the lawful performance of official duties.

34 (c) DEFINITIONS.—The following definitions apply in this
 35 section:

1 (1) The term “civil disorder” means any public dis-
2 turbance involving acts of violence by assemblages of three
3 or more persons, which causes an immediate danger of or
4 results in damage or injury to the property or person of
5 any other individual.

6 (2) The term “federally protected function” means
7 any function, operation, or action carried out, under the
8 laws of the United States, by any department, agency, or
9 instrumentality of the United States or by an officer or em-
10 ployee thereof; and such term includes the collection and
11 distribution of the United States mails.

12 (3) The term “firearm” means any weapon which is
13 designed to or may readily be converted to expel any pro-
14 jectile by the action of an explosive; or the frame or re-
15 ceiver of any such weapon.

16 (4) The term “explosive or incendiary device”
17 means—

18 (A) dynamite and all other forms of high explo-
19 sives;

20 (B) any explosive bomb, grenade, missile, or simi-
21 lar device; and

22 (C) any incendiary bomb or grenade, fire bomb, or
23 similar device, including any device which—

24 (i) consists of or includes a breakable con-
25 tainer including a flammable liquid or compound,
26 and a wick composed of any material which, when
27 ignited, is capable of igniting such flammable liquid
28 or compound; and

29 (ii) can be carried or thrown by one individual
30 acting alone.

31 (5) The term “fireman” means any member of a fire
32 department (including a volunteer fire department) of any
33 State, any political subdivision of a State.

34 (6) The term “law enforcement officer” means any of-
35 ficer or employee of the United States, of any State or any
36 political subdivision of a State while engaged in the en-
37 forcement or prosecution of any of the criminal laws of the

1 United States or of that State or subdivision; and such
 2 term includes members of the National Guard (as defined
 3 in section 101 of title 10), members of the organized militia
 4 of a State (as defined in section 101 of title 10), and mem-
 5 bers of the Armed Forces of the United States, while en-
 6 gaged in suppressing acts of violence or restoring law and
 7 order during a civil disorder.

8 (d) NON-PREEMPTION.—Nothing in this section shall be
 9 construed as indicating an intent on the part of Congress to
 10 occupy the field in which any provisions of the section operate
 11 to the exclusion of State or local laws on the same subject mat-
 12 ter, nor shall any provision of this section be construed to in-
 13 validate any provision of State law unless such provision is in-
 14 consistent with any of the purposes of this section or any provi-
 15 sion thereof.

16 SUBCHAPTER E—ESPIONAGE AND CENSORSHIP

Sec.

301. Gathering, transmitting or losing defense information.

302. Gathering or delivering defense information to aid foreign govern-
 ment.

303. Disclosure of classified information.

17 **§ 301. Gathering, transmitting or losing defense** 18 **information**

19 (a) OFFENSE.—Whoever—

20 (1) for the purpose of obtaining information respecting
 21 the national defense with intent or reason to believe that
 22 the information is to be used to the injury of the United
 23 States, or to the advantage of any foreign nation—

24 (A) goes upon, enters, flies over, or otherwise ob-
 25 tains information concerning any place connected with
 26 the national defense owned or constructed, or in
 27 progress of construction by the United States or under
 28 the control of the United States, or of any of its offi-
 29 cers, departments, or agencies, or within the exclusive
 30 jurisdiction of the United States, or any place in which
 31 any vessel, aircraft, arms, munitions, or other materials
 32 or instruments for use in time of war are being made,
 33 prepared, repaired, stored, or are the subject of re-

1 search or development, under any contract or agree-
2 ment with the United States, or any department or
3 agency thereof, or with any person on behalf of the
4 United States, or otherwise on behalf of the United
5 States, or any prohibited place so designated by the
6 President by proclamation in time of war or in case of
7 national emergency in which anything for the use of
8 the Army, Navy, or Air Force is being prepared or con-
9 structed or stored, information as to which prohibited
10 place the President has determined would be prejudicial
11 to the national defense;

12 (B) copies, takes, makes, or obtains, or attempts
13 to copy, take, make, or obtain, any sketch, photograph,
14 photographic negative, blueprint, plan, map, model, in-
15 strument, appliance, document, writing, or note of any-
16 thing connected with the national defense; or

17 (C) receives or obtains or agrees or attempts to re-
18 ceive or obtain from any person, or from any source
19 whatever, any document, writing, code book, signal
20 book, sketch, photograph, photographic negative, blue-
21 print, plan, map, model, instrument, appliance, or note,
22 of anything connected with the national defense, know-
23 ing or having reason to believe, at the time he receives
24 or obtains, or agrees or attempts to receive or obtain
25 it, that it has been or will be obtained, taken, made,
26 or disposed of by any person contrary to this sub-
27 chapter;

28 (2) lawfully having possession of, access to, control
29 over, or being entrusted with any document, writing, code
30 book, signal book, sketch, photograph, photographic nega-
31 tive, blueprint, plan, map, model, instrument, appliance, or
32 note relating to the national defense, or information relat-
33 ing to the national defense which information the possessor
34 has reason to believe could be used to the injury of the
35 United States or to the advantage of any foreign nation,
36 knowingly communicates, delivers, transmits or causes to
37 be communicated, delivered, or transmitted or attempts to

1 communicate, deliver, transmit or cause to be commu-
2 nicated, delivered or transmitted the same to any person
3 not entitled to receive it, or knowingly retains the same and
4 fails to deliver it on demand to the officer or employee of
5 the United States entitled to receive it;

6 (3) having unauthorized possession of, access to, or
7 control over any document, writing, code book, signal book,
8 sketch, photograph, photographic negative, blueprint, plan,
9 map, model, instrument, appliance, or note relating to the
10 national defense, or information relating to the national de-
11 fense which information the possessor has reason to believe
12 could be used to the injury of the United States or to the
13 advantage of any foreign nation, knowingly communicates,
14 delivers, transmits or causes to be communicated, delivered,
15 or transmitted, or attempts to communicate, deliver, trans-
16 mit or cause to be communicated, delivered, or transmitted
17 the same to any person not entitled to receive it, or know-
18 ingly retains the same and fails to deliver it to the officer
19 or employee of the United States entitled to receive it; or

20 (4) being entrusted with or having lawful possession or
21 control of any document, writing, code book, signal book,
22 sketch, photograph, photographic negative, blueprint, plan,
23 map, model, instrument, appliance, note, or information,
24 relating to the national defense—

25 (A) through gross negligence permits the same to
26 be removed from its proper place of custody or deliv-
27 ered to anyone in violation of his trust, or to be lost,
28 stolen, abstracted, or destroyed; or

29 (B) having knowledge that the same has been ille-
30 gally removed from its proper place of custody or deliv-
31 ered to anyone in violation of its trust, or lost, or sto-
32 len, abstracted, or destroyed, and fails to make prompt
33 report of such loss, theft, abstraction, or destruction to
34 his superior officer;

35 shall be imprisoned not more than ten years.

36 (b) CONSPIRACY.—If two or more persons conspire to vio-
37 late subsection (a), and one or more of such persons do any

1 act to effect the object of the conspiracy, each of the parties
2 to such conspiracy shall be subject to the punishment provided
3 for the offense which is the object of such conspiracy.

4 **§ 302. Gathering or delivering defense informa-**
5 **tion to aid foreign government**

6 (a) DURING PEACETIME.—Whoever, with intent or reason
7 to believe that it is to be used to the injury of the United
8 States or to the advantage of a foreign nation, communicates,
9 delivers, or transmits, or attempts to communicate, deliver, or
10 transmit, to any foreign government, or to any faction or party
11 or military or naval force within a foreign country, whether rec-
12 ognized or unrecognized by the United States, or to any rep-
13 resentative, officer, agent, employee, subject, or citizen thereof,
14 either directly or indirectly, any document, writing, code book,
15 signal book, sketch, photograph, photographic negative, blue-
16 print, plan, map, model, note, instrument, appliance, or infor-
17 mation relating to the national defense, shall be punished by
18 death or by imprisonment for any term of years or for life, ex-
19 cept that the sentence of death shall not be imposed unless the
20 jury or, if there is no jury, the court, further finds that the
21 offense resulted in the identification by a foreign power (as de-
22 fined in section 101(a) of the Foreign Intelligence Surveillance
23 Act of 1978) of an individual acting as an agent of the United
24 States and consequently in the death of that individual, or di-
25 rectly concerned nuclear weaponry, military spacecraft or sat-
26 ellites, early warning systems, or other means of defense or re-
27 tialiation against large-scale attack; war plans; communications
28 intelligence or cryptographic information; or any other major
29 weapons system or major element of defense strategy.

30 (b) DURING WARTIME.—Whoever, in time of war, with in-
31 tent that the same shall be communicated to the enemy, col-
32 lects, records, publishes, or communicates, or attempts to elicit
33 any information with respect to the movement, numbers, de-
34 scription, condition, or disposition of any of the Armed Forces,
35 ships, aircraft, or war materials of the United States, or with
36 respect to the plans or conduct, or supposed plans or conduct
37 of any naval or military operations, or with respect to any

1 works or measures undertaken for or connected with, or in-
2 tended for the fortification or defense of any place, or any
3 other information relating to the public defense, which might
4 be useful to the enemy, shall be punished by death or by im-
5 prisonment for any term of years or for life.

6 (c) CONSPIRACY.—If two or more persons conspire to vio-
7 late this section, and one or more of such persons do any act
8 to effect the object of the conspiracy, each of the parties to
9 such conspiracy shall be subject to the punishment provided for
10 the offense which is the object of such conspiracy.

11 **§ 303. Disclosure of classified information**

12 (a) OFFENSE.—Whoever knowingly communicates, fur-
13 nishes, transmits, or otherwise makes available to an unauthor-
14 ized person, or publishes, or uses in any manner prejudicial to
15 the safety or interest of the United States or for the benefit
16 of any foreign government to the detriment of the United
17 States any classified information—

18 (1) concerning the nature, preparation, or use of any
19 code, cipher, or cryptographic system of the United States
20 or any foreign government; or

21 (2) concerning the design, construction, use, mainte-
22 nance, or repair of any device, apparatus, or appliance used
23 or prepared or planned for use by the United States or any
24 foreign government for cryptographic or communication in-
25 telligence purposes; or

26 (3) concerning the communication intelligence activi-
27 ties of the United States or any foreign government; or

28 (4) obtained by the processes of communication intel-
29 ligence from the communications of any foreign govern-
30 ment, knowing the same to have been obtained by such
31 processes;

32 shall be imprisoned not more than ten years.

33 (b) DEFINITIONS.—As used in subsection (a) of this sec-
34 tion—

35 (1) the term “classified information” means information
36 which, at the time of a violation of this section, is, for reasons
37 of national security, specifically designated by a United States

1 Government Agency for limited or restricted dissemination or
2 distribution;

3 (2) the terms “code,” “cipher,” and “cryptographic sys-
4 tem” include in their meanings, in addition to their usual
5 meanings, any method of secret writing and any mechanical or
6 electrical device or method used for the purpose of disguising
7 or concealing the contents, significance, or meanings of commu-
8 nications;

9 (3) the term “foreign government” includes in its meaning
10 any person or persons acting or purporting to act for or on be-
11 half of any faction, party, department, agency, bureau, or mili-
12 tary force of or within a foreign country, or for or on behalf
13 of any government or any person or persons purporting to act
14 as a government within a foreign country, whether or not such
15 government is recognized by the United States;

16 (4) the term “communication intelligence” means all pro-
17 cedures and methods used in the interception of communica-
18 tions and the obtaining of information from such communica-
19 tions by other than the intended recipients; and

20 (5) the term “unauthorized person” means any person
21 who, or agency which, is not authorized to receive information
22 of the categories set forth in subsection (a) of this section, by
23 the President, or by the head of a department or agency of the
24 United States Government which is expressly designated by the
25 President to engage in communication intelligence activities for
26 the United States.

27 (c) DISCLAIMER.—Nothing in this section prohibits the
28 furnishing, upon lawful demand, of information to any regu-
29 larly constituted committee of the Senate or House of Rep-
30 resentatives of the United States of America, or joint com-
31 mittee thereof.

32 SUBCHAPTER F—IMMIGRATION AND NATIONALITY

Sec.

- 311. False Statement in application and use of passport.
- 312. Forgery or false use of passport.
- 313. Misuse of passport.
- 314. Fraud and misuse of visas, permits, and other documents.
- 315. Procurement of citizenship or naturalization unlawfully.
- 316. Sale of naturalization or citizenship papers.

317. Penalties related to removal.
 318. Bringing in and harboring certain aliens.
 319. Entry of alien at improper time or place; misrepresentation and concealment of facts.
 320. Reentry of removed alien.
 321. Aiding or assisting certain aliens to enter the United States.
 322. Increased penalty for certain terrorism related offenses.

1 **§ 311. False statement in application and use of**
 2 **passport**

3 Whoever—

4 (1) knowingly makes any false statement in an appli-
 5 cation for passport with intent to induce or secure the
 6 issuance of a passport under the authority of the United
 7 States, either for his own use or the use of another, con-
 8 trary to the laws regulating the issuance of passports or
 9 the rules prescribed pursuant to such laws; or

10 (2) knowingly uses or attempts to use, or furnishes to
 11 another for use any passport the issue of which was se-
 12 cured in any way by reason of any false statement;

13 shall be imprisoned not more than 15 years.

14 **§ 312. Forgery or false use of passport**

15 Whoever—

16 (1) falsely makes, forges, counterfeits, mutilates, or al-
 17 ters any passport or instrument purporting to be a pass-
 18 port, with intent that the same may be used; or

19 (2) knowingly uses, or attempts to use, or furnishes to
 20 another for use any such false, forged, counterfeited, muti-
 21 lated, or altered passport or instrument purporting to be a
 22 passport, or any passport validly issued which has become
 23 void by the occurrence of any condition therein prescribed
 24 invalidating the same;

25 shall be imprisoned not more than 15 years.

26 **§ 313. Misuse of passport**

27 Whoever—

28 (1) knowingly uses, or attempts to use, any passport
 29 issued or designed for the use of another;

30 (2) knowingly uses or attempts to use any passport in
 31 violation of the conditions or restrictions therein contained,

1 or of the rules prescribed pursuant to the laws regulating
2 the issuance of passports; or

3 (3) knowingly furnishes, disposes of, or delivers a
4 passport to any person, for use by another than the person
5 for whose use it was originally issued and designed;

6 shall be imprisoned not more than 15 years (in the case of any
7 other offense).

8 **§ 314. Fraud and misuse of visas, permits, and**
9 **other documents**

10 (a) FORGERY AND SIMILAR CONDUCT.—Whoever—

11 (1) knowingly forges, counterfeits, alters, or falsely
12 makes any immigrant or nonimmigrant visa, permit, border
13 crossing card, alien registration receipt card, or other docu-
14 ment prescribed by statute or regulation for entry into or
15 as evidence of authorized stay or employment in the United
16 States, or utters, uses, attempts to use, possesses, obtains,
17 accepts, or receives any such visa, permit, border crossing
18 card, alien registration receipt card, or other document pre-
19 scribed by statute or regulation for entry into or as evi-
20 dence of authorized stay or employment in the United
21 States, knowing it to be forged, counterfeited, altered, or
22 falsely made, or to have been procured by means of any
23 false claim or statement, or to have been otherwise pro-
24 cured by fraud or unlawfully obtained;

25 (2) except under direction of the Attorney General or
26 the Secretary of Homeland Security, or other proper offi-
27 cer, knowingly possesses any blank permit, or engraves,
28 sells, brings into the United States, or has in his control
29 or possession any plate in the likeness of a plate designed
30 for the printing of permits, or makes any print, photo-
31 graph, or impression in the likeness of any immigrant or
32 nonimmigrant visa, permit or other document required for
33 entry into the United States, or has in his possession a dis-
34 tinctive paper which has been adopted by the Attorney
35 General or Secretary of Homeland Security for the printing
36 of such visas, permits, or documents;

1 (3) when applying for an immigrant or nonimmigrant
2 visa, permit, or other document required for entry into the
3 United States, or for admission to the United States
4 personates another, or falsely appears in the name of a de-
5 ceased individual, or evades or attempts to evade the immi-
6 gration laws by appearing under an assumed or fictitious
7 name without disclosing his true identity, or sells or other-
8 wise disposes of, or offers to sell or otherwise dispose of,
9 or utters, such visa, permit, or other document, to any per-
10 son not authorized by law to receive such document; or

11 (4) knowingly makes under oath, or as permitted
12 under penalty of perjury under section 1746 of title 28,
13 knowingly subscribes as true, any false statement with re-
14 spect to a material fact in any application, affidavit, or
15 other document required by the immigration laws or regu-
16 lations prescribed thereunder, or knowingly presents any
17 such application, affidavit, or other document which con-
18 tains any such false statement or which fails to contain any
19 reasonable basis in law or fact;

20 shall be fined under this title or imprisoned not more than
21 15 years.

22 (b) USE OF FORGED OF SIMILAR DOCUMENTS.—Whoever
23 uses—

24 (1) an identification document, knowing or having rea-
25 son to know that the document was not issued lawfully for
26 the use of the possessor;

27 (2) an identification document knowing (or having rea-
28 son to know) that the document is false; or

29 (3) a false attestation,

30 for the purpose of satisfying a requirement of section 274A(b)
31 of the Immigration and Nationality Act, shall be imprisoned
32 not more than 5 years.

33 (c) EXCLUSION.—This section does not prohibit any law-
34 fully authorized investigative, protective, or intelligence activity
35 of a law enforcement agency of the United States, a State, or
36 a subdivision of a State, or of an intelligence agency of the
37 United States, or any activity authorized under title V of the

1 Organized Crime Control Act of 1970 (18 U.S.C. note prec.
2 3481).

3 **§ 315. Procurement of citizenship or naturaliza-**
4 **tion unlawfully**

5 Whoever—

6 (1) knowingly procures or attempts to procure, con-
7 trary to law, the naturalization of any person, or documen-
8 tary or other evidence of naturalization or of citizenship; or

9 (2) whether for himself or another person not entitled
10 thereto, knowingly issues, procures or obtains or applies for
11 or otherwise attempts to procure or obtain naturalization,
12 or citizenship, or a declaration of intention to become a cit-
13 izen, or a certificate of arrival or any certificate or evidence
14 of nationalization or citizenship, documentary or otherwise,
15 or duplicates or copies of any of the foregoing;

16 shall be imprisoned not more than 15 years.

17 **§ 316. Sale of naturalization or citizenship papers**

18 Whoever unlawfully sells or disposes of a declaration of in-
19 tention to become a citizen, certificate of naturalization, certifi-
20 cate of citizenship or copies or duplicates or other documentary
21 evidence of naturalization or citizenship, shall be imprisoned 15
22 years.

23 **§ 317. Penalties related to removal**

24 (a) PENALTY FOR FAILURE TO DEPART.—

25 (1) IN GENERAL.—Any alien against whom a final
26 order of removal is outstanding by reason of being a mem-
27 ber of any of the classes described in section 237(a) of the
28 Immigration and Nationality Act, who—

29 (A) knowingly fails or refuses to depart from the
30 United States within a period of 90 days from the date
31 of the final order of removal under administrative proc-
32 esses, or if judicial review is had, then from the date
33 of the final order of the court,

34 (B) knowingly fails or refuses to make timely ap-
35 plication in good faith for travel or other documents
36 necessary to the alien's departure,

1 (C) connives or conspires, or takes any other ac-
2 tion, designed to prevent or hamper or with the pur-
3 pose of preventing or hampering the alien's departure
4 pursuant to such, or

5 (D) knowingly fails or refuses to present himself
6 or herself for removal at the time and place required
7 by the Attorney General pursuant to such order,

8 shall be imprisoned not more than four years (or 10 years
9 if the alien is a member of any of the classes described in
10 paragraph (1)(E), (2), (3), or (4) of section 237(a) of the
11 Immigration and Nationality Act).

12 (2) EXCEPTION.—It is not a violation of paragraph
13 (1) to take any proper steps for the purpose of securing
14 cancellation of or exemption from such order of removal or
15 for the purpose of securing the alien's release from incar-
16 ceration or custody.

17 (3) SUSPENSION.—The court may for good cause sus-
18 pend the sentence of an alien under this subsection and
19 order the alien's release under such conditions as the court
20 may prescribe. In determining whether good cause has been
21 shown to justify releasing the alien, the court shall take
22 into account such factors as—

23 (A) the age, health, and period of detention of the
24 alien;

25 (B) the effect of the alien's release upon the na-
26 tional security and public peace or safety;

27 (C) the likelihood of the alien's resuming or fol-
28 lowing a course of conduct which made or would make
29 the alien deportable;

30 (D) the character of the efforts made by such
31 alien himself and by representatives of the country or
32 countries to which the alien's removal is directed to ex-
33 pedite the alien's departure from the United States;

34 (E) the reason for the inability of the Government
35 of the United States to secure passports, other travel
36 documents, or removal facilities from the country or

1 countries to which the alien has been ordered removed;
2 and

3 (F) the eligibility of the alien for discretionary re-
4 lief under the immigration laws.

5 (b) FAILURE TO COMPLY WITH TERMS OF RELEASE
6 UNDER SUPERVISION.—An alien who knowingly fails to comply
7 with regulations or requirements issued pursuant to section
8 241(a)(3) of the Immigration and Nationality Act or knowingly
9 give false information in response to an inquiry under such sec-
10 tion shall be imprisoned for not more than one year.

11 (c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

12 (1) CIVIL PENALTIES.—

13 (A) FAILURE TO CARRY OUT CERTAIN ORDERS.—
14 If the Attorney General is satisfied that a person has
15 violated subsection (d) or (e) of section 241 of the Im-
16 migration and Nationality Act, the person shall pay to
17 the Commissioner the sum of \$2,000 for each violation.

18 (B) FAILURE TO REMOVE ALIEN STOWAWAYS.—If
19 the Attorney General is satisfied that a person has
20 failed to remove an alien stowaway as required under
21 section 241(d)(2) of the Immigration and Nationality
22 Act, the person shall pay to the Commissioner the sum
23 of \$5,000 for each alien stowaway not removed.

24 (C) NO COMPROMISE.—The Attorney General may
25 not compromise the amount of such penalty under this
26 paragraph.

27 (2) CLEARING VESSELS AND AIRCRAFT.—

28 (A) CLEARANCE BEFORE DECISION ON LIABIL-
29 ITY.—A vessel or aircraft may be granted clearance be-
30 fore a decision on liability is made under paragraph (1)
31 only if a bond approved by the Attorney General or an
32 amount sufficient to pay the civil penalty is deposited
33 with the Commissioner.

34 (B) PROHIBITION ON CLEARANCE WHILE PENALTY
35 UNPAID.—A vessel or aircraft may not be granted
36 clearance if a civil penalty imposed under paragraph
37 (1) is not paid.

1 (d) DISCONTINUING GRANTING VISAS TO NATIONALS OF
2 COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—On
3 being notified by the Attorney General that the government of
4 a foreign country denies or unreasonably delays accepting an
5 alien who is a citizen, subject, national, or resident of that
6 country after the Attorney General asks whether the govern-
7 ment will accept the alien under this section, the Secretary of
8 State shall order consular officers in that foreign country to
9 discontinue granting immigrant visas or nonimmigrant visas, or
10 both, to citizens, subjects, nationals, and residents of that
11 country until the Attorney General notifies the Secretary that
12 the country has accepted the alien.

13 **§ 318. Bringing in and harboring certain aliens**

14 (a) CRIMINAL PENALTIES.—(1)(A) Whoever—

15 (i) knowing that a person is an alien, brings to or at-
16 tempts to bring to the United States in any manner what-
17 soever such person at a place other than a designated port
18 of entry or place other than as designated by the Commis-
19 sioner, regardless of whether such alien has received prior
20 official authorization to come to, enter, or reside in the
21 United States and regardless of any future official action
22 which may be taken with respect to such alien;

23 (ii) knowing or in reckless disregard of the fact that
24 an alien has come to, entered, or remains in the United
25 States in violation of law, transports, or moves or attempts
26 to transport or move such alien within the United States
27 by means of transportation or otherwise, in furtherance of
28 such violation of law;

29 (iii) knowing or in reckless disregard of the fact that
30 an alien has come to, entered, or remains in the United
31 States in violation of law, conceals, harbors, or shields from
32 detection, or attempts to conceal, harbor, or shield from de-
33 tection, such alien in any place, including any building or
34 any means of transportation;

35 (iv) encourages or induces an alien to come to, enter,
36 or reside in the United States, knowing or in reckless dis-

1 regard of the fact that such coming to, entry, or residence
2 is or will be in violation of law; or

3 (v) engages in any conspiracy to commit any of the
4 preceding acts;

5 shall be punished as provided in subparagraph (B).

6 (B) Whoever violates subparagraph (A) shall, for each
7 alien in respect to whom such a violation occurs—

8 (i) in the case of a violation of subparagraph (A)(i) or
9 (v)(I) or in the case of a violation of subparagraph (A)(ii),
10 (iii), or (iv) in which the offense was done for the purpose
11 of commercial advantage or private financial gain, be im-
12 prisoned not more than 10 years;

13 (ii) in the case of a violation of subparagraph (A) (ii),
14 (iii), (iv), or (v)(II) be imprisoned not more than 5 years;

15 (iii) in the case of a violation of subparagraph (A) (i),
16 (ii), (iii), (iv), or (v) during and in relation to which the
17 person causes serious bodily injury to, or places in jeopardy
18 the life of, any person, be imprisoned not more than 20
19 years; and

20 (iv) in the case of a violation of subparagraph (A) (i),
21 (ii), (iii), (iv), or (v) resulting in the death of any person,
22 be punished by death or imprisoned for any term of years
23 or for life.

24 (2) Whoever, knowing or in reckless disregard of the fact
25 that an alien has not received prior official authorization to
26 come to, enter, or reside in the United States, brings to or at-
27 tempts to bring to the United States in any manner whatso-
28 ever, such alien, regardless of any official action which may
29 later be taken with respect to such alien shall, for each alien
30 in respect to whom a violation of this paragraph occurs—

31 (A) be imprisoned not more than one year; or

32 (B) in the case of—

33 (i) an offense committed with the intent or with
34 reason to believe that the alien unlawfully brought into
35 the United States will commit an offense against the
36 United States or any State punishable by imprisonment
37 for more than 1 year,

1 (ii) an offense done for the purpose of commercial
2 advantage or private financial gain, or

3 (iii) an offense in which the alien is not upon ar-
4 rival immediately brought and presented to an appro-
5 priate immigration officer at a designated port of
6 entry,

7 be imprisoned not less than 5 nor more than 15 years.

8 (3)(A) Whoever, during any 12-month period, knowingly
9 hires for employment at least 10 individuals with actual knowl-
10 edge that the individuals are aliens described in subparagraph
11 (B) shall be imprisoned for not more than 5 years.

12 (B) An alien described in this subparagraph is an alien
13 who—

14 (i) is an unauthorized alien (as defined in section
15 274A(h)(3)), and

16 (ii) has been brought into the United States in viola-
17 tion of this subsection.

18 (4) In the case of a person who has brought aliens into
19 the United States in violation of this subsection, the sentence
20 otherwise provided for may be increased by up to 10 years if—

21 (A) the offense was part of an ongoing commercial or-
22 ganization or enterprise;

23 (B) aliens were transported in groups of 10 or more;
24 and

25 (C)(i) aliens were transported in a manner that endan-
26 gered their lives; or

27 (ii) the aliens presented a life-threatening health risk
28 to people in the United States.

29 (b) AUTHORITY TO ARREST.—No officer or person shall
30 have authority to make any arrest for a violation of any provi-
31 sion of this section except officers and employees of the Service
32 designated by the Attorney General, either individually or as a
33 member of a class, and all other officers whose duty it is to
34 enforce criminal laws.

35 (c) AUDIOVISUALLY PRESERVED DEPOSITIONS.—Notwith-
36 standing any provision of the Federal Rules of Evidence, the
37 videotaped (or otherwise audiovisually preserved) deposition of

1 a witness to a violation of subsection (a) who has been deported
 2 or otherwise expelled from the United States, or is otherwise
 3 unable to testify, may be admitted into evidence in an action
 4 brought for that violation if the witness was available for cross
 5 examination and the deposition otherwise complies with the
 6 Federal Rules of Evidence.

7 (d) OUTREACH PROGRAM.—The Secretary of Homeland
 8 Security, in consultation with the Attorney General and the
 9 Secretary of State, as appropriate, shall develop and implement
 10 an outreach program to educate the public in the United States
 11 and abroad about the penalties for bringing in and harboring
 12 aliens in violation of this section.

13 **§ 319. Entry of alien at improper time or place;**
 14 **misrepresentation and concealment of**
 15 **facts**

16 (a) ENTRY.—Any alien who—

17 (1) enters or attempts to enter the United States at
 18 any time or place other than as designated by immigration
 19 officers; or

20 (2) eludes examination or inspection by immigration
 21 officers, or

22 (3) attempts to enter or obtains entry to the United
 23 States by a knowingly false or misleading representation or
 24 the knowingly concealment of a material fact;

25 shall, for the first commission of any such offense, be impris-
 26 oned not more than 6 months, and, for a subsequent commis-
 27 sion of any such offense, be imprisoned not more than 2 years.

28 (b) APPREHENSION WHILE ENTERING.—Any alien who is
 29 apprehended while entering (or attempting to enter) the United
 30 States at a time or place other than as designated by immigra-
 31 tion officers shall be subject to a civil penalty of—

32 (1) at least \$50 and not more than \$250 for each such
 33 entry (or attempted entry); or

34 (2) twice the amount specified in paragraph (1) in the
 35 case of an alien who has been previously subject to a civil
 36 penalty under this subsection.

1 Civil penalties under this subsection are in addition to, and not
 2 in lieu of, any criminal or other civil penalties that may be im-
 3 posed.

4 (c) MARRIAGE.—An individual who knowingly enters into
 5 a marriage for the purpose of evading any provision of the im-
 6 migration laws shall be imprisoned for not more than 5 years.

7 (d) COMMERCIAL ENTERPRISE.—Whoever knowingly es-
 8 tablishes a commercial enterprise for the purpose of evading
 9 any provision of the immigration laws shall be imprisoned for
 10 not more than 5 years.

11 **§ 320. Reentry of removed alien**

12 (a) OFFENSE.—Subject to subsection (b), any alien who—

13 (1) has been denied admission, excluded, deported, or
 14 removed or has departed the United States while an order
 15 of exclusion, deportation, or removal is outstanding; and

16 (2) thereafter enters, attempts to enter, or is at any
 17 time found in, the United States, unless (A) prior to his
 18 reembarkation at a place outside the United States or his
 19 application for admission from foreign contiguous territory,
 20 the Attorney General has expressly consented to such
 21 alien’s reapplying for admission; or (B) with respect to an
 22 alien previously denied admission and removed, unless such
 23 alien shall establish that he was not required to obtain such
 24 advance consent under this or any prior Act,

25 shall be imprisoned not more than 2 years.

26 (b) INCREASED PENALTY.—In the case of any alien vio-
 27 lating subsection (a)—

28 (1) whose removal was subsequent to a conviction for
 29 commission of three or more misdemeanors involving drugs,
 30 crimes against the person, or both, or a felony (other than
 31 an aggravated felony), such alien shall be imprisoned not
 32 more than 10 years;

33 (2) whose removal was subsequent to a conviction for
 34 commission of an aggravated felony, such alien shall be im-
 35 prisoned not more than 20 years;

36 (3) who has been excluded from the United States
 37 pursuant to section 235(c) of the Immigration and Nation-

1 ality Act because the alien was excludable under section
2 212(a)(3)(B) of such Act or who has been removed from
3 the United States pursuant to title V of such Act, and who
4 thereafter, without the permission of the Attorney General,
5 enters the United States, or attempts to do so, shall be im-
6 prisoned for a period of 10 years, which sentence shall not
7 run concurrently with any other sentence; or

8 (4) who was removed from the United States pursuant
9 to section 241(a)(4)(B) of such Act who thereafter, without
10 the permission of the Attorney General, enters, attempts to
11 enter, or is at any time found in, the United States (unless
12 the Attorney General has expressly consented to such
13 alien's reentry) shall be imprisoned for not more than 10
14 years.

15 For the purposes of this subsection, the term "removal" in-
16 cludes any agreement in which an alien stipulates to removal
17 during (or not during) a criminal trial under either Federal or
18 State law.

19 (c) REENTRY.—Any alien deported pursuant to section
20 242(h)(2) of the Immigration and Nationality Act who enters,
21 attempts to enter, or is at any time found in, the United States
22 (unless the Attorney General has expressly consented to such
23 alien's reentry) shall be incarcerated for the remainder of the
24 sentence of imprisonment which was pending at the time of de-
25 portation without any reduction for parole or supervised re-
26 lease. Such alien shall be subject to such other penalties relat-
27 ing to the reentry of deported aliens as may be available under
28 this section or any other provision of law.

29 (d) CHALLENGE OF VALIDITY OF ORDER.—In a criminal
30 proceeding under this section, an alien may not challenge the
31 validity of the deportation order described in subsection (a)(1)
32 or subsection (b) unless the alien demonstrates that—

33 (1) the alien exhausted any administrative remedies
34 that may have been available to seek relief against the
35 order;

1 (2) the deportation proceedings at which the order was
 2 issued improperly deprived the alien of the opportunity for
 3 judicial review; and

4 (3) the entry of the order was fundamentally unfair.

5 **§ 321. Aiding or assisting certain aliens to enter**
 6 **the United States**

7 Whoever knowingly aids or assists any alien inadmissible
 8 under section 212(a)(2) of the Immigration and Nationality
 9 Act (insofar as an alien inadmissible under such section has
 10 been convicted of an aggravated felony) or 212(a)(3) of such
 11 Act (other than subparagraph (E) thereof) to enter the United
 12 States, or who connives or conspires with any person or persons
 13 to allow, procure, or permit any such alien to enter the United
 14 States, shall be or imprisoned not more than 10 years.

15 **§ 322. Increased penalty for certain terrorism re-**
 16 **lated offenses**

17 Whoever violates this subchapter shall, if the maximum
 18 imprisonment for the offense is less but for this section, be im-
 19 prisoned not more than 25 years if the offense was committed
 20 to facilitate an act of international terrorism (as defined in sec-
 21 tion 2331 of this title), and 20 years (if the offense was com-
 22 mitted to facilitate a drug trafficking crime (as defined in sec-
 23 tion 592).

24 **CHAPTER 17—DRUG CRIMES**

Sec.

- 401. Definitions for chapter.
- 402. Basic offenses.
- 403. Basic punishment structure.
- 404. Offenses involving protected persons.
- 405. Enhancement for offenses involving protected places.
- 406. Maintaining drug-involved premises.
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- 408. Listed chemicals.
- 409. Domestic regulatory offenses.
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- 411. Penalty for simple possession.
- 412. Civil penalty for possession of small amounts of certain controlled substances.
- 413. Continuing criminal enterprise.
- 414. Drug paraphernalia.
- 415. Proceedings to establish prior convictions.
- 416. Anhydrous ammonia.
- 417. Controlled substances import and export offenses.

1 **§ 401. Definitions for chapter**

2 As used in this chapter—

3 (1) a term defined for the purposes of the Controlled
4 Substances Act has the same meaning in this chapter;

5 (2) the term “large quantity of a major drug”
6 means—

7 (A) 1 kilogram or more of a mixture or substance
8 containing a detectable amount of heroin;

9 (B) 5 kilograms or more of a mixture or substance
10 containing a detectable amount of—

11 (i) coca leaves, except coca leaves and extracts
12 of coca leaves from which cocaine, ecgonine, and
13 derivatives of ecgonine or their salts have been re-
14 moved;

15 (ii) cocaine, its salts, optical and geometric
16 isomers, and salts of isomers;

17 (iii) ecgonine, its derivatives, their salts, iso-
18 mers, and salts of isomers; or

19 (iv) any compound, mixture, or preparation
20 which contains any quantity of any of the sub-
21 stances referred to in clauses (i) through (iii);

22 (C) 50 grams or more of a mixture or substance
23 described in subparagraph (B) which contains cocaine
24 base;

25 (D) 100 grams or more of phencyclidine (PCP) or
26 1 kilogram or more of a mixture or substance con-
27 taining a detectable amount of phencyclidine (PCP);

28 (E) 10 grams or more of a mixture or substance
29 containing a detectable amount of lysergic acid
30 diethylamide (LSD);

31 (F) 400 grams or more of a mixture or substance
32 containing a detectable amount of N-phenyl-N-[1-(2-
33 phenylethyl)-4-piperidinyl] propanamide or 100 grams
34 or more of a mixture or substance containing a detect-
35 able amount of any analogue of N-phenyl-N-[1-(2-
36 phenylethyl)-4-piperidinyl] propanamide;

1 (G) 1000 kilograms or more of a mixture or sub-
2 stance containing a detectable amount of marihuana, or
3 1,000 or more marihuana plants regardless of weight;
4 or

5 (H) 50 grams or more of methamphetamine, its
6 salts, isomers, and salts of its isomers or 500 grams or
7 more of a mixture or substance containing a detectable
8 amount of methamphetamine, its salts, isomers, or
9 salts of its isomers;

10 (3) the term “substantial quantity of a major drug”
11 means—

12 (A) 100 grams or more of a mixture or substance
13 containing a detectable amount of heroin;

14 (B) 500 grams or more of a mixture or substance
15 containing a detectable amount of—

16 (i) coca leaves, except coca leaves and extracts
17 of coca leaves from which cocaine, ecgonine, and
18 derivatives of ecgonine or their salts have been re-
19 moved;

20 (ii) cocaine, its salts, optical and geometric
21 isomers, and salts of isomers;

22 (iii) ecgonine, its derivatives, their salts, iso-
23 mers, and salts of isomers; or

24 (iv) any compound, mixture, or preparation
25 which contains any quantity of any of the sub-
26 stances referred to in clauses (i) through (iii);

27 (C) 5 grams or more of a mixture or substance de-
28 scribed in subparagraph (B) which contains cocaine
29 base;

30 (D) 10 grams or more of phencyclidine (PCP) or
31 100 grams or more of a mixture or substance con-
32 taining a detectable amount of phencyclidine (PCP);

33 (E) 1 gram or more of a mixture or substance
34 containing a detectable amount of lysergic acid
35 diethylamide (LSD);

36 (F) 40 grams or more of a mixture or substance
37 containing a detectable amount of N-phenyl-N-[1-(2-

1 phenylethyl)-4-piperidinyl] propanamide or 10 grams or
2 more of a mixture or substance containing a detectable
3 amount of any analogue of N-phenyl-N-[1-(2-
4 phenylethyl)-4-piperidinyl] propanamide; or

5 (G) 100 kilograms or more of a mixture or sub-
6 stance containing a detectable amount of marihuana, or
7 100 or more marihuana plants regardless of weight; or

8 (H) 5 grams or more of methamphetamine, its
9 salts, isomers, and salts of its isomers or 50 grams or
10 more of a mixture or substance containing a detectable
11 amount of methamphetamine, its salts, isomers, or
12 salts of its isomers;

13 (4) the term “date rape drug” means gamma hydroxy-
14 butyric acid (including when scheduled as an approved drug
15 product for purposes of section 3(a)(1)(B) of the Hillory J.
16 Farias and Samantha Reid Date-Rape Drug Prohibition
17 Act of 2000), or 1 gram of flunitrazepam;

18 (5) the term “repeat offender” means a person is con-
19 victed under this chapter after a prior conviction for a fel-
20 ony drug offense;

21 (6) the term “career offender” means a person is con-
22 victed under this chapter after two or more prior convic-
23 tions for a felony drug offense;

24 (7) the term “midlevel quantity of marijuana” means
25 50 kilograms of marijuana or more than 50 marijuana
26 plants; and

27 (8) the term “larger quantity of hashish” means ten
28 kilograms of hashish or one kilogram of hashish oil.

29 § 402. Basic offenses

30 Except as authorized by the Controlled Substances Act
31 whoever knowingly—

32 (1) manufactures, distributes, or dispenses, or pos-
33 sesses with intent to manufacture, distribute, or dispense,
34 a controlled substance;

35 (2) creates, distributes, or dispenses, or possesses with
36 intent to distribute or dispense, a counterfeit substance;

1 (3) imports or exports a controlled substance in viola-
2 tion of section 1002, 1003, or 1007 of the Controlled Sub-
3 stances Import and Export Act;

4 (4) brings or possesses on board a vessel, aircraft, or
5 vehicle a controlled substance in violation of section 1005
6 of that Act, or

7 (5) manufactures, possesses with intent to distribute,
8 or distributes a controlled substance contrary to section
9 1009 of that Act;

10 shall be punished as provided in this chapter.

11 **§ 403. Basic punishment structure**

12 (a) LARGE QUANTITIES OF MAJOR DRUGS.—

13 (1) PRISON.—If the violation of section 402 involves
14 a large quantity of a major drug, the offender shall be im-
15 prisoned any term of years not less than ten, or for life.
16 If the offender is a repeat offender or if death or serious
17 bodily injury results to any person from the offense, the
18 term shall not be less than 20 years. If the defendant is
19 a career offender, the term shall be life.

20 (2) FINE.—An offender to whom paragraph (1) ap-
21 plies shall be fined not more than \$4,000,000, and if the
22 offender is a career offender, not more than \$8,000,000.

23 (3) SUPERVISED RELEASE.—An offender to whom
24 paragraph (1) applies shall be sentenced to supervised re-
25 lease for a period of 5 years, but if the offender is a career
26 offender or if death or serious bodily injury results to any
27 person from the offense, for a period of 10 years.

28 (b) SUBSTANTIAL QUANTITIES OF MAJOR DRUGS.—

29 (1) PRISON.—If the violation of section 402 involves
30 a substantial quantity of a major drug, the offender shall
31 be imprisoned not less than five years nor more than 40
32 years. If the offender is a repeat offender the term shall
33 not be less than 10 years. If death or serious bodily injury
34 results to any person from the offense, the term shall be
35 life.

1 (2) FINE.—An offender to whom paragraph (1) ap-
2 plies shall be fined not more than \$2,000,000, and if the
3 offender is a career offender, not more than \$4,000,000.

4 (3) SUPERVISED RELEASE.—An offender to whom
5 paragraph (1) applies shall be sentenced to supervised re-
6 lease for a period of 4 years, but if the offender is a repeat
7 offender or death or serious bodily injury result to any per-
8 son from the offense, for a period of 8 years.

9 (c) LESSER QUANTITIES OF MAJOR DRUGS AND ANY
10 QUANTITY OF CERTAIN OTHER SUBSTANCES.—

11 (1) PRISON.—If the violation of section 402 involves
12 a quantity, lesser than those specified in subsection (a) or
13 (b), of a major drug, or any quantity of another substance
14 in schedule I or II, or a date rape drug, the offender shall
15 be imprisoned not more than 20 years. If the offender is
16 a repeat offender, the term shall not be less than 30 years.
17 If death or serious bodily injury results to any person from
18 the offense, the offender shall be imprisoned any term or
19 years not less than 20, or for life.

20 (2) FINE.—An offender to whom paragraph (1) ap-
21 plies shall be fined not more than \$1,000,000, and if the
22 offender is a repeat offender, not more than \$2,000,000.

23 (3) SUPERVISED RELEASE.—An offender to whom
24 paragraph (1) applies shall be sentence to supervised re-
25 lease for a period of 3 years, but if the defendant is a re-
26 peat offender for a period of 6 years.

27 (d) MIDDLELEVEL QUANTITIES OF MARIJUANA, LARGER
28 QUANTITIES OF HASHISH, AND CERTAIN SCHEDULE III SUB-
29 STANCES.—

30 (1) PRISON.—If the violation of section 402 involves
31 a midlevel quantity of marijuana, a larger quantity of hash-
32 ish, or any quantity of a schedule III substance for which
33 a penalty is not imposed in a previous subsection of this
34 section, the offender shall be imprisoned not more than five
35 years, or if a repeat offender, not more than 10 years.

1 (2) FINE.—An offender to whom paragraph (1) ap-
2 plies shall be fined not more than \$250,000 and if the of-
3 fender is a career offender, not more than \$500,000.

4 (3) SUPERVISED RELEASE.—An offender to whom
5 paragraph (1) applies shall be sentenced to supervised re-
6 lease for a period of 2 years, but if the defendant is a re-
7 peat offender, for a period of 4 years.

8 (e) SCHEDULE IV SUBSTANCES.—If the violation of sec-
9 tion 402 involves a schedule IV substance, the offender shall
10 be imprisoned not more than three years and to supervised re-
11 lease for one year. If the offender is a repeat offender, the of-
12 fender shall be fined not more than \$500,000 or imprisoned
13 not more than six years, or both, and shall be sentenced to su-
14 pervised release for two years.

15 (f) SCHEDULE V SUBSTANCES.—If the violation of section
16 402 involves a schedule V substance, the offender shall be im-
17 prisoned not more than one year. If the offender is a repeat
18 offender, the offender shall be imprisoned not more than two
19 years.

20 **§ 404. Offenses involving protected persons**

21 (a) DISTRIBUTION WITH INTENT TO COMMIT A CRIME OF
22 VIOLENCE.—

23 (1) IN GENERAL.—Whoever, with intent to commit a
24 crime of violence (including an offense that would also be
25 punishable under section 201 if the conduct occurred in the
26 special maritime and territorial jurisdiction of the United
27 States), against an individual, violates section 402 by dis-
28 tributing a controlled substance or controlled substance
29 analogue to that individual without that individual’s knowl-
30 edge shall be imprisoned not more than 20 years.

31 (2) DEFINITION.—As used in this subsection, the term
32 “without that individual’s knowledge” means that the indi-
33 vidual is unaware that a substance with the ability to alter
34 that individual’s ability to appraise conduct or to decline
35 participation in or communicate unwillingness to partici-
36 pate in conduct is administered to the individual.

1 (b) ENDANGERING HUMAN LIFE WHILE ILLEGALLY MAN-
2 UFACTURING CONTROLLED SUBSTANCE.—Whoever, while man-
3 ufacturing a controlled substance in violation of the Controlled
4 Substances Act, or attempting or conspiring to do so, or trans-
5 porting materials, including chemicals, to do so, knowingly cre-
6 ates a risk of harm to human life shall be imprisoned not more
7 than ten years.

8 (c)(1) Except as provided in section 405 and in paragraph
9 (2), any person at least 18 years of age who violates section
10 402 by distributing a controlled substance to a person under
11 21 years of age is subject to (A) twice the maximum punish-
12 ment authorized by section 403, and (B) at least twice any
13 term of supervised release authorized by section 403, for a first
14 offense involving the same controlled substance and schedule.
15 Except to the extent a greater minimum sentence is otherwise
16 provided by section 403, a term of imprisonment under this
17 subsection shall be not less than one year. The mandatory min-
18 imum sentencing provisions of this subsection shall not apply
19 to offenses involving 5 grams or less of marihuana.

20 (2) Except as provided in section 405, if the offender
21 under paragraph (1) has a prior conviction under paragraph
22 (1) (or under section 303(b)(2) of the Federal Food, Drug, and
23 Cosmetic Act as in effect prior to the effective date of section
24 701(b) of the Controlled Substances Act) is subject to (A)
25 three times the maximum punishment authorized by section
26 403, and (B) at least three times any term of supervised re-
27 lease authorized by section 403, for a second offense or subse-
28 quent offense involving the same controlled substance and
29 schedule. Except to the extent a greater minimum sentence is
30 otherwise provided by section 403, a term of imprisonment
31 under this subsection shall be not less than one year. Penalties
32 for third and subsequent convictions shall those provided by
33 section 403(a) for offenses involving large quantities of major
34 drugs under that section.

35 (d) ADULTS USING CHILDREN.—Whoever, being at least
36 21 years of age, knowingly—

1 (1) employs, hires, uses, persuades, induces, entices, or
2 coerces a child to violate section 402; or

3 (2) employs, hires, uses, persuades, induces, entices, or
4 coerces a child to assist in avoiding detection or apprehen-
5 sion, for any offense under section 402, by any Federal,
6 State, or local law enforcement official,

7 is punishable by a term of imprisonment and a fine, or both,
8 up to triple those authorized by section 403.

9 (e) YOUNG ADULTS USING CHILDREN.—

10 (1) Whoever, not being a child, knowingly—

11 (A) employs, hires, uses, persuades, induces, en-
12 tices, or coerces, a child to violate any provision of this
13 chapter or of the Controlled Substances Act or the
14 Controlled Substances Import and Export Act;

15 (B) employs, hires, uses, persuades, induces, en-
16 tices, or coerces, child to assist in avoiding detection or
17 apprehension, for any such violation, by any Federal,
18 State, or local law enforcement official; or

19 (C) receives a controlled substance from a child,
20 other than an immediate family member, in violation of
21 section 402;

22 shall be imprisoned for up to twice the maximum term other-
23 wise authorized, or fined up to twice the fine otherwise author-
24 ized, or both, and be sentenced at least twice any term of su-
25 pervised release otherwise authorized for a first offense. Except
26 to the extent a greater minimum sentence is otherwise pro-
27 vided, a term of imprisonment under this subsection shall not
28 be less than one year.

29 (2) Whoever violates paragraph (1) after a prior con-
30 viction under paragraph (1) of this section, is punishable
31 by a term of imprisonment up to three times that otherwise
32 authorized, or both, and at least three times any term of
33 supervised release otherwise authorized for a first offense.
34 Except to the extent a greater minimum sentence is other-
35 wise provided, a term of imprisonment under this sub-
36 section shall not be less than one year. Penalties for third
37 and subsequent convictions shall those provided by section

1 403(a) for offenses involving large quantities of major
2 drugs under that section.

3 (f) PROVIDING CONTROLLED SUBSTANCES TO CHIL-
4 DREN.—Whoever violates subsection (c) or (d)—

5 (1) by knowingly providing or distributing a controlled
6 substance or a controlled substance analogue to a child; or

7 (2) if the person employed, hired, or used is 14 years
8 of age or younger;

9 shall be subject to a term of imprisonment for not more than
10 five years, in addition to any other punishment authorized by
11 this chapter.

12 (g) PREGNANT PERSONS.—Except as authorized by the
13 Controlled Substances Act, it shall be unlawful for any person
14 to knowingly or intentionally provide or distribute any con-
15 trolled substance to a pregnant individual in violation of any
16 provision of this title. Any person who violates this subsection
17 shall be subject to the same penalties as are provided for a vio-
18 lation of subsection (c).

19 **§ 405. Enhancement for offenses involving pro-**
20 **tected places**

21 (a) CULTIVATION ON FEDERAL PROPERTY.—The max-
22 imum fine that may be imposed for a violation of section 402
23 by cultivating a controlled substance on Federal property shall
24 be the greater of the amount otherwise provided in this chapter
25 or—

26 (1) \$500,000 if the defendant is an individual; or

27 (2) \$1,000,000 if the defendant is other than an indi-
28 vidual.

29 (b) USE OF HAZARDOUS SUBSTANCE ON FEDERAL
30 LAND.—Whoever in the course of a violation of section 402
31 knowingly uses a poison, chemical, or other hazardous sub-
32 stance on Federal land, and, by such use—

33 (1) creates a serious hazard to humans, wildlife, or do-
34 mestic animals,

35 (2) degrades or harms the environment or natural re-
36 sources, or

1 (3) pollutes an aquifer, spring, stream, river, or body
2 of water,
3 or attempt or conspires to do so shall be imprisoned not more
4 than five years.

5 (c) BOOBYTRAPS.—

6 (1) Whoever knowingly assembles, maintains, or places
7 a boobytrap on Federal property where a controlled sub-
8 stance is being manufactured, distributed, or dispensed, or
9 attempts or conspires to do so, shall be imprisoned not
10 more than ten years.

11 (2) If the offender has one or more prior convictions
12 for an offense under this subsection, the offender shall be
13 imprisoned not more than 20 years.

14 (3) As used in this subsection, the term “boobytrap”
15 means any concealed or camouflaged device designed to
16 cause bodily injury when triggered by any action of any
17 unsuspecting person making contact with the device. Such
18 term includes guns, ammunition, or explosive devices at-
19 tached to trip wires or other triggering mechanisms, sharp-
20 ened stakes, and lines or wires with hooks attached.

21 (d) SAFETY REST AREAS.—

22 (1) ENHANCEMENT.—Whoever violates section 402 by
23 distributing or possessing with intent to distribute a con-
24 trolled substance in or on, or within 1,000 feet of, a truck
25 stop or safety rest area is subject to—

26 (A) in the case of a first offense under this sub-
27 section subject to—

28 (i) twice the maximum punishment provided in
29 section 403; and

30 (ii) twice any term of supervised release au-
31 thorized by section 403 for a first offense; and

32 (B) in the case of an offense under this subsection
33 after a prior conviction under this subsection—

34 (i) three times the maximum punishment au-
35 thorized by section 403; and

36 (ii) three times any term of supervised release
37 authorized by section 403 for a first offense.

1 (2) DEFINITIONS.—As used in this subsection—

2 (A) the term “safety rest area” means a roadside
3 facility with parking facilities for the rest or other
4 needs of motorists.

5 (B) the term “truck stop” means a facility (in-
6 cluding any parking lot appurtenant thereto) that—

7 (i) has the capacity to provide fuel or service,
8 or both, to any commercial motor vehicle (as de-
9 fined in section 31301 of title 49, United States
10 Code), operating in commerce (as defined in that
11 section); and

12 (ii) is located within 2,500 feet of the National
13 System of Interstate and Defense Highways or the
14 Federal-Aid Primary System.

15 **§ 406. Maintaining drug-involved premises.**

16 (a) Except as authorized by this title, it shall be unlawful
17 to—

18 (1) knowingly open, lease, rent, use, or maintain any
19 place, whether permanently or temporarily, for the purpose
20 of manufacturing, distributing, or using any controlled sub-
21 stance;

22 (2) manage or control any place, whether permanently
23 or temporarily, either as an owner, lessee, agent, employee,
24 occupant, or mortgagee, and knowingly and intentionally
25 rent, lease, profit from, or make available for use, with or
26 without compensation, the place for the purpose of unlaw-
27 fully manufacturing, storing, distributing, or using a con-
28 trolled substance.

29 (b) Any person who violates subsection (a) of this section
30 shall be sentenced to a term of imprisonment of not more than
31 20 years or a fine of not more than \$500,000, or both, or a
32 fine of \$2,000,000 for a person other than an individual.

33 (c) A violation of subsection (a) shall be considered an of-
34 fense against property for purposes of section
35 3663A(c)(1)(A)(ii) of title 18, United States Code.

36 (d)(1) Any person who violates subsection (a) shall be sub-
37 ject to a civil penalty of not more than the greater of—

1 (A) \$250,000; or

2 (B) 2 times the gross receipts, either known or esti-
3 mated, that were derived from each violation that is attrib-
4 utable to the person.

5 (2) If a civil penalty is calculated under paragraph (1)(B),
6 and there is more than 1 defendant, the court may apportion
7 the penalty between multiple violators, but each violator shall
8 be jointly and severally liable for the civil penalty under this
9 subsection.

10 (e) Any person who violates subsection (a) shall be subject
11 to declaratory and injunctive remedies as set forth in section
12 403(f) of the Controlled Substances Act.

13 **§ 407. Distribution in or near schools**

14 (a) IN GENERAL.—Whoever violates section 402 by dis-
15 tributing, possessing with intent to distribute, or manufac-
16 turing a controlled substance in or on, or within one thousand
17 feet of, the real property comprising a public or private elemen-
18 tary, vocational, or secondary school or a public or private col-
19 lege, junior college, or university, or a playground, or housing
20 facility owned by a public housing authority, or within 100 feet
21 of a public or private youth center, public swimming pool, or
22 video arcade facility, is (except as provided in subsection (b))
23 subject to—

24 (1) twice the maximum punishment authorized by sec-
25 tion 403; and

26 (2) at least twice any term of supervised release au-
27 thorized by section 403 for a first offense. A fine up to
28 twice that authorized by section 403 may be imposed in ad-
29 dition to any term of imprisonment authorized by this sub-
30 section.

31 Except to the extent a greater minimum sentence is otherwise
32 provided by section 403, a person shall be sentenced under this
33 subsection to a term of imprisonment of not less than one year.
34 The mandatory minimum sentencing provisions of this para-
35 graph shall not apply to offenses involving 5 grams or less of
36 marihuana.

1 (b) SECOND OR SUBSEQUENT OFFENSES.—Whoever vio-
 2 lates subsection (a) after a prior conviction under subsection
 3 (a) is punishable—

4 (1) by the greater of—

5 (A) a term of imprisonment of not less than three
 6 years and not more than life imprisonment; or

7 (B) three times the maximum punishment author-
 8 ized by section 403 for a first offense; and

9 (2) at least three times any term of supervised release
 10 authorized by section 403 for a first offense.

11 A fine up to three times that authorized by section 403
 12 may be imposed in addition to any term of imprisonment au-
 13 thorized by this subsection. Except to the extent a greater min-
 14 imum sentence is otherwise provided by section 401(b), a per-
 15 son shall be sentenced under this subsection to a term of im-
 16 prisonment of not less than three years. Penalties for third and
 17 subsequent convictions shall be governed by section 403.

18 (c) SPECIAL RULE FOR USING CHILDREN.—Notwith-
 19 standing any other law, whoever, being at least 21 years of age,
 20 knowingly—

21 (1) employs, hires, uses, persuades, induces, entices, or
 22 coerces a child to violate this section; or

23 (2) employs, hires, uses, persuades, induces, entices, or
 24 coerces a child to assist in avoiding detection or apprehen-
 25 sion for any offense under this section by any Federal,
 26 State, or local law enforcement official,

27 is punishable by a term of imprisonment, a fine, or both, up
 28 to triple those authorized by section 403.

29 (d) In the case of any mandatory minimum sentence im-
 30 posed under subsection (b), imposition or execution of such
 31 sentence shall not be suspended and probation shall not be
 32 granted. An individual convicted under this section shall not be
 33 eligible for parole until the individual has served the mandatory
 34 minimum term of imprisonment as provided by this section.

35 (e) DEFINITIONS.—As used in this section—

36 (1) the term “playground” means any outdoor facility
 37 (including any parking lot appurtenant thereto) intended

1 for recreation, open to the public, and with any portion
2 thereof containing three or more separate apparatus in-
3 tended for the recreation of children including, but not lim-
4 ited to, sliding boards, swingsets, and teeterboards;

5 (2) the term “youth center” means any recreational
6 facility and/or gymnasium (including any parking lot ap-
7 purtenant thereto), intended primarily for use by persons
8 under 18 years of age, which regularly provides athletic,
9 civic, or cultural activities.

10 (3) the term “video arcade facility” means any facility,
11 legally accessible to children, intended primarily for the use
12 of pinball and video machines for amusement containing a
13 minimum of ten machines that are either pinball or video
14 machines; and

15 (4) the term “swimming pool” includes any parking
16 lot appurtenant thereto.

17 **§ 408. Listed chemicals**

18 (a) OFFENSE.—Whoever knowingly—

19 (1) possesses a listed chemical with intent to manufac-
20 ture a controlled substance except as authorized by the
21 Controlled Substances Act;

22 (2) possesses or distributes, a listed chemical knowing,
23 or having reasonable cause to believe, that the listed chem-
24 ical will be used to manufacture a controlled substance ex-
25 cept as authorized by the Controlled Substances Act; or

26 (3) with the intent of causing the evasion of the rec-
27 ordkeeping or reporting requirements of section 310 of the
28 Controlled Substances Act, or the regulations issued under
29 that section, receives or distributes a reportable amount of
30 any listed chemical in units small enough so that the mak-
31 ing of records or filing of reports under that section is not
32 required;

33 shall be imprisoned not more than 20 years in the case of a
34 violation of paragraph (1) or (2) involving a list I chemical or
35 not more than 10 years in any other case.

36 (b) INJUNCTIONS.—In addition to any other applicable
37 penalty, any person convicted of a felony violation of this sec-

1 tion relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined
2 from engaging in any transaction involving a listed chemical for
3 not more than ten years.
4

5 (c) ADDITIONAL OFFENSES.—

6 (1) Whoever knowingly distributes a listed chemical in
7 violation of the Controlled Substances Act (other than in
8 violation of a recordkeeping or reporting requirement of
9 section 310), or attempts or conspires to do so, shall be im-
10 prisoned not more than 5 years.

11 (2) Whoever knowingly possesses any listed chemical,
12 with knowledge that the recordkeeping or reporting require-
13 ments of section 310 of such Act have not been adhered
14 to, if, after such knowledge is acquired, such person does
15 not take immediate steps to remedy the violation, or at-
16 tempts or conspires to do so, shall be imprisoned not more
17 than one year.

18 **§ 409. Domestic regulatory offenses**

19 (a) UNLAWFUL CONDUCT GENERALLY.—It shall be un-
20 lawful for any person—

21 (1) who is subject to the requirements of part C of the
22 Controlled Substances Act to distribute or dispense a con-
23 trolled substance in violation of section 309 of that Act;

24 (2) who is a registrant to distribute or dispense a con-
25 trolled substance not authorized by his registration to an-
26 other registrant or other authorized person or to manufac-
27 ture a controlled substance not authorized by his registra-
28 tion;

29 (3) who is a registrant to distribute a controlled sub-
30 stance in violation of section 305 of the Controlled Sub-
31 stances Act;

32 (4) to remove, alter, or obliterate a symbol or label re-
33 quired by section 305 of the Controlled Substances Act;

34 (5) to refuse or negligently fail to make, keep, or fur-
35 nish any record, report, notification, declaration, order or
36 order form, statement, invoice, or information required

1 under the Controlled Substances Act or the Controlled Sub-
2 stances Import and Export Act;

3 (6) to refuse any entry into any premises or inspection
4 authorized by the Controlled Substances Act or the Con-
5 trolled Substances Import and Export Act;

6 (7) to remove, break, injure, or deface a seal placed
7 upon controlled substances pursuant to section 304(f) or
8 511 of the Controlled Substances Act or to remove or dis-
9 pose of substances so placed under seal;

10 (8) to use, to his own advantage, or to reveal, other
11 than to duly authorized officers or employees of the United
12 States, or to the courts when relevant in any judicial pro-
13 ceeding under this title or title III, any information ac-
14 quired in the course of an inspection authorized by the
15 Controlled Substances Act concerning any method or pro-
16 cess which as a trade secret is entitled to protection, or to
17 use to his own advantage or reveal (other than as author-
18 ized by section 310 of that Act) any information that is
19 confidential under such section;

20 (9) who is a regulated person to engage in a regulated
21 transaction without obtaining the identification required by
22 310(a)(3) of the Controlled Substances Act;

23 (10) negligently to fail to keep a record or make a re-
24 port under section 310 of that Act; or

25 (11) to distribute a laboratory supply to a person who
26 uses, or attempts to use, that laboratory supply to manu-
27 facture a controlled substance or a listed chemical, in viola-
28 tion of the Controlled Substances Act or the Controlled
29 Substances Import and Export Act, with reckless disregard
30 for the illegal uses to which such a laboratory supply will
31 be put.

32 (b) DEFINITION.—As used in subsection (a)(11), the term
33 “laboratory supply” means a listed chemical or any chemical,
34 substance, or item on a special surveillance list published by
35 the Attorney General, which contains chemicals, products, ma-
36 terials, or equipment used in the manufacture of controlled
37 substances and listed chemicals. For purposes of that sub-

1 section, there is a rebuttable presumption of reckless disregard
2 at trial if the Attorney General notifies a firm in writing that
3 a laboratory supply sold by the firm, or any other person or
4 firm, has been used by a customer of the notified firm, or dis-
5 tributed further by that customer, for the unlawful production
6 of controlled substances or listed chemicals a firm distributes
7 and 2 weeks or more after the notification the notified firm dis-
8 tributes a laboratory supply to the customer.

9 (c) SCHEDULE I AND II SUBSTANCES.—It shall be unlaw-
10 ful for any person who is a registrant to manufacture a con-
11 trolled substance in schedule I or II which is—

12 (1) not expressly authorized by the registration and by
13 a quota assigned to that registrant pursuant to section 306
14 of the Controlled Substances Act; or

15 (2) in excess of a quota assigned to that registrant
16 pursuant to section 306.

17 (d)(1)(A) Except as provided in subparagraph (B) of this
18 paragraph and paragraph (2), any person who violates this sec-
19 tion shall, with respect to any such violation, be subject to a
20 civil penalty of not more than \$25,000.

21 (B) In the case of a violation of paragraph (5) or (10) of
22 subsection (a), the civil penalty shall not exceed \$10,000.

23 (2)(A) Whoever knowingly violates, or attempts or cons-
24pires to violate, this section shall, except as otherwise provided
25 in subparagraph (B), be imprisoned not more than one year.

26 (B) If a violation referred to in subparagraph (A) was
27 committed after one or more prior convictions of the offender
28 for an offense punishable under this paragraph (2), or for a
29 crime under any other provision of any law of the United
30 States relating to controlled substances, narcotic drugs, mari-
31 huana, or depressant or stimulant substances, have become
32 final, such person shall be sentenced to a term of imprisonment
33 of not more than 2 years.

34 (C) In addition to the penalties set forth elsewhere in this
35 title, any business that violates paragraph (11) of subsection
36 (a) shall, with respect to the first such violation, be subject to
37 a civil penalty of not more than \$250,000, but shall not be sub-

1 ject to criminal penalties under this section, and shall, for any
2 succeeding violation, be subject to a civil fine of not more than
3 \$250,000 or double the last previously imposed penalty, which-
4 ever is greater.

5 (3) Except under the conditions specified in paragraph (2)
6 of this subsection, a violation of this section does not constitute
7 a crime, and a judgment for the United States and imposition
8 of a civil penalty pursuant to paragraph (1) shall not give rise
9 to any disability or legal disadvantage based on conviction for
10 a criminal offense.

11 **§ 410. Additional domestic regulatory offenses**

12 (a) GENERALLY.—It shall be unlawful for any person
13 knowingly—

14 (1) as a registrant to distribute a controlled substance
15 classified in schedule I or II, in the course of legitimate
16 business, except pursuant to an order or an order form as
17 required by section 308 of the Controlled Substances Act;

18 (2) to use in the course of the manufacture, distribu-
19 tion, or dispensing of a controlled substance, or to use for
20 the purpose of acquiring or obtaining a controlled sub-
21 stance, a registration number which is fictitious, revoked,
22 suspended, expired, or issued to another person;

23 (3) to acquire or obtain possession of a controlled sub-
24 stance by misrepresentation, fraud, forgery, deception, or
25 subterfuge;

26 (4)(A) to furnish false or fraudulent material informa-
27 tion in, or omit any material information from, any applica-
28 tion, report, record, or other document required to be
29 made, kept, or filed under this chapter, the Controlled Sub-
30 stances Act, or the Controlled Substances Import and Ex-
31 port Act, or (B) to present false or fraudulent identification
32 where the person is receiving or purchasing a listed chem-
33 ical and the person is required to present identification
34 under section 310(a) of the Controlled Substances Act;

35 (5) to make, distribute, or possess any punch, die,
36 plate, stone, or other thing designed to print, imprint, or
37 reproduce the trademark, trade name, or other identifying

1 mark, imprint, or device of another or any likeness of any
2 of the foregoing upon any drug or container or labeling
3 thereof so as to render such drug a counterfeit substance;

4 (6) to possess any three-neck round-bottom flask,
5 tableting machine, encapsulating machine, or gelatin cap-
6 sule, or any equipment, chemical, product, or material
7 which may be used to manufacture a controlled substance
8 or listed chemical, knowing, intending, or having reasonable
9 cause to believe, that it will be used to manufacture a con-
10 trolled substance or listed chemical in violation of this title,
11 the Controlled Substances Act, or the Controlled Sub-
12 stances Import and Export Act;

13 (7) to manufacture, distribute, export, or import any
14 three-neck round-bottom flask, tableting machine, encap-
15 sulating machine, or gelatin capsule, or any equipment,
16 chemical, product, or material which may be used to manu-
17 facture a controlled substance or listed chemical, knowing,
18 intending, or having reasonable cause to believe, that it will
19 be used to manufacture a controlled substance or listed
20 chemical in violation of this title, the Controlled Substances
21 Act, or the Controlled Substances Import and Export Act
22 or, in the case of an exportation, in violation of this title,
23 the Controlled Substances Act, the Controlled Substances
24 Import and Export Act, or of the laws of the country to
25 which it is exported;

26 (8) to create a chemical mixture for the purpose of
27 evading a requirement of section 310 of the Controlled
28 Substances Act or to receive a chemical mixture created for
29 that purpose; or

30 (9) to distribute, import, or export a list I chemical
31 without the registration required by the Controlled Sub-
32 stances Act or the Controlled Substances Import and Ex-
33 port Act.

34 (b) USE OF COMMUNICATION FACILITY.—

35 (1) It shall be unlawful for any person knowingly or
36 intentionally to use any communication facility in commit-
37 ting or in causing or facilitating the commission of any fel-

1 ony under this chapter or the Controlled Substances Act or
2 the Controlled Substances Import and Export Act.

3 (2) Each separate use of a communication facility
4 shall be a separate offense under this subsection.

5 (3) As used in this subsection, the term “communica-
6 tion facility” means any and all public and private instru-
7 mentalities used or useful in the transmission of writing,
8 signs, signals, pictures, or sounds of all kinds and includes
9 mail, telephone, wire, radio, and all other means of commu-
10 nication.

11 (c) ADVERTISING.—

12 (1) It shall be unlawful for any person to place in any
13 newspaper, magazine, handbill, or other publications, any
14 written advertisement knowing that it has the purpose of
15 seeking or offering illegally to receive, buy, or distribute a
16 schedule I controlled substance.

17 (2) As used in this subsection the term “advertis-
18 ment” includes, in addition to its ordinary meaning, such
19 advertisements as those for a catalog of schedule I con-
20 trolled substances and any similar written advertisement
21 that has the purpose of seeking or offering illegally to re-
22 ceive, buy, or distribute a schedule I controlled substance.
23 The term “advertisement” does not include material which
24 merely advocates the use of a similar material, which advo-
25 cates a position or practice, and does not attempt to pro-
26 pose or facilitate an actual transaction in a schedule I con-
27 trolled substance.

28 (d) PENALTIES.—

29 (1) Except as provided in paragraph (2), whoever
30 knowingly violates this section shall be imprisoned not more
31 than 4 years; except that if any person commits such a vio-
32 lation after being convicted for a felony under any law of
33 the United States relating to controlled substances, nar-
34 cotic drugs, marihuana, or depressant or stimulant sub-
35 stances, such person shall be sentenced to a term of impris-
36 onment of not more than 8 years.

1 (2) Whoever, with the intent to manufacture or to fa-
2 cilitate the manufacture of methamphetamine, violates
3 paragraph (6) or (7) of subsection (a), shall be imprisoned
4 not more than 10 years; except that if any person commits
5 such a violation after one or more prior convictions of that
6 persons for a violation of any law of the United States or
7 any State relating to controlled substances or listed chemi-
8 cals, such person shall be imprisoned not more than 20
9 years.

10 (e) INJUNCTION RELATING TO ENGAGING IN TRANS-
11 ACTIONS.— In addition to any other applicable penalty, any
12 person convicted of a felony violation of this section relating to
13 the receipt, distribution, manufacture, exportation, or importa-
14 tion of a listed chemical may be enjoined from engaging in any
15 transaction involving a listed chemical for not more than ten
16 years.

17 (f) DECLARATORY AND OTHER RELIEF.—

18 (1) In addition to any penalty provided in this section,
19 the Attorney General is authorized to commence a civil ac-
20 tion for appropriate declaratory or injunctive relief relating
21 to a violation of this section, section 402, or section 406.

22 (2) Any action under this subsection may be brought
23 in the district court of the United States for the district
24 in which the defendant is located or resides or is doing
25 business.

26 (3) Any order or judgment issued by the court pursu-
27 ant to this subsection shall be tailored to restrain the viola-
28 tion.

29 (4) The court shall proceed as soon as practicable to
30 the hearing and determination of such an action. An action
31 under this subsection is governed by the Federal Rules of
32 Civil Procedure except that, if an indictment has been re-
33 turned against the respondent, discovery is governed by the
34 Federal Rules of Criminal Procedure.

35 **§ 411. Penalty for simple possession**

36 (a) ELEMENTS OF OFFENSE.—It shall be unlawful for any
37 person knowingly—

1 (1) to possess a controlled substance unless such sub-
2 stance was obtained directly, or pursuant to a valid pre-
3 scription or order, from a practitioner acting in the course
4 of professional practice, or except as otherwise authorized
5 by the Controlled Substances Act or the Controlled Sub-
6 stances Import and Export Act;

7 (2) to possess any list I chemical obtained pursuant to
8 or under authority of a registration issued to that person
9 under section 303 of the Controlled Substances Act or sec-
10 tion 1008 of the Controlled Substances Import and Export
11 Act, if that registration has been revoked or suspended, if
12 that registration has expired, or if the registrant has ceased
13 to do business in the manner contemplated by his registra-
14 tion.

15 (b) PUNISHMENT.—

16 (1) GENERALLY.—Whoever violates subsection (a)
17 shall be imprisoned not more than 1 year, except that the
18 offense is after a prior conviction of the offender under the
19 Controlled Substances Act or the Controlled Substances
20 Import and Export Act, or for any drug, narcotic, or chem-
21 ical offense chargeable under the law of any State, the of-
22 fender shall be imprisoned not less than 15 days nor more
23 than 2 years, and shall be fined a minimum of \$2,500, and
24 if the offense is after two or more such convictions, the of-
25 fender shall be sentenced to a term of imprisonment for not
26 less than 90 days but not more than 3 years, and shall be
27 fined a minimum of \$5,000.

28 (2) COCAINE BASE.—Notwithstanding paragraph (a),
29 a person convicted under this section for the possession of
30 a mixture or substance which contains cocaine base shall
31 be imprisoned not less than 5 years and not more than 20
32 years, and fined a minimum of \$1,000, if the conviction is
33 a first conviction under this subsection and the amount of
34 the mixture or substance exceeds 5 grams, if the conviction
35 is after a prior conviction for the possession of such a mix-
36 ture or substance under this subsection becomes final and
37 the amount of the mixture or substance exceeds 3 grams,

1 or if the conviction is after 2 or more prior convictions for
 2 the possession of such a mixture or substance under this
 3 subsection become final and the amount of the mixture or
 4 substance exceeds 1 gram.

5 (3) FLUNITRAZEPAM.—Notwithstanding any penalty
 6 provided in this subsection, any person convicted under this
 7 subsection for the possession of flunitrazepam shall be im-
 8 prisoned for not more than 3 years, shall be fined as other-
 9 wise provided in this section, or both. The imposition or
 10 execution of a minimum sentence required to be imposed
 11 under this subsection shall not be suspended or deferred.

12 (4) COSTS.—Further, upon conviction, a person who
 13 violates this subsection shall be fined the reasonable costs
 14 of the investigation and prosecution of the offense, includ-
 15 ing the costs of prosecution of an offense as defined in sec-
 16 tions 1918 and 1920 of title 28, except that this sentence
 17 shall not apply and a fine under this section need not be
 18 imposed if the court determines the defendant lacks the
 19 ability to pay.

20 (c) DEFINITION.—As used in this section, the term “drug,
 21 narcotic, or chemical offense” means any offense which pro-
 22 scribes the possession, distribution, manufacture, cultivation,
 23 sale, transfer, or the attempt or conspiracy to possess, dis-
 24 tribute, manufacture, cultivate, sell or transfer any substance
 25 the possession of which is prohibited under the Controlled Sub-
 26 stances Act.

27 **§412. Civil penalty for possession of small**
 28 **amounts of certain controlled substances**

29 (a) IN GENERAL.—An individual who knowingly possesses
 30 a controlled substance described in section 403(a) in violation
 31 of section 411 in an amount that, as specified by regulation of
 32 the Attorney General, is a personal use amount shall be liable
 33 to the United States for a civil penalty in an amount not to
 34 exceed \$10,000.

35 (b) INCOME AND NET ASSETS.—The income and net as-
 36 sets of an individual shall not be relevant to the determination
 37 whether to assess a civil penalty under this section or to pros-

1 ecute the individual criminally. However, in determining the
2 amount of a penalty under this section, the income and net as-
3 sets of an individual shall be considered.

4 (c) PRIOR CONVICTION.—A civil penalty may not be as-
5 sessed under this section if the individual previously was con-
6 victed of a Federal or State offense relating to a controlled sub-
7 stance.

8 (d) LIMITATION ON NUMBER OF ASSESSMENTS.—A civil
9 penalty may not be assessed on an individual under this section
10 on more than two separate occasions.

11 (e) ASSESSMENT.—A civil penalty under this section may
12 be assessed by the Attorney General only by an order made on
13 the record after opportunity for a hearing in accordance with
14 section 554 of title 5. The Attorney General shall provide writ-
15 ten notice to the individual who is the subject of the proposed
16 order informing the individual of the opportunity to receive
17 such a hearing with respect to the proposed order. The hearing
18 may be held only if the individual makes a request for the hear-
19 ing before the expiration of the 30-day period beginning on the
20 date such notice is issued.

21 (f) COMPROMISE.—The Attorney General may com-
22 promise, modify, or remit, with or without conditions, any civil
23 penalty imposed under this section.

24 (g) JUDICIAL REVIEW.—If the Attorney General issues an
25 order pursuant to subsection (e) after a hearing described in
26 such subsection, the individual who is the subject of the order
27 may, before the expiration of the 30-day period beginning on
28 the date the order is issued, bring a civil action in the appro-
29 priate district court of the United States. In such action, the
30 law and the facts of the violation and the assessment of the
31 civil penalty shall be determined de novo, and shall include the
32 right of a trial by jury, the right to counsel, and the right to
33 confront witnesses. The facts of the violation shall be proved
34 beyond a reasonable doubt.

35 (h) CIVIL ACTION.—If an individual does not request a
36 hearing pursuant to subsection (e) and the Attorney General
37 issues an order pursuant to such subsection, or if an individual

1 does not under subsection (g) seek judicial review of such an
2 order, the Attorney General may commence a civil action in any
3 appropriate district court of the United States for the purpose
4 of recovering the amount assessed and an amount representing
5 interest at a rate computed in accordance with section 1961 of
6 title 28, United States Code. Such interest shall accrue from
7 the expiration of the 30-day period described in subsection (g).
8 In such an action, the decision of the Attorney General to issue
9 the order, and the amount of the penalty assessed by the Attor-
10 ney General, shall not be subject to review.

11 (i) LIMITATION.—The Attorney General may not under
12 this section commence proceeding against an individual after
13 the expiration of the 5-year period beginning on the date on
14 which the individual allegedly violated subsection (a).

15 (j) EXPUNGEMENT PROCEDURES.—The Attorney General
16 shall dismiss the proceedings under this section against an indi-
17 vidual upon application of such individual at any time after the
18 expiration of 3 years if—

19 (1) the individual has not previously been assessed a
20 civil penalty under this section;

21 (2) the individual has paid the assessment;

22 (3) the individual has complied with any conditions
23 imposed by the Attorney General;

24 (4) the individual has not been convicted of a Federal
25 or State offense relating to a controlled substance; and

26 (5) the individual agrees to submit to a drug test, and
27 such test shows the individual to be drug free.

28 A nonpublic record of a disposition under this subsection shall
29 be retained by the Department of Justice solely for the purpose
30 of determining in any subsequent proceeding whether the per-
31 son qualified for a civil penalty or expungement under this sec-
32 tion. If a record is expunged under this subsection, an indi-
33 vidual concerning whom such an expungement has been made
34 shall not be held thereafter under any provision of law to be
35 guilty of perjury, false swearing, or making a false statement
36 by reason of his failure to recite or acknowledge a proceeding

1 under this section or the results thereof in response to an in-
 2 quiry made of him for any purpose.

3 **§ 413. Continuing criminal enterprise**

4 (a) ENGAGING IN ENTERPRISE.—

5 (1) Whoever engages in a continuing criminal enter-
 6 prise shall be imprisoned for any term of years not less
 7 than 20, or for life and fined not more than \$2,000,000.

8 (2) If a person engages in such activity after a prior
 9 conviction of that person under this section, the offender
 10 shall be imprisoned any term of years not less than 30, or
 11 for life, and fined not to exceed the greater of twice the
 12 amount otherwise authorized in this chapter, or
 13 \$4,000,000.

14 (b) AGGRAVATED OFFENSE.—Whoever engages in a con-
 15 tinuing criminal enterprise shall be imprisoned for life and
 16 fined under subsection (a), if—

17 (1) such person is the principal administrator, orga-
 18 nizer, or leader of the enterprise or is one of several such
 19 principal administrators, organizers, or leaders; and

20 (2)(A) the violation referred to in subsection (c)(1) in-
 21 volved at least 300 times the quantity of a substance de-
 22 scribed in section 403(b), or

23 (B) the enterprise, or any other enterprise in which
 24 the defendant was the principal or one of several principal
 25 administrators, organizers, or leaders, received \$10 million
 26 dollars in gross receipts during any twelve-month period of
 27 its existence for the manufacture, importation, or distribu-
 28 tion of a substance described in section 403(b).

29 (c) WHAT CONSTITUTES “ENGAGING”.—For purposes of
 30 this section, a person is engaged in a continuing criminal enter-
 31 prise if—

32 (1) that person violates any provision of this chapter
 33 the punishment for which is a felony, and

34 (2) such violation is a part of a continuing series of
 35 violations of chapter—

36 (A) which are undertaken by such person in con-
 37 cert with five or more other persons with respect to

1 whom such person occupies a position of organizer, a
 2 supervisory position, or any other position of manage-
 3 ment, and

4 (B) from which such person obtains substantial in-
 5 come or resources.

6 (d) SPECIAL RULE FOR SENTENCING.—In the case of any
 7 sentence imposed under this section, imposition or execution of
 8 such sentence shall not be suspended, probation shall not be
 9 granted, and the Act of July 15, 1932 (D.C. Code, secs. 24-
 10 203—24-207), shall not apply.

11 (e) DEATH PENALTY.—

12 (1) In addition to the other penalties set forth in this
 13 section whoever—

14 (A) while engaging in or working in furtherance of a
 15 continuing criminal enterprise, or engaging in an offense
 16 punishable under section 403(a) intentionally kills or coun-
 17 sels, commands, induces, procures, or causes the intentional
 18 killing of an individual and such killing results; and

19 (B) during the commission of, in furtherance of, or
 20 while attempting to avoid apprehension, prosecution or
 21 service of a prison sentence for, a felony violation of this
 22 chapter intentionally kills or counsels, commands, induces,
 23 procures, or causes the intentional killing of any Federal,
 24 State, or local law enforcement officer engaged in, or on ac-
 25 count of, the performance of such officer’s official duties
 26 and such killing results.

27 shall be imprisoned any term of year not less than 20, or for
 28 life, or may be sentenced to death.

29 (2) As used in paragraph (1)(B), the term “law enforce-
 30 ment officer” means a public servant authorized by law to con-
 31 duct or engage in the prevention, investigation, prosecution or
 32 adjudication of an offense, and includes those engaged in cor-
 33 rections, probation, or parole functions.

34 **§ 414. Drug paraphernalia**

35 (a) OFFENSE.—Whoever—

36 (1) sells or offers for sale drug paraphernalia;

1 (2) uses a facility of interstate or foreign commerce to
2 transport drug paraphernalia; or

3 (3) imports or exports drug paraphernalia.

4 shall be imprisoned not more than three years.

5 (b) FORFEITURE.—Any drug paraphernalia involved in
6 any violation of subsection (a) of this section shall be subject
7 to seizure and forfeiture upon the conviction of a person for
8 such violation. Any such paraphernalia shall be delivered to the
9 Administrator of General Services, General Services Adminis-
10 tration, who may order such paraphernalia destroyed or may
11 authorize its use for law enforcement or educational purposes
12 by Federal, State, or local authorities.

13 (c) DEFINITION.—The term “drug paraphernalia” means
14 any equipment, product, or material of any kind which is pri-
15 marily intended or designed for use in manufacturing,
16 compounding, converting, concealing, producing, processing,
17 preparing, injecting, ingesting, inhaling, or otherwise intro-
18 ducing into the human body a controlled substance, possession
19 of which is unlawful under the Controlled Substances Act (title
20 II of Public Law 91–513). It includes items primarily intended
21 or designed for use in ingesting, inhaling, or otherwise intro-
22 ducing marijuana, cocaine, hashish, hashish oil, PCP, meth-
23 amphetamine, or amphetamines into the human body, such
24 as—

25 (1) metal, wooden, acrylic, glass, stone, plastic, or ce-
26 ramic pipes with or without screens, permanent screens,
27 hashish heads, or punctured metal bowls;

28 (2) water pipes;

29 (3) carburetion tubes and devices;

30 (4) smoking and carburetion masks;

31 (5) roach clips: meaning objects used to hold burning
32 material, such as a marihuana cigarette, that has become
33 too small or too short to be held in the hand;

34 (6) miniature spoons with level capacities of one-tenth
35 cubic centimeter or less;

36 (7) chamber pipes;

37 (8) carburetor pipes;

- 1 (9) electric pipes;
- 2 (10) air-driven pipes;
- 3 (11) chillums;
- 4 (12) bonges;
- 5 (13) ice pipes or chillers;
- 6 (14) wired cigarette papers; or
- 7 (15) cocaine freebase kits.

8 (e) FACTORS WHICH MAY BE CONSIDERED.—In deter-
9 mining whether an item constitutes drug paraphernalia, in ad-
10 dition to all other logically relevant factors, the following may
11 be considered:

12 (1) Instructions, oral or written, provided with the
13 item concerning its use.

14 (2) Descriptive materials accompanying the item which
15 explain or depict its use.

16 (3) National and local advertising concerning its use.

17 (4) The manner in which the item is displayed for
18 sale.

19 (5) Whether the owner, or anyone in control of the
20 item, is a legitimate supplier of like or related items to the
21 community, such as a licensed distributor or dealer of to-
22 bacco products.

23 (6) Direct or circumstantial evidence of the ratio of
24 sales of the item to the total sales of the business enter-
25 prise.

26 (7) The existence and scope of legitimate uses of the
27 item in the community.

28 (8) Expert testimony concerning its use.

29 (f) EXCLUSIONS.—This section shall not apply to—

30 (1) any person authorized by local, State, or Federal
31 law to manufacture, possess, or distribute such items; or

32 (2) any item that, in the normal lawful course of busi-
33 ness, is imported, exported, transported, or sold through
34 the mail or by any other means, and traditionally intended
35 for use with tobacco products, including any pipe, paper, or
36 accessory.

§ 415. Proceedings to establish prior convictions**(a) FILING OF INFORMATION.—**

(1) No person who is convicted of an offense under this chapter shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) AFFIRMATION OR DENIAL OF PREVIOUS CONVICTION.—If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(c) DENIAL, WRITTEN RESPONSE, AND HEARING.—

(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the

1 United States attorney. The court shall hold a hearing to
2 determine any issues raised by the response which would
3 except the person from increased punishment. The failure
4 of the United States attorney to include in the information
5 the complete criminal record of the person or any facts in
6 addition to the convictions to be relied upon shall not con-
7 stitute grounds for invalidating the notice given in the in-
8 formation required by subsection (a)(1). The hearing shall
9 be before the court without a jury and either party may in-
10 troduce evidence. Except as otherwise provided in para-
11 graph (2) of this subsection, the United States attorney
12 shall have the burden of proof beyond a reasonable doubt
13 on any issue of fact. At the request of either party, the
14 court shall enter findings of fact and conclusions of law.

15 (2) A person claiming that a conviction alleged in the
16 information was obtained in violation of the Constitution of
17 the United States shall set forth his claim, and the factual
18 basis therefor, with particularity in his response to the in-
19 formation. The person shall have the burden of proof by a
20 preponderance of the evidence on any issue of fact raised
21 by the response. Any challenge to a prior conviction, not
22 raised by response to the information before an increased
23 sentence is imposed in reliance thereon, shall be waived un-
24 less good cause be shown for failure to make a timely chal-
25 lenge.

26 (d) IMPOSITION OF SENTENCE.—

27 (1) If the person files no response to the information,
28 or if the court determines, after hearing, that the person
29 is subject to increased punishment by reason of prior con-
30 victions, the court shall proceed to impose sentence upon
31 him as provided by this part.

32 (2) If the court determines that the person has not
33 been convicted as alleged in the information, that a convic-
34 tion alleged in the information is invalid, or that the person
35 is otherwise not subject to an increased sentence as a mat-
36 ter of law, the court shall, at the request of the United
37 States attorney, postpone sentence to allow an appeal from

1 that determination. If no such request is made, the court
2 shall impose sentence as provided by this part. The person
3 may appeal from an order postponing sentence as if sen-
4 tence had been pronounced and a final judgment of convic-
5 tion entered.

6 (e) No person who is convicted of an offense under this
7 chapter may challenge the validity of any prior conviction al-
8 leged under this section which occurred more than five years
9 before the date of the information alleging such prior convic-
10 tion.

11 **§ 416. Anhydrous ammonia**

12 (a) It is unlawful for any person—

13 (1) to steal anhydrous ammonia, or

14 (2) to transport stolen anhydrous ammonia across
15 State lines,

16 knowing, intending, or having reasonable cause to believe that
17 such anhydrous ammonia will be used to manufacture a con-
18 trolled substance in violation of this part.

19 (b) Any person who violates subsection (a) shall be impris-
20 oned or fined, or both, in accordance with section 403(d) as if
21 such violation were a violation of a provision of section 403.

22 **§ 417. Controlled substances import and export** 23 **listed chemical offenses**

24 Whoever knowingly—

25 (1) imports or exports a listed chemical with intent to
26 manufacture a controlled substance in violation of the Con-
27 trolled Substances Act or the Controlled Substances Import
28 and Export Act;

29 (2) exports a listed chemical in violation of the laws
30 of the country to which the chemical is exported or serves
31 as a broker or trader for an international transaction in-
32 volving a listed chemical, if the transaction is in violation
33 of the laws of the country to which the chemical is ex-
34 ported;

35 (3) imports or exports a listed chemical knowing, or
36 having reasonable cause to believe, that the chemical will
37 be used to manufacture a controlled substance in violation

1 of the Controlled Substances Act or the Controlled Sub-
 2 stances Import or Export Act;

3 (4) exports a listed chemical, or serves as a broker or
 4 trader for an international transaction involving a listed
 5 chemical, knowing, or having reasonable cause to believe,
 6 that the chemical will be used to manufacture a controlled
 7 substance in violation of the laws of the country to which
 8 the chemical is exported;

9 (5) imports or exports a listed chemical, with the in-
 10 tent to evade the reporting or recordkeeping requirements
 11 of section 1018 applicable to such importation or expor-
 12 tation by falsely representing to the Attorney General that
 13 the importation or exportation qualifies for a waiver of the
 14 15-day notification requirement granted pursuant to sec-
 15 tion 1018(e) (2) or (3) of the Controlled Substances Import
 16 and Export Act by misrepresenting the actual country of
 17 final destination of the listed chemical or the actual listed
 18 chemical being imported or exported;

19 (6) imports or exports a listed chemical in violation of
 20 section 1007 or 1018; or

21 (7) manufactures, possesses with intent to distribute,
 22 or distributes a listed chemical in violation of section 1009.
 23 shall be imprisoned not more than 20 years in the case of a
 24 violation of paragraph (1) or (3) involving a list I chemical or
 25 not more than 10 years in the case of a violation of this sub-
 26 section other than a violation of paragraph (1) or (3) involving
 27 a list I chemical, or both.

28 **CHAPTER 19—ORGANIZED CRIME**

Subchapter	Sec.
A. Racketeering	501
B. Racketeer influenced and corrupt organizations	511
C. Criminal street gangs	521

29 **SUBCHAPTER A—RACKETEERING**

- Sec.
- 501. Interference with commerce by threats or violence.
 - 502. Interstate and foreign travel or transportation in aid of racketeering enterprises.
 - 503. Interstate transportation of wagering paraphernalia.
 - 504. Offer, acceptance, or solicitation to influence operations of employee benefit plan.

505. Prohibition of illegal gambling businesses.
 506. Use of interstate commerce facilities in the commission of murder-for-hire.
 507. Violent crimes in aid of racketeering activity.
 508. Prohibition of unlicensed money transmitting businesses.

1 **§ 501. Interference with commerce by threats or**
 2 **violence**

3 (a) OFFENSE.—Whoever affects interstate or foreign com-
 4 merce, by robbery or extortion or attempts or conspires so to
 5 do, or commits or threatens physical violence to any person or
 6 property in furtherance of a plan or purpose to do anything in
 7 violation of this section shall be imprisoned not more than 20
 8 years.

9 (b) DEFINITIONS.—As used in this section—

10 (1) The term “robbery” means the unlawful taking or
 11 obtaining of personal property from the person or presence
 12 of another, against his will, by means of actual or threat-
 13 ened force, or violence, or fear of injury, immediate or fu-
 14 ture, to his person or property, or property in his custody
 15 or possession, or the person or property of a relative or
 16 member of his family or of anyone in his company at the
 17 time of the taking or obtaining.

18 (2) The term “extortion” means the obtaining of prop-
 19 erty from another, with his consent, induced by wrongful
 20 use of actual or threatened force, violence, or fear, or under
 21 color of official right.

22 (c) EXCLUSIONS.—This section does not repeal, modify or
 23 affect section 6 or 20 of the Clayton Act, the Norris-LaGuardia
 24 Act, the Labor Management Relations Act, 1947, or the Rail-
 25 way Labor Act.

26 **§ 502. Interstate and foreign travel or transpor-**
 27 **tation in aid of racketeering enterprises**

28 (a) ELEMENTS OF OFFENSE.—

29 (1) Whoever travels in interstate or foreign commerce
 30 or uses the mail or any facility in interstate or foreign com-
 31 merce, with intent to—

32 (A) distribute the proceeds of any unlawful activ-
 33 ity;

1 (B) commit any crime of violence to further any
2 unlawful activity; or

3 (C) otherwise promote, manage, establish, carry
4 on, or facilitate the promotion, management, establish-
5 ment, or carrying on, of any unlawful activity;

6 and thereafter performs or attempts to engage in the conduct
7 so intended shall be punished as provided in subsection (b).

8 (b) PUNISHMENT.—The punishment for an offense under
9 subsection (a)—

10 (1) with respect to conduct described in subparagraph
11 (A) or (C) shall be imprisoned not more than 5 years; or

12 (B) with respect to conduct described in subparagraph
13 (B) shall be imprisoned for not more than 20 years and if
14 death results shall be imprisoned for any term of years or
15 for life.

16 (c) DEFINITIONS.—As used in this section the term “un-
17 lawful activity” means—

18 (1) any business enterprise involving gambling, liquor
19 on which the Federal excise tax has not been paid, nar-
20 cotics or controlled substances (as defined in section 102(6)
21 of the Controlled Substances Act), or prostitution offenses
22 in violation of the laws of the State in which they are com-
23 mitted or of the United States;

24 (2) extortion, bribery, or arson in violation of the laws
25 of the State in which committed or of the United States;
26 or

27 (3) any act which is indictable under subchapter II of
28 chapter 53 of title 31, or under section 1451 or 1452.

29 **§ 503. Interstate transportation of wagering para-**
30 **phernalia**

31 (a) OFFENSE.—Whoever, except a common carrier in the
32 usual course of its business, knowingly carries or sends in
33 interstate or foreign commerce any device to be used—

34 (1) bookmaking;

35 (2) wagering pools with respect to a sporting event; or

36 (3) in a numbers, policy, bolita, or similar game

37 shall be imprisoned for not more than five years.

1 (b) EXCLUSION.—This section does not apply to—

2 (1) parimutuel betting equipment, parimutuel tickets
3 where legally acquired, or parimutuel materials used or de-
4 signed for use at racetracks or other sporting events in
5 connection with which betting is legal under applicable
6 State law;

7 (2) the transportation of betting materials to be used
8 in the placing of bets or wagers on a sporting event into
9 a State in which such betting is legal under the statutes
10 of that State;

11 (3) the carriage or transportation in interstate or for-
12 eign commerce of any newspaper or similar publication;

13 (4) equipment, tickets, or materials used or designed
14 for use within a State in a lottery conducted by that State
15 acting under authority of State law; or

16 (5) the transportation in foreign commerce to a des-
17 tination in a foreign country of equipment, tickets, or mate-
18 rials designed to be used within that foreign country in a
19 lottery which is authorized by the laws of that foreign
20 country.

21 (c) EFFECT ON STATE PROSECUTIONS.—Nothing in this
22 section creates immunity from criminal prosecution under any
23 laws of a.

24 (d) DEFINITIONS.— As used in this section—

25 (1) the term “foreign country” means any empire,
26 country, dominion, colony, or protectorate, or any subdivi-
27 sion thereof (other than the United States, its territories or
28 possessions); and

29 (2) the term “lottery” means the pooling of proceeds
30 derived from the sale of tickets or chances and allotting
31 those proceeds or parts thereof by chance to one or more
32 chance takers or ticket purchasers, but does not include the
33 placing or accepting of bets or wagers on sporting events
34 or contests.

35 **§ 504. Offer, acceptance, or solicitation to influ-**
36 **ence operations of employee benefit plan**

37 (a) OFFENSE.—Whoever, being—

1 (1) an administrator, officer, trustee, custodian, coun-
2 sel, agent, or employee of any employee welfare benefit plan
3 or employee pension benefit plan;

4 (2) an officer, counsel, agent, or employee of an em-
5 ployer or an employer any of whose employees are covered
6 by such plan;

7 (3) an officer, counsel, agent, or employee of an em-
8 ployee organization any of whose members are covered by
9 such plan; or

10 (4) a person who, or an officer, counsel, agent, or em-
11 ployee of an organization which, provides benefit plan serv-
12 ices to such plan;

13 receives or agrees to receive or solicits anything of value be-
14 cause of or with intent to be influenced with respect to, any
15 of the actions, decisions, or other duties relating to any ques-
16 tion or matter concerning such plan or any person who directly
17 or indirectly gives or offers, or promises to give or offer, any-
18 thing prohibited by this section shall be imprisoned not more
19 than three years:

20 (b) EXCLUSION.—This section does not prohibit the pay-
21 ment to or acceptance by any person of bona fide salary, com-
22 pensation, or other payments made for goods or facilities actu-
23 ally furnished or for services actually performed in the regular
24 course of his duties as such person, administrator, officer,
25 trustee, custodian, counsel, agent, or employee of such plan,
26 employer, employee organization, or organization providing ben-
27 efit plan services to such plan.

28 (c) DEFINITIONS.—As used in this section—

29 (1) the term “any employee welfare benefit plan” or
30 “employee pension benefit plan” means any employee wel-
31 fare benefit plan or employee pension benefit plan, respec-
32 tively, subject to any provision of title I of the Employee
33 Retirement Income Security Act of 1974; and

34 (2) the term “employee organization” and “adminis-
35 trator” have the meanings given those terms, respectively,
36 in sections 3(4) and (3)(16) of the Employee Retirement
37 Income Security Act of 1974.

1 **§ 505. Prohibition of illegal gambling businesses**

2 (a) OFFENSE.—Whoever conducts, finances, manages, su-
3 pervises, directs, or owns all or part of an illegal gambling busi-
4 ness shall be fined under this title or imprisoned not more than
5 five years, or both.

6 (b) DEFINITIONS.—As used in this section—

7 (1) the term “illegal gambling business” means a gam-
8 bling business which—

9 (A) is a violation of the law of a State or political
10 subdivision in which it is conducted;

11 (B) involves five or more persons who conduct, fi-
12 nance, manage, supervise, direct, or own all or part of
13 such business; and

14 (C) has been or remains in substantially contin-
15 uous operation for a period in excess of 30 days or has
16 a gross revenue of \$2,000 in any single day.;

17 (2) the term “gambling” includes pool-selling, book-
18 making, maintaining slot machines, roulette wheels or dice
19 tables, and conducting lotteries, policy, bolita or numbers
20 games, or selling chances therein.

21 (c) ESTABLISHMENT OF PROBABLE CAUSE.—If five or
22 more persons conduct, finance, manage, supervise, direct, or
23 own all or part of a gambling business and such business oper-
24 ates for two or more successive days, then, for the purpose of
25 obtaining warrants for arrests, interceptions, and other
26 searches and seizures, probable cause that the business receives
27 gross revenue in excess of \$2,000 in any single day shall be
28 deemed to have been established.

29 (d) FORFEITURE.—Any property, including money, used
30 in violation of the provisions of this section may be seized and
31 forfeited to the United States. All provisions of law relating to
32 the seizures, summary, and judicial forfeiture procedures, and
33 condemnation of vessels, vehicles, merchandise, and baggage for
34 violation of the customs laws; the disposition of such vessels,
35 vehicles, merchandise, and baggage or the proceeds from such
36 sale; the remission or mitigation of such forfeitures; and the
37 compromise of claims and the award of compensation to in-

1 formers in respect of such forfeitures shall apply to seizures
 2 and forfeitures incurred or alleged to have been incurred under
 3 the provisions of this section, insofar as applicable and not in-
 4 consistent with such provisions. Such duties as are imposed
 5 upon the collector of customs or any other person in respect
 6 to the seizure and forfeiture of vessels, vehicles, merchandise,
 7 and baggage under the customs laws shall be performed with
 8 respect to seizures and forfeitures of property used or intended
 9 for use in violation of this section by such officers, agents, or
 10 other persons as may be designated for that purpose by the At-
 11 torney General.

12 (e) EXCLUSION.—This section does not apply to any bingo
 13 game, lottery, or similar game of chance conducted by an orga-
 14 nization exempt from tax under paragraph (3) of subsection (c)
 15 of section 501 of the Internal Revenue Code of 1986, as
 16 amended, if no part of the gross receipts derived from such ac-
 17 tivity inures to the benefits of any private shareholder, member,
 18 or employee of such organization except as compensation for
 19 actual expenses incurred by him in the conduct of such activity.

20 **§ 506. Use of interstate commerce facilities in the**
 21 **commission of murder-for-hire**

22 (a) OFFENSE.—Whoever travels in or causes another (in-
 23 cluding the intended victim) to travel in interstate or foreign
 24 commerce, or uses or causes another (including the intended
 25 victim) to use the mail or any facility of interstate or foreign
 26 commerce, with intent that a murder be committed in violation
 27 of the laws of any State or the United States as consideration
 28 for the receipt of, or as consideration for a promise or agree-
 29 ment to pay, anything of pecuniary value, or who conspires to
 30 do so, shall be imprisoned for not more than ten years; and if
 31 personal injury results, shall be imprisoned for not more than
 32 twenty years; and if death results, shall be punished by death
 33 or life imprisonment.

34 (b) DEFINITION.—As used in this section and section
 35 507—

36 (1) the term “anything of pecuniary value” means
 37 anything of value in the form of money, a negotiable in-

1 strument, a commercial interest, or anything else the pri-
2 mary significance of which is economic advantage; and

3 (2) the term “facility of interstate or foreign com-
4 merce” includes means of transportation and communica-
5 tion.

6 **§ 507. Violent crimes in aid of racketeering activ-**
7 **ity**

8 (a) OFFENSE.—Whoever, as consideration for the receipt
9 of, or as consideration for a promise or agreement to pay, any-
10 thing of pecuniary value from an enterprise engaged in racket-
11 eering activity, or for the purpose of gaining entrance to or
12 maintaining or increasing position in an enterprise engaged in
13 racketeering activity, murders, kidnaps, maims, assaults with a
14 dangerous weapon, commits assault resulting in serious bodily
15 injury upon, or threatens to commit a crime of violence against
16 any individual in violation of the laws of any State or the
17 United States, or attempts or conspires so to do, shall be pun-
18 ished—

19 (1) for murder, by death or life imprisonment; and for
20 kidnapping, by imprisonment for any term of years or for
21 life;

22 (2) for maiming, by imprisonment for not more than
23 thirty years;

24 (3) for assault with a dangerous weapon or assault re-
25 sulting in serious bodily injury, by imprisonment for not
26 more than twenty years;

27 (4) for threatening to commit a crime of violence, by
28 imprisonment for not more than five years;

29 (5) for attempting or conspiring to commit murder or
30 kidnapping, by imprisonment for not more than ten years;
31 and

32 (6) for attempting or conspiring to commit a crime in-
33 volving maiming, assault with a dangerous weapon, or as-
34 sault resulting in serious bodily injury, by imprisonment for
35 not more than three years.

36 (b) DEFINITIONS.—As used in this section—

1 (1) the term “racketeering activity” has the meaning
2 set forth in section 511; and

3 (2) the term “enterprise” includes any partnership,
4 corporation, association, or other legal entity, and any
5 union or group of individuals associated in fact although
6 not a legal entity, which is engaged in, or the activities of
7 which affect, interstate or foreign commerce.

8 **§ 508. Prohibition of unlicensed money transmit-**
9 **ting businesses**

10 (a) OFFENSE.—Whoever knowingly conducts, controls,
11 manages, supervises, directs, or owns all or part of an unli-
12 censed money transmitting business, shall be imprisoned not
13 more than 5 years.

14 (b) DEFINITION.—As used in this section—

15 (1) the term “unlicensed money transmitting busi-
16 ness” means a money transmitting business which affects
17 interstate or foreign commerce in any manner or degree
18 and—

19 (A) is operated without an appropriate money
20 transmitting license in a State where such operation is
21 punishable as a misdemeanor or a felony under State
22 law, whether or not the defendant knew that the oper-
23 ation was required to be licensed or that the operation
24 was so punishable;

25 (B) fails to comply with the money transmitting
26 business registration requirements under section 5330
27 of title 31, United States Code, or regulations pre-
28 scribed under such section; or

29 (C) otherwise involves the transportation or trans-
30 mission of funds that are known to the defendant to
31 have been derived from a criminal offense or are in-
32 tended to be used to promote or support unlawful activ-
33 ity; and

34 (2) the term “money transmitting” includes transfer-
35 ring funds on behalf of the public by any and all means
36 including but not limited to transfers within this country

1 or to locations abroad by wire, check, draft, facsimile, or
2 courier.

3 SUBCHAPTER B—RACKETEER INFLUENCED AND
4 CORRUPT ORGANIZATIONS

- Sec.
511. Definitions.
512. Prohibited activities.
513. Criminal penalties.
514. Civil remedies.
515. Venue and process.
516. Expedition of actions.
517. Evidence.
518. Civil investigative demand.

5 **§ 511. Definitions**

6 As used in this subchapter—

7 (1) the term “racketeering activity” means—

8 (A) any act or threat involving murder, kidnap-
9 ping, gambling, arson, robbery, bribery, extortion, deal-
10 ing in obscene matter, or dealing in a controlled sub-
11 stance or listed chemical (as defined in section 102 of
12 the Controlled Substances Act), which is chargeable
13 under State law and punishable by imprisonment for
14 more than one year;

15 (B) any act which is indictable under any of the
16 following provisions of title 18, United States Code:
17 Section 991 (relating to bribery), section 1007 (relating
18 to sports bribery), sections 692, 693, and 694 (relating
19 to counterfeiting), section 647 (relating to theft from
20 interstate shipment) if the act indictable under section
21 647 is felonious, section 652 (relating to embezzlement
22 from pension and welfare funds), sections 155, 156,
23 157, 159 (relating to extortionate credit transactions),
24 section 783 (relating to fraud and related activity in
25 connection with identification documents), section 784
26 (relating to fraud and related activity in connection
27 with access devices), section 1381 (relating to the
28 transmission of gambling information), section 801 (re-
29 lating to mail fraud), section 803 (relating to wire
30 fraud), section 804 (relating to financial institution

1 fraud), section 325 (relating to the procurement of citi-
2 zenship or nationalization unlawfully), section 316 (re-
3 lating to the sale of naturalization or citizenship pa-
4 pers), 318 (relating to bringing in or harboring certain
5 aliens), 321 (relating to aiding or assisting certain
6 aliens to enter the United States), (if the violation of
7 section 318 or 321 was committed for financial gain)
8 sections 1441–1443 (relating to obscene matter), sec-
9 tion 1132 (relating to obstruction of justice), section
10 1135 (relating to obstruction of criminal investiga-
11 tions), section 1137 (relating to the obstruction of
12 State or local law enforcement), section 1138 (relating
13 to tampering with a witness, victim, or an informant),
14 section 1139 (relating to retaliating against a witness,
15 victim, or an informant), section 311 (relating to false
16 statement in application and use of passport), section
17 312 (relating to forgery or false use of passport), sec-
18 tion 313 (relating to misuse of passport), section 314
19 (relating to fraud and misuse of visas, permits, and
20 other documents), sections 1261–1266 (relating to pe-
21 onage, slavery, and trafficking in persons), section 501
22 (relating to interference with commerce, robbery, or ex-
23 tortion), section 502 (relating to racketeering), section
24 503 (relating to interstate transportation of wagering
25 paraphernalia), section 504 (relating to unlawful wel-
26 fare fund payments), section 505 (relating to the prohi-
27 bition of illegal gambling businesses), section 1451 (re-
28 lating to the laundering of monetary instruments), sec-
29 tion 1452 (relating to engaging in monetary trans-
30 actions in property derived from specified unlawful ac-
31 tivity), section 506 (relating to use of interstate com-
32 merce facilities in the commission of murder-for-hire),
33 sections 221, 222, and 223 (relating to sexual exploi-
34 tation of children), sections 671 and 672 (relating to
35 interstate transportation of stolen motor vehicles), sec-
36 tions 674 and 675 (relating to interstate transportation
37 of stolen property), section 676 (relating to trafficking

1 in counterfeit labels for phonorecords, computer pro-
2 grams or computer program documentation or pack-
3 aging and copies of motion pictures or other audio-
4 visual works), section 678 (relating to criminal in-
5 fringement of a copyright), section 679 (relating to un-
6 authorized fixation of and trafficking in sound record-
7 ings and music videos of live musical performances),
8 section 680 (relating to trafficking in goods or services
9 bearing counterfeit marks), section 682 (relating to
10 trafficking in certain motor vehicles or motor vehicle
11 parts), sections 1411–1415 (relating to trafficking in
12 contraband cigarettes), sections 211–214 (relating to
13 white slave traffic), sections 621–627 (relating to bio-
14 logical weapons), sections 363 (relating to chemical
15 weapons), section 601 (relating to nuclear materials);

16 (C) any act which is indictable under section 302
17 of the Labor Management Relations Act, 1947, section
18 186 (dealing with restrictions on payments and loans
19 to labor organizations) or section 501(c) (relating to
20 embezzlement from union funds);

21 (D) any offense involving fraud connected with a
22 case under title 11 (except a case under section 875 of
23 this title), fraud in the sale of securities, or the felo-
24 nious manufacture, importation, receiving, concealment,
25 buying, selling, or otherwise dealing in a controlled sub-
26 stance or listed chemical (as defined in section 102 of
27 the Controlled Substances Act), punishable under any
28 law of the United States;

29 (E) any act which is indictable under the Currency
30 and Foreign Transactions Reporting Act;

31 (F) any act which is indictable under section 278
32 of the Immigration and Nationality Act, if the act in-
33 dictable under such section of such Act was committed
34 for the purpose of financial gain; or

35 (G) any act that is indictable under any provision
36 listed in section 274(g)(5)(B);

1 (2) the term “person” includes any individual or entity
2 capable of holding a legal or beneficial interest in property;

3 (3) the term “enterprise” includes any individual,
4 partnership, corporation, association, or other legal entity,
5 and any union or group of individuals associated in fact al-
6 though not a legal entity;

7 (4) the term “pattern of racketeering activity” re-
8 quires at least two acts of racketeering activity, one of
9 which occurred after October 15, 1970 and the last of
10 which occurred within ten years (excluding any period of
11 imprisonment) after the commission of a prior act of rack-
12 eteering activity;

13 (6) the term “unlawful debt” means a debt—

14 (A) incurred or contracted in gambling activity
15 which was in violation of the law of the United States,
16 a State or political subdivision thereof, or which is un-
17 enforceable under State or Federal law in whole or in
18 part as to principal or interest because of the laws re-
19 lating to usury; and

20 (B) which was incurred in connection with the
21 business of gambling in violation of the law of the
22 United States, a State or political subdivision thereof,
23 or the business of lending money or a thing of value
24 at a rate usurious under State or Federal law, where
25 the usurious rate is at least twice the enforceable rate;

26 (7) the term “racketeering investigator” means any
27 attorney or investigator so designated by the Attorney Gen-
28 eral and charged with the duty of enforcing or carrying
29 into effect this chapter;

30 (8) the term “racketeering investigation” means any
31 inquiry conducted by any racketeering investigator for the
32 purpose of ascertaining whether any person has been in-
33 volved in any violation of this subchapter or of any final
34 order, judgment, or decree of any court of the United
35 States, duly entered in any case or proceeding arising
36 under this subchapter;

1 (9) the term “documentary material” includes any
2 book, paper, document, record, recording, or other material;
3 and

4 (10) the term “Attorney General” includes the Attor-
5 ney General of the United States, the Deputy Attorney
6 General of the United States, the Associate Attorney Gen-
7 eral of the United States, any Assistant Attorney General
8 of the United States, or any employee of the Department
9 of Justice or any employee of any department or agency of
10 the United States so designated by the Attorney General to
11 carry out the powers conferred on the Attorney General by
12 this chapter, and any department or agency so designated
13 may use in investigations authorized by this subchapter ei-
14 ther the investigative provisions of this subchapter or the
15 investigative power of such department or agency otherwise
16 conferred by law.

17 **§ 512. Prohibited activities**

18 (a) USING OR INVESTING PROCEEDS.—It shall be unlaw-
19 ful for any person who has received any income derived, di-
20 rectly or indirectly, from a pattern of racketeering activity or
21 through collection of an unlawful debt in which such person has
22 participated as a principal within the meaning of section 2, title
23 18, United States Code, to use or invest, directly or indirectly,
24 any part of such income, or the proceeds of such income, in
25 acquisition of any interest in, or the establishment or operation
26 of, any enterprise which is engaged in, or the activities of which
27 affect, interstate or foreign commerce. A purchase of securities
28 on the open market for purposes of investment, and without
29 the intention of controlling or participating in the control of the
30 issuer, or of assisting another to do so, shall not be unlawful
31 under this subsection if the securities of the issuer held by the
32 purchaser, the members of his immediate family, and his or
33 their accomplices in any pattern or racketeering activity or the
34 collection of an unlawful debt after such purchase do not
35 amount in the aggregate to one percent of the outstanding se-
36 curities of any one class, and do not confer, either in law or
37 in fact, the power to elect one or more directors of the issuer.

1 (b) MAINTAINING INTEREST OR CONTROL.—It shall be
2 unlawful for any person through a pattern of racketeering ac-
3 tivity or through collection of an unlawful debt to acquire or
4 maintain, directly or indirectly, any interest in or control of any
5 enterprise which is engaged in, or the activities of which affect,
6 interstate or foreign commerce.

7 (c) CONDUCTING AFFAIRS.—It shall be unlawful for any
8 person employed by or associated with any enterprise engaged
9 in, or the activities of which affect, interstate or foreign com-
10 merce, to conduct or participate, directly or indirectly, in the
11 conduct of such enterprise’s affairs through a pattern of rack-
12 eteering activity or collection of unlawful debt.

13 (d) CONSPIRACIES.—It shall be unlawful for any person to
14 conspire to violate subsection (a), (b), or (c).

15 **§ 513. Criminal penalties**

16 Whoever violates section 512 shall be imprisoned not more
17 than 20 years (or for life if the violation is based on a racket-
18 eering activity for which the maximum penalty includes life im-
19 prisonment).

20 **§ 514. Civil remedies**

21 (a) PREVENTION AND RESTRAINT OF VIOLATIONS.—The
22 district courts of the United States shall have jurisdiction to
23 prevent and restrain violations of section 512 by issuing appro-
24 priate orders, including—

25 (1) ordering any person to divest any interest in any
26 enterprise; and

27 (2) imposing reasonable restrictions on the future ac-
28 tivities or investments of any person, including—

29 (A) prohibiting that person from engaging in the
30 same type of endeavor as the enterprise engaged in, the
31 activities of which affect interstate or foreign com-
32 merce; or

33 (B) ordering dissolution or reorganization of any
34 enterprise, making due provision for the rights of inno-
35 cent persons.

36 (b) PRELIMINARY MATTERS.—The Attorney General may
37 institute proceedings under this section. Pending final deter-

1 mination thereof, the court may at any time enter such re-
2 straining orders or prohibitions, or take such other actions, in-
3 cluding the acceptance of satisfactory performance bonds, as it
4 shall deem proper.

5 (c) PRIVATE RIGHT OF ACTION.—Any person injured in
6 his business or property by reason of a violation of section 512
7 may sue therefor in any appropriate United States district
8 court and shall recover threefold the damages he sustains and
9 the cost of the suit, including a reasonable attorney’s fee, ex-
10 cept that no person may rely upon any conduct that would have
11 been actionable as fraud in the purchase or sale of securities
12 to establish a violation of section 512. The exception contained
13 in the preceding sentence does not apply to an action against
14 any person that is criminally convicted in connection with the
15 fraud, in which case the statute of limitations shall start to run
16 on the date on which the conviction becomes final.

17 (d) ESTOPPEL.—A final judgment or decree rendered in
18 favor of the United States in any criminal proceeding brought
19 by the United States under this chapter shall estop the defend-
20 ant from denying the essential allegations of the criminal of-
21 fense in any subsequent civil proceeding brought by the United
22 States.

23 **§ 515. Venue and process**

24 (a) VENUE.—Any civil action or proceeding under this
25 subchapter may be instituted in the district court of the United
26 States for any district in which such person resides, is found,
27 has an agent, or transacts his affairs.

28 (b) SUMMONS.—In any action under section 514 in any
29 district court of the United States in which it is shown that
30 the ends of justice require that other parties residing in any
31 other district be brought before the court, the court may cause
32 such parties to be summoned, and process for that purpose
33 may be served in any judicial district of the United States by
34 the marshal thereof.

35 (c) SUBPOENAS.—In any civil or criminal action or pro-
36 ceeding instituted by the United States under this subchapter
37 in the district court of the United States for any judicial dis-

1 trict, subpoenas issued by such court to compel the attendance
2 of witnesses may be served in any other judicial district, except
3 that in any civil action or proceeding no such subpoena shall be
4 issued for service upon any individual who resides in another
5 district at a place more than one hundred miles from the place
6 at which such court is held without approval given by a judge
7 of such court upon a showing of good cause.

8 (d) OTHER PROCESS.—All other process in any action or
9 proceeding under this subchapter may be served on any person
10 in any judicial district in which such person resides, is found,
11 has an agent, or transacts affairs.

12 **§ 516. Expedition of actions**

13 In any civil action instituted under this subchapter by the
14 United States in any district court of the United States, the
15 Attorney General may file with the clerk of such court a certifi-
16 cate stating that in the Attorney General's opinion the case is
17 of general public importance. A copy of that certificate shall be
18 furnished immediately by such clerk to the chief judge or, in
19 the absence of the chief judge, to the presiding district judge
20 of the district in which such action is pending. Upon receipt
21 of such copy, such judge shall designate immediately a judge
22 of that district to hear and determine the action.

23 **§ 517. Evidence**

24 In any proceeding ancillary to or in any civil action insti-
25 tuted by the United States under this subchapter the pro-
26 ceedings may be open or closed to the public at the discretion
27 of the court after consideration of the rights of affected per-
28 sons.

29 **§ 518. Civil investigative demand**

30 (a) ISSUANCE.—If the Attorney General has reason to be-
31 lieve that any person or enterprise may be in possession, cus-
32 tody, or control of any documentary materials relevant to a
33 racketeering investigation, the Attorney General may, before
34 the institution of a civil or criminal proceeding thereon, issue
35 in writing, and cause to be served upon such person, a civil in-
36 vestigative demand requiring such person to produce such ma-
37 terial for examination.

1 (b) CONTENTS.—Each such demand shall—

2 (1) state the nature of the conduct constituting the al-
3 leged racketeering violation which is under investigation
4 and the provision of law applicable thereto;

5 (2) describe the class or classes of documentary mate-
6 rial produced thereunder with such definiteness and cer-
7 tainty as to permit such material to be fairly identified;

8 (3) state that the demand is returnable forthwith or
9 prescribe a return date which will provide a reasonable pe-
10 riod of time within which the material so demanded may
11 be assembled and made available for inspection and copying
12 or reproduction; and

13 (4) identify the custodian to whom such material shall
14 be made available.

15 (c) LIMITATION.—No such demand shall—

16 (1) contain any requirement which would be held to be
17 unreasonable if contained in a subpoena duces tecum issued
18 by a court of the United States in aid of a grand jury in-
19 vestigation of such alleged racketeering violation; or

20 (2) require the production of any documentary evi-
21 dence which would be privileged from disclosure if de-
22 manded by a subpoena duces tecum issued by a court of the
23 United States in aid of a grand jury investigation of such
24 alleged racketeering violation.

25 (d) SERVICE.—Service of any such demand or any petition
26 filed under this section may be made upon a person by—

27 (1) delivering a duly executed copy thereof to any
28 partner, executive officer, managing agent, or general agent
29 thereof, or to any agent thereof authorized by appointment
30 or by law to receive service of process on behalf of such
31 person, or upon any individual person;

32 (2) delivering a duly executed copy thereof to the prin-
33 cipal office or place of business of the person to be served;
34 or

35 (3) depositing such copy in the United States mail, by
36 registered or certified mail duly addressed to such person
37 at its principal office or place of business.

1 (e) RETURN.—A verified return by the individual serving
2 any such demand or petition setting forth the manner of such
3 service shall be prima facie proof of such service. In the case
4 of service by registered or certified mail, such return shall be
5 accompanied by the return post office receipt of delivery of
6 such demand.

7 (f) DOCUMENT CUSTODIAN.—

8 (1) The Attorney General shall designate a racket-
9 eering investigator to serve as racketeer document custo-
10 dian, and such additional racketeering investigators as the
11 Attorney General shall determine from time to time to be
12 necessary to serve as deputies to such officer.

13 (2) Any person upon whom any demand issued under
14 this section has been duly served shall make such material
15 available for inspection and copying or reproduction to the
16 custodian designated therein at the principal place of busi-
17 ness of such person, or at such other place as such custo-
18 dian and such person thereafter may agree and prescribe
19 in writing or as the court may direct, pursuant to this sec-
20 tion on the return date specified in such demand, or on
21 such later date as such custodian may prescribe in writing.
22 Such person may upon written agreement between such
23 person and the custodian substitute for copies of all or any
24 part of such material originals thereof.

25 (3) The custodian to whom any documentary material
26 is so delivered shall take physical possession thereof, and
27 shall be responsible for the use made thereof and for the
28 return thereof pursuant to this chapter. The custodian may
29 cause the preparation of such copies of such documentary
30 material as may be required for official use under regula-
31 tions which shall be promulgated by the Attorney General.
32 While in the possession of the custodian, no material so
33 produced shall be available for examination, without the
34 consent of the person who produced such material, by any
35 individual other than the Attorney General. Under such
36 reasonable terms and conditions as the Attorney General
37 shall prescribe, documentary material while in the posses-

1 sion of the custodian shall be available for examination by
2 the person who produced such material or any duly author-
3 ized representatives of such person.

4 (4) Whenever any attorney has been designated to ap-
5 pear on behalf of the United States before any court or
6 grand jury in any case or proceeding involving any alleged
7 violation of this chapter, the custodian may deliver to such
8 attorney such documentary material in the possession of
9 the custodian as such attorney determines to be required
10 for use in the presentation of such case or proceeding on
11 behalf of the United States. Upon the conclusion of any
12 such case or proceeding, such attorney shall return to the
13 custodian any documentary material so withdrawn which
14 has not passed into the control of such court or grand jury
15 through the introduction thereof into the record of such
16 case or proceeding.

17 (5) Upon the completion of—

18 (A) the racketeering investigation for which any
19 documentary material was produced under this sub-
20 chapter, and

21 (B) any case or proceeding arising from such in-
22 vestigation,

23 the custodian shall return to the person who produced such
24 material all such material other than copies thereof made
25 by the Attorney General pursuant to this subsection which
26 has not passed into the control of any court or grand jury
27 through the introduction thereof into the record of such
28 case or proceeding.

29 (6) When any documentary material has been pro-
30 duced by any person under this section for use in any rack-
31 eteering investigation, and no such case or proceeding aris-
32 ing therefrom has been instituted within a reasonable time
33 after completion of the examination and analysis of all evi-
34 dence assembled in the course of such investigation, such
35 person shall be entitled, upon written demand made upon
36 the Attorney General, to the return of all documentary ma-

1 terial other than copies thereof made pursuant to this sub-
2 section so produced by such person.

3 (7) In the event of the death, disability, or separation
4 from service of the custodian of any documentary material
5 produced under any demand issued under this section or
6 the official relief of such custodian from responsibility for
7 the custody and control of such material, the Attorney Gen-
8 eral shall promptly—

9 (A) designate another racketeering investigator to
10 serve as custodian thereof, and

11 (B) transmit notice in writing to the person who
12 produced such material as to the identity and address
13 of the successor so designated.

14 Any successor so designated shall have with regard to such
15 materials all duties and responsibilities imposed by this sec-
16 tion upon the predecessor custodian with regard thereto,
17 except that he shall not be held responsible for any default
18 or dereliction which occurred before the successor's des-
19 ignation as custodian.

20 (g) ENFORCEMENT PETITION.—Whenever any person fails
21 to comply with any civil investigative demand duly served upon
22 him under this section or whenever satisfactory copying or re-
23 production of any such material cannot be done and such per-
24 son refuses to surrender such material, the Attorney General
25 may file, in the district court of the United States for any judi-
26 cial district in which such person resides, is found, or transacts
27 business, and serve upon such person a petition for an order
28 of such court for the enforcement of this section, except that
29 if such person transacts business in more than one such district
30 such petition shall be filed in the district in which such person
31 maintains his principal place of business, or in such other dis-
32 trict in which such person transacts business as may be agreed
33 upon by the parties to such petition.

34 (h) MODIFICATION OR SETTING ASIDE.—Within 20 days
35 after the service of any such demand upon any person, or at
36 any time before the return date specified in the demand, which-
37 ever period is shorter, such person may file, in the district

1 court of the United States for the judicial district within which
 2 such person resides, is found, or transacts business, and serve
 3 upon such custodian a petition for an order of such court modi-
 4 fying or setting aside such demand. The time allowed for com-
 5 pliance with the demand in whole or in part as deemed proper
 6 and ordered by the court shall not run during the pendency of
 7 such petition in the court. Such petition shall specify each
 8 ground upon which the petitioner relies in seeking such relief,
 9 and may be based upon any failure of such demand to comply
 10 with the provisions of this section or upon any constitutional
 11 or other legal right or privilege of such person.

12 (i) ORDERING CUSTODIAN TO PERFORM DUTY.—At any
 13 time during which any custodian is in custody or control of any
 14 documentary material delivered by any person in compliance
 15 with any such demand, such person may file, in the district
 16 court of the United States for the judicial district within which
 17 the office of such custodian is situated, and serve upon such
 18 custodian a petition for an order of such court requiring the
 19 performance by such custodian of any duty imposed upon him
 20 by this section.

21 (j) JURISDICTION.—Whenever any petition is filed in any
 22 district court of the United States under this section, such
 23 court shall have jurisdiction to hear and determine the matter
 24 so presented, and to enter such order or orders as may be re-
 25 quired to carry into effect the provisions of this section.

26 SUBCHAPTER C—CRIMINAL STREET GANGS

Sec.

521. Criminal street gangs.

27 **§ 521. Criminal street gangs**

28 (a) DEFINITIONS.—In this section—

29 (1) the term “conviction” includes a finding, under
 30 State or Federal law, that a person has committed an act
 31 of juvenile delinquency involving a violent or controlled sub-
 32 stances felony; and

33 (2) the term “criminal street gang” means an ongoing
 34 group, club, organization, or association of 5 or more per-
 35 sons—

1 (A) that has as 1 of its primary purposes the com-
 2 mission of 1 or more of the criminal offenses described
 3 in subsection (c);

4 (B) the members of which engage, or have en-
 5 gaged within the past 5 years, in a continuing series
 6 of offenses described in subsection (c); and

7 (C) the activities of which affect interstate or for-
 8 eign commerce.

9 (b) PENALTY.—The sentence of a person convicted of an
 10 offense described in subsection (c) shall be increased by not
 11 more than 10 years if the offense is committed under the cir-
 12 cumstances described in subsection (d).

13 (c) OFFENSES.—The offenses described in this section
 14 are—

15 (1) a Federal felony involving a controlled substance
 16 (as defined in section 102 of the Controlled Substances Act
 17 (21 U.S.C. 802)) for which the maximum penalty is not
 18 less than 5 years;

19 (2) a Federal felony crime of violence that has as an
 20 element the use or attempted use of physical force against
 21 the person of another; and

22 (3) a conspiracy to commit an offense described in
 23 paragraph (1) or (2).

24 (d) CIRCUMSTANCES.—The circumstances described in
 25 this section are that the offense described in subsection (c) was
 26 committed by a person who—

27 (1) participates in a criminal street gang with knowl-
 28 edge that its members engage in or have engaged in a con-
 29 tinuing series of offenses described in subsection (c);

30 (2) intends to promote or further the felonious activi-
 31 ties of the criminal street gang or maintain or increase his
 32 or her position in the gang; and

33 (3) has been convicted within the past 5 years for—

34 (A) an offense described in subsection (c);

35 (B) a State offense—

36 (i) involving a controlled substance (as defined
 37 in section 102 of the Controlled Substances Act (21

- 1 U.S.C. 802)) for which the maximum penalty is not
- 2 less than 5 years' imprisonment; or
- 3 (ii) that is a felony crime of violence that has
- 4 as an element the use or attempted use of physical
- 5 force against the person of another;
- 6 (C) any Federal or State felony offense that by its
- 7 nature involves a substantial risk that physical force
- 8 against the person of another may be used in the
- 9 course of committing the offense; or
- 10 (D) a conspiracy to commit an offense described
- 11 in subparagraph (A), (B), or (C).

12 **CHAPTER 21—ARSON, FIREARMS, EXPLOSIVES,**
 13 **AND WEAPONS CRIMES**

Subchapter	Sec.
A. Arson	571
B. Firearms	581
C. Explosives	601
D. Importation, Manufacture, Distribution and Stor- age of Explosive Materials	611
E. Biological Weapons	621
F. Chemical Weapons	631

14 **SUBCHAPTER A—ARSON**

15 Sec.
 16 571. Arson within special maritime and territorial jurisdiction.
 17 **§ 571. Arson within special maritime and terri-**
 18 **torial jurisdiction**

19 Whoever, within the special maritime and territorial juris-
 20 diction of the United States, willfully and maliciously sets fire
 21 to or burns any building, structure or vessel, any machinery or
 22 building materials or supplies, military or naval stores, muni-
 23 tions of war, or any structural aids or appliances for navigation
 24 or shipping, or attempts or conspires to do such an act, shall
 25 be imprisoned for not more than 25 years. If the building is
 a dwelling or if the life of any person is placed in jeopardy, the
 offender shall be imprisoned for any term of years or for life.

26 **SUBCHAPTER B—FIREARMS**

- Sec.
- 581. Definitions.
- 582. Unlawful acts.
- 583. Licensing.
- 584. Penalties.

- 585. Exceptions: Relief from disabilities.
- 586. Remedy for erroneous denial of firearm.
- 587. Rules and regulations.
- 588. Interstate transportation of firearms.
- 589. Carrying of concealed firearms by qualified law enforcement officers.
- 590. Carrying of concealed firearms by qualified retired law enforcement officers.
- 591. Effect on State law.
- 592. Use of restricted ammunition.
- 593. Possession of firearms and dangerous weapons in Federal facilities.
- 594. Prohibition on purchase, ownership, or possession of body armor by violent felons.

1 **§ 581. Definitions**

2 For the purposes of this subchapter.—

3 (1) The term “firearm” means (A) any weapon (in-
4 cluding a starter gun) which will or is designed to or may
5 readily be converted to expel a projectile by the action of
6 an explosive; (B) the frame or receiver of any such weapon;
7 (C) any firearm muffler or firearm silencer; or (D) any de-
8 structive device. Such term does not include an antique
9 firearm.

10 (2) The term “destructive device” means—

11 (A) any explosive, incendiary, or poison gas—

12 (i) bomb,

13 (ii) grenade,

14 (iii) rocket having a propellant charge of more
15 than four ounces,

16 (iv) missile having an explosive or incendiary
17 charge of more than one-quarter ounce,

18 (v) mine, or

19 (vi) device similar to any of the devices de-
20 scribed in the preceding clauses;

21 (B) any type of weapon (other than a shotgun or
22 a shotgun shell which the Attorney General finds is
23 generally recognized as particularly suitable for sport-
24 ing purposes) by whatever name known which will, or
25 which may be readily converted to, expel a projectile by
26 the action of an explosive or other propellant, and
27 which has any barrel with a bore of more than one-half
28 inch in diameter; and

1 (C) any combination of parts either designed or in-
2 tended for use in converting any device into any de-
3 structive device described in subparagraph (A) or (B)
4 and from which a destructive device may be readily as-
5 sembled.

6 Such term does not include any device which is neither de-
7 signed nor redesigned for use as a weapon; any device, al-
8 though originally designed for use as a weapon, which is re-
9 designed for use as a signaling, pyrotechnic, line throwing,
10 safety, or similar device; surplus ordnance sold, loaned, or
11 given by the Secretary of the Army pursuant to the provi-
12 sions of section 4684(2), 4685, or 4686 of title 10; or any
13 other device which the Attorney General finds is not likely
14 to be used as a weapon, is an antique, or is a rifle which
15 the owner intends to use solely for sporting, recreational or
16 cultural purposes.

17 (3) The term “shotgun” means a weapon designed or
18 redesigned, made or remade, and intended to be fired from
19 the shoulder and designed or redesigned and made or re-
20 made to use the energy of an explosive to fire through a
21 smooth bore either a number of ball shot or a single projec-
22 tile for each single pull of the trigger.

23 (4) The term “short-barreled shotgun” means a shot-
24 gun having one or more barrels less than eighteen inches
25 in length and any weapon made from a shotgun (whether
26 by alteration, modification or otherwise) if such a weapon
27 as modified has an overall length of less than twenty-six
28 inches.

29 (5) The term “rifle” means a weapon designed or re-
30 designed, made or remade, and intended to be fired from
31 the shoulder and designed or redesigned and made or re-
32 made to use the energy of an explosive to fire only a single
33 projectile through a rifled bore for each single pull of the
34 trigger.

35 (6) The term “short-barreled rifle” means a rifle hav-
36 ing one or more barrels less than sixteen inches in length
37 and any weapon made from a rifle (whether by alteration,

1 modification, or otherwise) if such weapon, as modified, has
2 an overall length of less than twenty-six inches.

3 (7) The term “importer” means any person engaged
4 in the business of importing or bringing firearms or ammu-
5 nition into the United States for purposes of sale or dis-
6 tribution; and the term “licensed importer” means any
7 such person licensed under the provisions of this chapter.

8 (8) The term “manufacturer” means any person en-
9 gaged in the business of manufacturing firearms or ammu-
10 nition for purposes of sale or distribution; and the term “li-
11 censed manufacturer” means any such person licensed
12 under the provisions of this chapter.

13 (9) The term “dealer” means (A) any person engaged
14 in the business of selling firearms at wholesale or retail,
15 (B) any person engaged in the business of repairing fire-
16 arms or of making or fitting special barrels, stocks, or trig-
17 ger mechanisms to firearms, or (C) any person who is a
18 pawnbroker. The term “licensed dealer” means any dealer
19 who is licensed under the provisions of this chapter.

20 (10) The term “pawnbroker” means any person whose
21 business or occupation includes the taking or receiving, by
22 way of pledge or pawn, of any firearm as security for the
23 payment or repayment of money.

24 (11) The term “collector” means any person who ac-
25 quires, holds, or disposes of firearms as curios or relics, as
26 the Attorney General shall by regulation define, and the
27 term “licensed collector” means any such person licensed
28 under the provisions of this chapter.

29 (12) The term “indictment” includes an indictment or
30 information in any court under which a crime punishable
31 by imprisonment for a term exceeding one year may be
32 prosecuted.

33 (13) The term “fugitive from justice” means any per-
34 son who has fled from any State to avoid prosecution for
35 a crime or to avoid giving testimony in any criminal pro-
36 ceeding.

37 (14) The term “antique firearm” means—

1 (A) any firearm (including any firearm with a
2 matchlock, flintlock, percussion cap, or similar type of
3 ignition system) manufactured in or before 1898; or

4 (B) any replica of any firearm described in sub-
5 paragraph (A) if such replica—

6 (i) is not designed or redesigned for using rim-
7 fire or conventional centerfire fixed ammunition, or

8 (ii) uses rimfire or conventional centerfire
9 fixed ammunition which is no longer manufactured
10 in the United States and which is not readily avail-
11 able in the ordinary channels of commercial trade;

12 or

13 (C) any muzzle loading rifle, muzzle loading shot-
14 gun, or muzzle loading pistol, which is designed to use
15 black powder, or a black powder substitute, and which
16 cannot use fixed ammunition. For purposes of this sub-
17 paragraph, the term “antique firearm” shall not in-
18 clude any weapon which incorporates a firearm frame
19 or receiver, any firearm which is converted into a muz-
20 zle loading weapon, or any muzzle loading weapon
21 which can be readily converted to fire fixed ammunition
22 by replacing the barrel, bolt, breechblock, or any com-
23 bination thereof.

24 (15)(A) The term “ammunition” means ammunition
25 or cartridge cases, primers, bullets, or propellant powder
26 designed for use in any firearm.

27 (B) The term “armor piercing ammunition” means—

28 (i) a projectile or projectile core which may be
29 used in a handgun and which is constructed entirely
30 (excluding the presence of traces of other substances)
31 from one or a combination of tungsten alloys, steel,
32 iron, brass, bronze, beryllium copper, or depleted ura-
33 nium; or

34 (ii) a full jacketed projectile larger than .22 caliber
35 designed and intended for use in a handgun and whose
36 jacket has a weight of more than 25 percent of the
37 total weight of the projectile.

1 (C) The term “armor piercing ammunition” does not
2 include shotgun shot required by Federal or State environ-
3 mental or game regulations for hunting purposes, a fran-
4 gible projectile designed for target shooting, a projectile
5 which the Attorney General finds is primarily intended to
6 be used for sporting purposes, or any other projectile or
7 projectile core which the Attorney General finds is intended
8 to be used for industrial purposes, including a charge used
9 in an oil and gas well perforating device.

10 (16) The term “published ordinance” means a pub-
11 lished law of any political subdivision of a State which the
12 Attorney General determines to be relevant to the enforce-
13 ment of this chapter and which is contained on a list com-
14 piled by the Attorney General, which list shall be published
15 in the Federal Register, revised annually, and furnished to
16 each licensee under this chapter.

17 (17) The term “crime punishable by imprisonment for
18 a term exceeding one year” does not include—

19 (A) any Federal or State offenses pertaining to
20 antitrust violations, unfair trade practices, restraints of
21 trade, or other similar offenses relating to the regula-
22 tion of business practices, or

23 (B) any State offense classified by the laws of the
24 State as a misdemeanor and punishable by a term of
25 imprisonment of two years or less.

26 What constitutes a conviction of such a crime shall be deter-
27 mined in accordance with the law of the jurisdiction in which
28 the proceedings were held. Any conviction which has been ex-
29 punged, or set aside or for which a person has been pardoned
30 or has had civil rights restored shall not be considered a convic-
31 tion for purposes of this chapter, unless such pardon,
32 expungement, or restoration of civil rights expressly provides
33 that the person may not ship, transport, possess, or receive
34 firearms.

35 (18) The term “engaged in the business” means—

36 (A) as applied to a manufacturer of firearms, a
37 person who devotes time, attention, and labor to manu-

1 facturing firearms as a regular course of trade or busi-
2 ness with the principal objective of livelihood and profit
3 through the sale or distribution of the firearms manu-
4 factured;

5 (B) as applied to a manufacturer of ammunition,
6 a person who devotes time, attention, and labor to
7 manufacturing ammunition as a regular course of trade
8 or business with the principal objective of livelihood
9 and profit through the sale or distribution of the am-
10 munition manufactured;

11 (C) as applied to a dealer in firearms, as defined
12 in section 921(a)(11)(A), a person who devotes time,
13 attention, and labor to dealing in firearms as a regular
14 course of trade or business with the principal objective
15 of livelihood and profit through the repetitive purchase
16 and resale of firearms, but such term shall not include
17 a person who makes occasional sales, exchanges, or
18 purchases of firearms for the enhancement of a per-
19 sonal collection or for a hobby, or who sells all or part
20 of his personal collection of firearms;

21 (D) as applied to a dealer in firearms, as defined
22 in section 921(a)(11)(B), a person who devotes time,
23 attention, and labor to engaging in such activity as a
24 regular course of trade or business with the principal
25 objective of livelihood and profit, but such term shall
26 not include a person who makes occasional repairs of
27 firearms, or who occasionally fits special barrels,
28 stocks, or trigger mechanisms to firearms;

29 (E) as applied to an importer of firearms, a per-
30 son who devotes time, attention, and labor to importing
31 firearms as a regular course of trade or business with
32 the principal objective of livelihood and profit through
33 the sale or distribution of the firearms imported; and

34 (19) The term “with the principal objective of liveli-
35 hood and profit” means that the intent underlying the sale
36 or disposition of firearms is predominantly one of obtaining
37 livelihood and pecuniary gain, as opposed to other intents,

1 such as improving or liquidating a personal firearms collec-
2 tion: Provided, That proof of profit shall not be required
3 as to a person who engages in the regular and repetitive
4 purchase and disposition of firearms for criminal purposes
5 or terrorism. For purposes of this paragraph, the term
6 “terrorism” means activity, directed against United States
7 persons, which—

8 (F) as applied to an importer of ammunition, a
9 person who devotes time, attention, and labor to im-
10 porting ammunition as a regular course of trade or
11 business with the principal objective of livelihood and
12 profit through the sale or distribution of the ammuni-
13 tion imported.

14 (A) is committed by an individual who is not a na-
15 tional or permanent resident alien of the United States;

16 (B) involves violent acts or acts dangerous to
17 human life which would be a criminal violation if com-
18 mitted within the jurisdiction of the United States; and

19 (C) is intended—

20 (i) to intimidate or coerce a civilian popu-
21 lation;

22 (ii) to influence the policy of a government by
23 intimidation or coercion; or

24 (iii) to affect the conduct of a government by
25 assassination or kidnapping.

26 (20) The term “machinegun” has the meaning given
27 such term in section 5845(b) of the National Firearms Act
28 (26 U.S.C. 5845(b)).

29 (21) The terms “firearm silencer” and “firearm muf-
30 fler” mean any device for silencing, muffling, or dimin-
31 ishing the report of a portable firearm, including any com-
32 bination of parts, designed or redesigned, and intended for
33 use in assembling or fabricating a firearm silencer or fire-
34 arm muffler, and any part intended only for use in such
35 assembly or fabrication.

36 (22) The term “school zone” means—

1 (A) in, or on the grounds of, a public, parochial
2 or private school; or

3 (B) within a distance of 1,000 feet from the
4 grounds of a public, parochial or private school.

5 (23) The term “school” means a school which provides
6 elementary or secondary education, as determined under
7 State law.

8 (24) The term “motor vehicle” has the meaning given
9 such term in section 13102 of title 49, United States Code.

10 (25) The term “semiautomatic rifle” means any re-
11 peating rifle which utilizes a portion of the energy of a fir-
12 ing cartridge to extract the fired cartridge case and cham-
13 ber the next round, and which requires a separate pull of
14 the trigger to fire each cartridge.

15 (26) The term “handgun” means—

16 (A) a firearm which has a short stock and is de-
17 signed to be held and fired by the use of a single hand;
18 and

19 (B) any combination of parts from which a fire-
20 arm described in subparagraph (A) can be assembled.

21 (27) The term “intimate partner” means, with respect
22 to a person, the spouse of the person, a former spouse of
23 the person, an individual who is a parent of a child of the
24 person, and an individual who cohabitates or has cohabited
25 with the person.

26 (28)(A) The term “misdemeanor crime of domestic vi-
27 olence” means an offense that—

28 (i) is a misdemeanor under Federal or State law;
29 and

30 (ii) has, as an element, the use or attempted use
31 of physical force, or the threatened use of a deadly
32 weapon, committed by a current or former spouse, par-
33 ent, or guardian of the victim, by a person with whom
34 the victim shares a child in common, by a person who
35 is cohabiting with or has cohabited with the victim as
36 a spouse, parent, or guardian, or by a person similarly
37 situated to a spouse, parent, or guardian of the victim.

1 (B)(i) A person shall not be considered to have been
2 convicted of such an offense for purposes of this chapter,
3 unless—

4 (I) the person was represented by counsel in the
5 case, or knowingly and intelligently waived the right to
6 counsel in the case; and

7 (II) in the case of a prosecution for an offense de-
8 scribed in this paragraph for which a person was enti-
9 tled to a jury trial in the jurisdiction in which the case
10 was tried, either

11 (aa) the case was tried by a jury, or

12 (bb) the person knowingly and intelligently waived the
13 right to have the case tried by a jury, by guilty plea or other-
14 wise.

15 (ii) A person shall not be considered to have been con-
16 victed of such an offense for purposes of this chapter if the
17 conviction has been expunged or set aside, or is an offense
18 for which the person has been pardoned or has had civil
19 rights restored (if the law of the applicable jurisdiction pro-
20 vides for the loss of civil rights under such an offense) un-
21 less the pardon, expungement, or restoration of civil rights
22 expressly provides that the person may not ship, transport,
23 possess, or receive firearms.

24 (29) The term “secure gun storage or safety device”
25 means—

26 (A) a device that, when installed on a firearm, is
27 designed to prevent the firearm from being operated
28 without first deactivating the device;

29 (B) a device incorporated into the design of the
30 firearm that is designed to prevent the operation of the
31 firearm by anyone not having access to the device; or

32 (C) a safe, gun safe, gun case, lock box, or other
33 device that is designed to be or can be used to store
34 a firearm and that is designed to be unlocked only by
35 means of a key, a combination, or other similar means.

36 (30) The term “body armor” means any product sold
37 or offered for sale, in interstate or foreign commerce, as

1 personal protective body covering intended to protect
2 against gunfire, regardless of whether the product is to be
3 worn alone or is sold as a complement to another product
4 or garment.

5 (31) A member of the Armed Forces on active duty
6 is a resident of the State in which his permanent duty sta-
7 tion is located.

8 **§ 582. Unlawful acts**

9 (a) It shall be unlawful—

10 (1) for any person—

11 (A) except a licensed importer, licensed manufac-
12 turer, or licensed dealer, to engage in the business of
13 importing, manufacturing, or dealing in firearms, or in
14 the course of such business to ship, transport, or re-
15 ceive any firearm in interstate or foreign commerce; or

16 (B) except a licensed importer or licensed manu-
17 facturer, to engage in the business of importing or
18 manufacturing ammunition, or in the course of such
19 business, to ship, transport, or receive any ammunition
20 in interstate or foreign commerce;

21 (2) for any importer, manufacturer, dealer, or collector
22 licensed under the provisions of this chapter to ship or
23 transport in interstate or foreign commerce any firearm to
24 any person other than a licensed importer, licensed manu-
25 facturer, licensed dealer, or licensed collector, except that—

26 (A) this paragraph and subsection (b)(3) shall not
27 be held to preclude a licensed importer, licensed manu-
28 facturer, licensed dealer, or licensed collector from re-
29 turning a firearm or replacement firearm of the same
30 kind and type to a person from whom it was received;
31 and this paragraph shall not be held to preclude an in-
32 dividual from mailing a firearm owned in compliance
33 with Federal, State, and local law to a licensed im-
34 porter, licensed manufacturer, licensed dealer, or li-
35 censed collector;

36 (B) this paragraph shall not be held to preclude
37 a licensed importer, licensed manufacturer, or licensed

1 dealer from depositing a firearm for conveyance in the
2 mails to any officer, employee, agent, or watchman
3 who, pursuant to the provisions of section 1715 of this
4 title, is eligible to receive through the mails pistols, re-
5 volvers, and other firearms capable of being concealed
6 on the person, for use in connection with his official
7 duty; and

8 (C) nothing in this paragraph shall be construed
9 as applying in any manner in the District of Columbia,
10 the Commonwealth of Puerto Rico, or any possession
11 of the United States differently than it would apply if
12 the District of Columbia, the Commonwealth of Puerto
13 Rico, or the possession were in fact a State of the
14 United States;

15 (3) for any person, other than a licensed importer, li-
16 censed manufacturer, licensed dealer, or licensed collector
17 to transport into or receive in the State where he resides
18 (or if the person is a corporation or other business entity,
19 the State where it maintains a place of business) any fire
20 arm purchased or otherwise obtained by such person out-
21 side that State, except that this paragraph (A) shall not
22 preclude any person who lawfully acquires a firearm by be-
23 quest or intestate succession in a State other than his
24 State of residence from transporting the firearm into or re-
25 ceiving it in that State, if it is lawful for such person to
26 purchase or possess such firearm in that State, (B) shall
27 not apply to the transportation or receipt of a firearm ob-
28 tained in conformity with subsection (b)(3) of this section,
29 and (C) shall not apply to the transportation of any fire-
30 arm acquired in any State prior to the effective date of this
31 chapter;

32 (4) for any person, other than a licensed importer, li-
33 censed manufacturer, licensed dealer, or licensed collector,
34 to transport in interstate or foreign commerce any destruc-
35 tive device, machinegun (as defined in section 5845 of the
36 Internal Revenue Code of 1986), short-barreled shotgun, or
37 short-barreled rifle, except as specifically authorized by the

1 Attorney General consistent with public safety and neces-
2 sity;

3 (5) for any person (other than a licensed importer, li-
4 censed manufacturer, licensed dealer, or licensed collector)
5 to transfer, sell, trade, give, transport, or deliver any fire-
6 arm to any person (other than a licensed importer, licensed
7 manufacturer, licensed dealer, or licensed collector) who the
8 transferor knows or has reasonable cause to believe does
9 not reside in (or if the person is a corporation or other
10 business entity, does not maintain a place of business in)
11 the State in which the transferor resides; except that this
12 paragraph shall not apply to (A) the transfer, transpor-
13 tation, or delivery of a firearm made to carry out a bequest
14 of a firearm to, or an acquisition by intestate succession of
15 a firearm by, a person who is permitted to acquire or pos-
16 sess a firearm under the laws of the State of his residence,
17 and (B) the loan or rental of a firearm to any person for
18 temporary use for lawful sporting purposes;

19 (6) for any person in connection with the acquisition
20 or attempted acquisition of any firearm or ammunition
21 from a licensed importer, licensed manufacturer, licensed
22 dealer, or licensed collector, knowingly to make any false or
23 fictitious oral or written statement or to furnish or exhibit
24 any false, fictitious, or misrepresented identification, in-
25 tended or likely to deceive such importer, manufacturer,
26 dealer, or collector with respect to any fact material to the
27 lawfulness of the sale or other disposition of such firearm
28 or ammunition under the provisions of this chapter;

29 (7) for any person to manufacture or import armor
30 piercing ammunition, except that this paragraph shall not
31 apply to—

32 (A) the manufacture or importation of such am-
33 munition for the use of the United States or any de-
34 partment or agency thereof or any State or any depart-
35 ment, agency, or political subdivision thereof;

36 (B) the manufacture of such ammunition for the
37 purpose of exportation; and

1 (C) any manufacture or importation for the pur-
2 poses of testing or experimentation authorized by the
3 Attorney General;

4 (8) for any manufacturer or importer to sell or deliver
5 armor piercing ammunition, except that this paragraph
6 shall not apply to—

7 (A) the sale or delivery by a manufacturer or im-
8 porter of such ammunition for use of the United States
9 or any department or agency thereof or any State or
10 any department, agency, or political subdivision there-
11 of;

12 (B) the sale or delivery by a manufacturer or im-
13 porter of such ammunition for the purpose of expor-
14 tation;

15 (C) the sale or delivery by a manufacturer or im-
16 porter of such ammunition for the purposes of testing
17 or experimenting authorized by the Attorney General;
18 and

19 (9) for any person, other than a licensed importer, li-
20 censed manufacturer, licensed dealer, or licensed collector,
21 who does not reside in any State to receive any firearms
22 unless such receipt is for lawful sporting purposes.

23 (b) It shall be unlawful for any licensed importer, licensed
24 manufacturer, licensed dealer, or licensed collector to sell or de-
25 liver—

26 (1) any firearm or ammunition to any individual who
27 the licensee knows or has reasonable cause to believe is less
28 than eighteen years of age, and, if the firearm, or ammuni-
29 tion is other than a shotgun or rifle, or ammunition for a
30 shotgun or rifle, to any individual who the licensee knows
31 or has reasonable cause to believe is less than twenty-one
32 years of age;

33 (2) any firearm to any person in any State where the
34 purchase or possession by such person of such firearm
35 would be in violation of any State law or any published or-
36 dinance applicable at the place of sale, delivery or other
37 disposition, unless the licensee knows or has reasonable

1 cause to believe that the purchase or possession would not
2 be in violation of such State law or such published ordi-
3 nance;

4 (3) any firearm to any person who the licensee knows
5 or has reasonable cause to believe does not reside in (or if
6 the person is a corporation or other business entity, does
7 not maintain a place of business in) the State in which the
8 licensee's place of business is located, except that this para-
9 graph (A) shall not apply to the sale or delivery of any rifle
10 or shotgun to a resident of a State other than a State in
11 which the licensee's place of business is located if the trans-
12 feree meets in person with the transferor to accomplish the
13 transfer, and the sale, delivery, and receipt fully comply
14 with the legal conditions of sale in both such States (and
15 any licensed manufacturer, importer or dealer shall be pre-
16 sumed, for purposes of this subparagraph, in the absence
17 of evidence to the contrary, to have had actual knowledge
18 of the State laws and published ordinances of both States),
19 and (B) shall not apply to the loan or rental of a firearm
20 to any person for temporary use for lawful sporting pur-
21 poses;

22 (4) to any person any destructive device, machinegun
23 (as defined in section 5845 of the Internal Revenue Code
24 of 1986), short-barreled shotgun, or short-barreled rifle, ex-
25 cept as specifically authorized by the Attorney General con-
26 sistent with public safety and necessity; and

27 (5) any firearm or armor-piercing ammunition to any
28 person unless the licensee notes in his records, required to
29 be kept pursuant to section 923 of this chapter, the name,
30 age, and place of residence of such person if the person is
31 an individual, or the identity and principal and local places
32 of business of such person if the person is a corporation
33 or other business entity.

34 Paragraphs (1), (2), (3), and (4) of this subsection shall not
35 apply to transactions between licensed importers, licensed man-
36 ufacturers, licensed dealers, and licensed collectors. Paragraph

1 (4) of this subsection shall not apply to a sale or delivery to
2 any research organization designated by the Attorney General.

3 (c) In any case not otherwise prohibited by this chapter,
4 a licensed importer, licensed manufacturer, or licensed dealer
5 may sell a firearm to a person who does not appear in person
6 at the licensee’s business premises (other than another licensed
7 importer, manufacturer, or dealer) only if—

8 (1) the transferee submits to the transferor a sworn
9 statement in the following form:

10 “Subject to penalties provided by law, I swear
11 that, in the case of any firearm other than a shotgun
12 or a rifle, I am twenty-one years or more of age, or
13 that, in the case of a shotgun or a rifle, I am eighteen
14 years or more of age; that I am not prohibited by the
15 provisions of chapter 44 of title 18, United States
16 Code, from receiving a firearm in interstate or foreign
17 commerce; and that my receipt of this firearm will not
18 be in violation of any statute of the State and pub-
19 lished ordinance applicable to the locality in which I re-
20 side. Further, the true title, name, and address of the
21 principal law enforcement officer of the locality to
22 which the firearm will be delivered are — — — — —
23 — — — — —
24 — — — — — Signature — — — — —
25 — — — — — Date — — — — —.” and containing
26 blank spaces for the attachment of a true copy of any
27 permit or other information required pursuant to such
28 statute or published ordinance;

29 (2) the transferor has, prior to the shipment or deliv-
30 ery of the firearm, forwarded by registered or certified mail
31 (return receipt requested) a copy of the sworn statement,
32 together with a description of the firearm, in a form pre-
33 scribed by the Attorney General, to the chief law enforce-
34 ment officer of the transferee’s place of residence, and has
35 received a return receipt evidencing delivery of the state-
36 ment or has had the statement returned due to the refusal
37 of the named addressee to accept such letter in accordance

1 with United States Post Office Department regulations;
2 and

3 (3) the transferor has delayed shipment or delivery for
4 a period of at least seven days following receipt of the noti-
5 fication of the acceptance or refusal of delivery of the state-
6 ment.

7 A copy of the sworn statement and a copy of the notification
8 to the local law enforcement officer, together with evidence of
9 receipt or rejection of that notification shall be retained by the
10 licensee as a part of the records required to be kept under sec-
11 tion 923(g).

12 (d) It shall be unlawful for any person to sell or otherwise
13 dispose of any firearm or ammunition to any person knowing
14 or having reasonable cause to believe that such person—

15 (1) is under indictment for, or has been convicted in
16 any court of, a crime punishable by imprisonment for a
17 term exceeding one year;

18 (2) is a fugitive from justice;

19 (3) is an unlawful user of or addicted to any controlled
20 substance (as defined in section 102 of the Controlled Sub-
21 stances Act (21 U.S.C. 802));

22 (4) has been adjudicated as a mental defective or has
23 been committed to any mental institution;

24 (5) is an alien and—

25 (A) is illegally or unlawfully in the United States;

26 or

27 (B) except as provided in subsection (y)(2), has
28 been admitted to the United States under a non-
29 immigrant visa (as that term is defined in section
30 101(a)(26) of the Immigration and Nationality Act (8
31 U.S.C. 1101(a)(26)));

32 (6) has been discharged from the Armed Forces under
33 dishonorable conditions.

34 (7) was a citizen of the United States, and has re-
35 nounced that citizenship;

36 (8) is subject to a court order that restrains such per-
37 son from harassing, stalking, or threatening an intimate

1 partner of such person or child of such intimate partner or
2 person, or engaging in other conduct that would place an
3 intimate partner in reasonable fear of bodily injury to the
4 partner or child, except that this paragraph shall only
5 apply to a court order that—

6 (A) was issued after a hearing of which such per-
7 son received actual notice, and at which such person
8 had the opportunity to participate; and

9 (B)(i) includes a finding that such person rep-
10 represents a credible threat to the physical safety of such
11 intimate partner or child; or

12 (ii) by its terms explicitly prohibits the use, at-
13 tempted use, or threatened use of physical force against
14 such intimate partner or child that would reasonably be
15 expected to cause bodily injury; or

16 (9) has been convicted in any court of a misdemeanor
17 crime of domestic violence.

18 This subsection does not apply with respect to the sale or dis-
19 position of a firearm or ammunition to a licensed importer, li-
20 censed manufacturer, licensed dealer, or licensed collector who
21 pursuant to subsection (b) of section 585 is not precluded from
22 dealing in firearms or ammunition, or to a person who has been
23 granted relief from disabilities pursuant to subsection (c) of
24 section 585.

25 (e) It shall be unlawful for any person knowingly to deliver
26 or cause to be delivered to any common or contract carrier for
27 transportation or shipment in interstate or foreign commerce,
28 to persons other than licensed importers, licensed manufactur-
29 ers, licensed dealers, or licensed collectors, any package or
30 other container in which there is any firearm or ammunition
31 without written notice to the carrier that such firearm or am-
32 munition is being transported or shipped; except that any pas-
33 senger who owns or legally possesses a firearm or ammunition
34 being transported aboard any common or contract carrier for
35 movement with the passenger in interstate or foreign commerce
36 may deliver said firearm or ammunition into the custody of the
37 pilot, captain, conductor or operator of such common or con-

1 tract carrier for the duration of the trip without violating any
2 of the provisions of this chapter. No common or contract car-
3 rier shall require or cause any label, tag, or other written notice
4 to be placed on the outside of any package, luggage, or other
5 container that such package, luggage, or other container con-
6 tains a firearm.

7 (f)(1) It shall be unlawful for any common or contract car-
8 rier to transport or deliver in interstate or foreign commerce
9 any firearm or ammunition with knowledge or reasonable cause
10 to believe that the shipment transportation, or receipt thereof
11 would be in violation of this chapter.

12 (2) It shall be unlawful for any common or contract car-
13 rier to deliver in interstate or foreign commerce any firearm
14 without obtaining written acknowledgement of receipt from the
15 recipient of the package or other container in which there is
16 a firearm.

17 (g) It shall be unlawful for any person—

18 (1) who has been convicted in any court of, a crime
19 punishable by imprisonment for a term exceeding one year;

20 (2) who is a fugitive from justice;

21 (3) who is an unlawful user of or addicted to any con-
22 trolled substance (as defined in section 102 of the Con-
23 trolled Substances Act (21 U.S.C. 802));

24 (4) who has been adjudicated as a mental defective or
25 who has been committed to a mental institution;

26 (5) who, being an alien—

27 (A) is illegally or unlawfully in the United States;

28 or

29 (B) except as provided in subsection (y)(2), has
30 been admitted to the United States under a non-
31 immigrant visa (as that term is defined in section
32 101(a)(26) of the Immigration and Nationality Act (8
33 U.S.C. 1101(a)(26)));

34 (6) who has been discharged from the Armed Forces
35 under dishonorable conditions;

36 (7) who, having been a citizen of the United States,
37 has renounced his citizenship;

1 (8) who is subject to a court order that—

2 (A) was issued after a hearing of which such per-
3 son received actual notice, and at which such person
4 had an opportunity to participate;

5 (B) restrains such person from harassing, stalk-
6 ing, or threatening an intimate partner of such person
7 or child of such intimate partner or person, or engag-
8 ing in other conduct that would place an intimate part-
9 ner in reasonable fear of bodily injury to the partner
10 or child; and

11 (C)(i) includes a finding that such person rep-
12 represents a credible threat to the physical safety of such
13 intimate partner or child; or

14 (ii) by its terms explicitly prohibits the use, at-
15 tempted use, or threatened use of physical force against
16 such intimate partner or child that would reasonably be
17 expected to cause bodily injury; or

18 (9) who has been convicted in any court of a mis-
19 demeanor crime of domestic violence,
20 to ship or transport in interstate or foreign commerce, or pos-
21 sess in or affecting commerce, any firearm or ammunition; or
22 to receive any firearm or ammunition which has been shipped
23 or transported in interstate or foreign commerce.

24 (h) It shall be unlawful for any individual, who to that in-
25 dividual's knowledge and while being employed for any person
26 described in any paragraph of subsection (g) of this section, in
27 the course of such employment—

28 (1) to receive, possess, or transport any firearm or
29 ammunition in or affecting interstate or foreign commerce;
30 or

31 (2) to receive any firearm or ammunition which has
32 been shipped or transported in interstate or foreign com-
33 merce.

34 (i) It shall be unlawful for any person to transport or ship
35 in interstate or foreign commerce, any stolen firearms or stolen
36 ammunition, knowing or having reasonable cause to believe that
37 the firearm or ammunition was stolen.

1 (j) It shall be unlawful for any person to receive, possess,
2 conceal, store, barter, sell, or dispose of any stolen firearm or
3 stolen ammunition, or pledge or accept as security for a loan
4 any stolen firearm or stolen ammunition, which is moving as,
5 which is a part of, which constitutes, or which has been shipped
6 or transported in, interstate or foreign commerce, either before
7 or after it was stolen, knowing or having reasonable cause to
8 believe that the firearm or ammunition was stolen.

9 (k) It shall be unlawful for any person knowingly to trans-
10 port, ship, or receive, in interstate or foreign commerce, any
11 firearm which has had the importer's or manufacturer's serial
12 number removed, obliterated, or altered or to possess or receive
13 any firearm which has had the importer's or manufacturer's se-
14 rial number removed, obliterated, or altered and has, at any
15 time, been shipped or transported in interstate or foreign com-
16 merce.

17 (l) Except as provided in section 925(d) of this chapter,
18 it shall be unlawful for any person knowingly to import or
19 bring into the United States or any possession thereof any fire-
20 arm or ammunition; and it shall be unlawful for any person
21 knowingly to receive any firearm or ammunition which has been
22 imported or brought into the United States or any possession
23 thereof in violation of the provisions of this chapter.

24 (l) Except as provided in section 925(d) of this chapter,
25 it shall be unlawful for any person knowingly to import or
26 bring into the United States or any possession thereof any fire-
27 arm or ammunition; and it shall be unlawful for any person
28 knowingly to receive any firearm or ammunition which has been
29 imported or brought into the United States or any possession
30 thereof in violation of the provisions of this chapter.

31 (m) It shall be unlawful for any licensed importer, licensed
32 manufacturer, licensed dealer, or licensed collector knowingly to
33 make any false entry in, to fail to make appropriate entry in,
34 or to fail to properly maintain, any record which he is required
35 to keep pursuant to section 923 of this chapter or regulations
36 promulgated thereunder.

1 (n) It shall be unlawful for any person who is under in-
2 dictment for a crime punishable by imprisonment for a term
3 exceeding one year to ship or transport in interstate or foreign
4 commerce any firearm or ammunition or receive any firearm or
5 ammunition which has been shipped or transported in inter-
6 state or foreign commerce.

7 (o)(1) Except as provided in paragraph (2), it shall be un-
8 lawful for any person to transfer or possess a machinegun.

9 (2) This subsection does not apply with respect to—

10 (A) a transfer to or by, or possession by or under the
11 authority of, the United States or any department or agen-
12 cy thereof or a State, or a department, agency, or political
13 subdivision thereof; or

14 (B) any lawful transfer or lawful possession of a ma-
15 chinegun that was lawfully possessed before the date this
16 subsection takes effect.

17 (p)(1) It shall be unlawful for any person to manufacture,
18 import, sell, ship, deliver, possess, transfer, or receive any fire-
19 arm—

20 (A) that, after removal of grips, stocks, and maga-
21 zines, is not as detectable as the Security Exemplar, by
22 walk-through metal detectors calibrated and operated to de-
23 tect the Security Exemplar; or

24 (B) any major component of which, when subjected to
25 inspection by the types of x-ray machines commonly used
26 at airports, does not generate an image that accurately de-
27 picts the shape of the component. Barium sulfate or other
28 compounds may be used in the fabrication of the compo-
29 nent.

30 (2) For purposes of this subsection—

31 (A) the term “firearm” does not include the frame or
32 receiver of any such weapon;

33 (B) the term “major component” means, with respect
34 to a firearm, the barrel, the slide or cylinder, or the frame
35 or receiver of the firearm; and

1 (C) the term “Security Exemplar” means an object, to
2 be fabricated at the direction of the Attorney General, that
3 is—

4 (i) constructed of, during the 12-month period be-
5 ginning on the date of the enactment of this subsection,
6 3.7 ounces of material type 17–4 PH stainless steel in
7 a shape resembling a handgun; and

8 (ii) suitable for testing and calibrating metal de-
9 tectors: Provided, however, That at the close of such
10 12-month period, and

11 at appropriate times thereafter the Attorney General
12 shall promulgate regulations to permit the manufac-
13 ture, importation, sale, shipment, delivery, possession,
14 transfer, or receipt of firearms previously prohibited
15 under this subparagraph that are as detectable as a
16 “Security Exemplar” which contains 3.7 ounces of ma-
17 terial type 17–4 PH stainless steel, in a shape resem-
18 bling a handgun, or such lesser amount as is detectable
19 in view of advances in state-of-the-art developments in
20 weapons detection technology.

21 (3) Under such rules and regulations as the Attorney Gen-
22 eral shall prescribe, this subsection shall not apply to the man-
23 ufacture, possession, transfer, receipt, shipment, or delivery of
24 a firearm by a licensed manufacturer or any person acting pur-
25 suant to a contract with a licensed manufacturer, for the pur-
26 pose of examining and testing such firearm to determine
27 whether paragraph (1) applies to such firearm. The Attorney
28 General shall ensure that rules and regulations adopted pursu-
29 ant to this paragraph do not impair the manufacture of proto-
30 type firearms or the development of new technology.

31 (4) The Attorney General shall permit the conditional im-
32 portation of a firearm by a licensed importer or licensed manu-
33 facturer, for examination and testing to determine whether or
34 not the unconditional importation of such firearm would violate
35 this subsection.

36 (5) This subsection shall not apply to any firearm which—

1 (A) has been certified by the Secretary of Defense or
2 the Director of Central Intelligence, after consultation with
3 the Attorney General and the Administrator of the Federal
4 Aviation Administration, as necessary for military or intel-
5 ligence applications; and

6 (B) is manufactured for and sold exclusively to mili-
7 tary or intelligence agencies of the United States.

8 (6) This subsection shall not apply with respect to any
9 firearm manufactured in, imported into, or possessed in the
10 United States before the date of the enactment of the
11 Undetectable Firearms Act of 1988.

12 (q)(1) The Congress finds and declares that—

13 (A) crime, particularly crime involving drugs and
14 guns, is a pervasive, nationwide problem;

15 (B) crime at the local level is exacerbated by the inter-
16 state movement of drugs, guns, and criminal gangs;

17 (C) firearms and ammunition move easily in interstate
18 commerce and have been found in increasing numbers in
19 and around schools, as documented in numerous hearings
20 in both the Committee on the Judiciary of the House of
21 Representatives and the Committee on the Judiciary of the
22 Senate;

23 (D) in fact, even before the sale of a firearm, the gun,
24 its component parts, ammunition, and the raw materials
25 from which they are made have considerably moved in
26 interstate commerce;

27 (E) while criminals freely move from State to State,
28 ordinary citizens and foreign visitors may fear to travel to
29 or through certain parts of the country due to concern
30 about violent crime and gun violence, and parents may de-
31 cline to send their children to school for the same reason;

32 (F) the occurrence of violent crime in school zones has
33 resulted in a decline in the quality of education in our
34 country;

35 (G) this decline in the quality of education has an ad-
36 verse impact on interstate commerce and the foreign com-
37 merce of the United States;

1 (H) States, localities, and school systems find it al-
2 most impossible to handle gun-related crime by themselves-
3 -even States, localities, and school systems that have made
4 strong efforts to prevent, detect, and punish gun-related
5 crime find their efforts unavailing due in part to the failure
6 or inability of other States or localities to take strong
7 measures; and

8 (I) the Congress has the power, under the interstate
9 commerce clause and other provisions of the Constitution,
10 to enact measures to ensure the integrity and safety of the
11 Nation's schools by enactment of this subsection.

12 (2)(A) It shall be unlawful for any individual knowingly to
13 possess a firearm that has moved in or that otherwise affects
14 interstate or foreign commerce at a place that the individual
15 knows, or has reasonable cause to believe, is a school zone.

16 (B) Subparagraph (A) does not apply to the possession of
17 a firearm—

18 (i) on private property not part of school grounds;

19 (ii) if the individual possessing the firearm is licensed
20 to do so by the State in which the school zone is located
21 or a political subdivision of the State, and the law of the
22 State or political subdivision requires that, before an indi-
23 vidual obtains such a license, the law enforcement authori-
24 ties of the State or political subdivision verify that the indi-
25 vidual is qualified under law to receive the license;

26 (iii) that is—

27 (I) not loaded; and

28 (II) in a locked container, or a locked firearms
29 rack that is on a motor vehicle;

30 (III) in a locked container, or a locked firearms
31 rack that is on a motor vehicle;

32 (iv) by an individual for use in a program approved by
33 a school in the school zone;

34 (v) by an individual in accordance with a contract en-
35 tered into between a school in the school zone and the indi-
36 vidual or an employer of the individual;

1 (vi) by a law enforcement officer acting in his or her
2 official capacity; or

3 (vii) that is unloaded and is possessed by an individual
4 while traversing school premises for the purpose of gaining
5 access to public or private lands open to hunting, if the
6 entry on school premises is authorized by school authori-
7 ties.

8 (3)(A) Except as provided in subparagraph (B), it shall be
9 unlawful for any person, knowingly or with reckless disregard
10 for the safety of another, to discharge or attempt to discharge
11 a firearm that has moved in or that otherwise affects interstate
12 or foreign commerce at a place that the person knows is a
13 school zone.

14 (B) Subparagraph (A) does not apply to the discharge of
15 a firearm—

16 (i) on private property not part of school grounds;

17 (ii) as part of a program approved by a school in the
18 school zone, by an individual who is participating in the
19 program;

20 (iii) by an individual in accordance with a contract en-
21 tered into between a school in a school zone and the indi-
22 vidual or an employer of the individual; or

23 (iv) by a law enforcement officer acting in his or her
24 official capacity.

25 (4) Nothing in this subsection shall be construed as pre-
26 empting or preventing a State or local government from enact-
27 ing a statute establishing gun free school zones as provided in
28 this subsection.

29 (r) It shall be unlawful for any person to assemble from
30 imported parts any semiautomatic rifle or any shotgun which
31 is identical to any rifle or shotgun prohibited from importation
32 under section 925(d)(3) of this chapter as not being particu-
33 larly suitable for or readily adaptable to sporting purposes ex-
34 cept that this subsection shall not apply to—

35 (1) the assembly of any such rifle or shotgun for sale
36 or distribution by a licensed manufacturer to the United
37 States or any department or agency thereof or to any State

1 or any department, agency, or political subdivision thereof;
2 or

3 (2) the assembly of any such rifle or shotgun for the
4 purposes of testing or experimentation authorized by the
5 Attorney General.

6 (s)(1) Beginning on the date that is 90 days after the date
7 of enactment of this subsection and ending on the day before
8 the date that is 60 months after such date of enactment, it
9 shall be unlawful for any licensed importer, licensed manufac-
10 turer, or licensed dealer to sell, deliver, or transfer a handgun
11 (other than the return of a handgun to the person from whom
12 it was received) to an individual who is not licensed under sec-
13 tion 923, unless—

14 (A) after the most recent proposal of such transfer by
15 the transferee—

16 (i) the transferor has—

17 (I) received from the transferee a statement of the
18 transferee containing the information described in para-
19 graph (3);

20 (II) verified the identity of the transferee by exam-
21 ining the identification document presented;

22 (II) verified the identity of the transferee by examining the
23 identification document presented;

24 (III) within 1 day after the transferee furnishes the
25 statement, provided notice of the contents of the statement
26 to the chief law enforcement officer of the place of resi-
27 dence of the transferee; and

28 (IV) within 1 day after the transferee furnishes the
29 statement, transmitted a copy of the statement to the chief
30 law enforcement officer of the place of residence of the
31 transferee; and

32 (ii)(I) 5 business days (meaning days on which State
33 offices are open) have elapsed from the date the transferor
34 furnished notice of the contents of the statement to the
35 chief law enforcement officer, during which period the
36 transferor has not received information from the chief law
37 enforcement officer that receipt or possession of the hand-

1 gun by the transferee would be in violation of Federal,
2 State, or local law; or

3 (II) the transferor has received notice from the chief law
4 enforcement officer that the officer has no information indi-
5 cating that receipt or possession of the handgun by the trans-
6 feree would violate Federal, State, or local law;

7 (B) the transferee has presented to the transferor a
8 written statement, issued by the chief law enforcement offi-
9 cer of the place of residence of the transferee during the
10 10-day period ending on the date of the most recent pro-
11 posal of such transfer by the transferee, stating that the
12 transferee requires access to a handgun because of a threat
13 to the life of the transferee or of any member of the house-
14 hold of the transferee;

15 (C)(i) the transferee has presented to the transferor a
16 permit that—

17 (I) allows the transferee to possess or acquire a
18 handgun; and

19 (II) was issued not more than 5 years earlier by
20 the State in which the transfer is to take place; and

21 (ii) the law of the State provides that such a permit
22 is to be issued only after an authorized government official
23 has verified that the information available to such official
24 does not indicate that possession of a handgun by the
25 transferee would be in violation of the law;

26 (D) the law of the State requires that, before any li-
27 censed importer, licensed manufacturer, or licensed dealer
28 completes the transfer of a handgun to an individual who
29 is not licensed under section 923, an authorized govern-
30 ment official verify that the information available to such
31 official does not indicate that possession of a handgun by
32 the transferee would be in violation of law;

33 (E) the Attorney General has approved the transfer
34 under section 5812 of the Internal Revenue Code of 1986;
35 or

1 (F) on application of the transferor, the Attorney Gen-
2 eral has certified that compliance with subparagraph
3 (A)(i)(III) is impracticable because—

4 (i) the ratio of the number of law enforcement of-
5 ficers of the State in which the transfer is to occur to
6 the number of square miles of land area of the State
7 does not exceed 0.0025;

8 (ii) the business premises of the transferor at
9 which the transfer is to occur are extremely remote in
10 relation to the chief law enforcement officer; and

11 (iii) there is an absence of telecommunications fa-
12 cilities in the geographical area in which the business
13 premises are located.

14 (2) A chief law enforcement officer to whom a transferor
15 has provided notice pursuant to paragraph (1)(A)(i)(III) shall
16 make a reasonable effort to ascertain within 5 business days
17 whether receipt or possession would be in violation of the law,
18 including research in whatever State and local recordkeeping
19 systems are available and in a national system designated by
20 the Attorney General.

21 (3) The statement referred to in paragraph (1)(A)(i)(I)
22 shall contain only—

23 (A) the name, address, and date of birth appearing on
24 a valid identification document (as defined in section
25 1028(d)(1) of the transferee containing a photograph of the
26 transferee and a description of the identification used;

27 (B) a statement that the transferee—

28 (i) is not under indictment for, and has not been
29 convicted in any court of, a crime punishable by impris-
30 onment for a term exceeding 1 year, and has not been
31 convicted in any court of a misdemeanor crime of do-
32 mestic violence;

33 (ii) is not a fugitive from justice;

34 (iii) is not an unlawful user of or addicted to any
35 controlled substance (as defined in section 102 of the
36 Controlled Substances Act);

1 (iv) has not been adjudicated as a mental defective
2 or been committed to a mental institution;

3 (v) is not an alien who—

4 (I) is illegally or unlawfully in the United
5 States; or

6 (II) subject to subsection (y)(2), has been ad-
7 mitted to the United States under a nonimmigrant
8 visa (as that term is defined in section 101(a)(26)
9 of the Immigration and Nationality Act (8 U.S.C.
10 1101(a)(26)));

11 (vi) has not been discharged from the Armed
12 Forces under dishonorable conditions; and

13 (vii) is not a person who, having been a citizen of
14 the United States, has renounced such citizenship;

15 (C) the date the statement is made; and

16 (D) notice that the transferee intends to obtain a
17 handgun from the transferor.

18 (4) Any transferor of a handgun who, after such transfer,
19 receives a report from a chief law enforcement officer con-
20 taining information that receipt or possession of the handgun
21 by the transferee violates Federal, State, or local law shall,
22 within 1 business day after receipt of such request, commu-
23 nicate any information related to the transfer that the trans-
24 feror has about the transfer and the transferee to—

25 (A) the chief law enforcement officer of the place of
26 business of the transferor; and

27 (B) the chief law enforcement officer of the place of
28 residence of the transferee.

29 (5) Any transferor who receives information, not otherwise
30 available to the public, in a report under this subsection shall
31 not disclose such information except to the transferee, to law
32 enforcement authorities, or pursuant to the direction of a court
33 of law.

34 (6)(A) Any transferor who sells, delivers, or otherwise
35 transfers a handgun to a transferee shall retain the copy of the
36 statement of the transferee with respect to the handgun trans-
37 action, and shall retain evidence that the transferor has com-

1 plied with subclauses (III) and (IV) of paragraph (1)(A)(i) with
2 respect to the statement.

3 (B) Unless the chief law enforcement officer to whom a
4 statement is transmitted under paragraph (1)(A)(i)(IV) deter-
5 mines that a transaction would violate Federal, State, or local
6 law—

7 (i) the officer shall, within 20 business days after the
8 date the transferee made the statement on the basis of
9 which the notice was provided, destroy the statement, any
10 record containing information derived from the statement,
11 and any record created as a result of the notice required
12 by paragraph (1)(A)(i)(III);

13 (ii) the information contained in the statement shall
14 not be conveyed to any person except a person who has a
15 need to know in order to carry out this subsection; and

16 (iii) the information contained in the statement shall
17 not be used for any purpose other than to carry out this
18 subsection.

19 (C) If a chief law enforcement officer determines that an
20 individual is ineligible to receive a handgun and the individual
21 requests the officer to provide the reason for such determina-
22 tion, the officer shall provide such reasons to the individual in
23 writing within 20 business days after receipt of the request.

24 (7) A chief law enforcement officer or other person respon-
25 sible for providing criminal history background information
26 pursuant to this subsection shall not be liable in an action at
27 law for damages—

28 (A) for failure to prevent the sale or transfer of a
29 handgun to a person whose receipt or possession of the
30 handgun is unlawful under this section; or

31 (B) for preventing such a sale or transfer to a person
32 who may lawfully receive or possess a handgun.

33 (8) For purposes of this subsection, the term “chief law
34 enforcement officer” means the chief of police, the sheriff, or
35 an equivalent officer or the designee of any such individual.

36 (9) The Attorney General shall take necessary actions to
37 ensure that the provisions of this subsection are published and

1 disseminated to licensed dealers, law enforcement officials, and
2 the public.

3 (t)(1) Beginning on the date that is 30 days after the At-
4 torney General notifies licensees under section 103(d) of the
5 Brady Handgun Violence Prevention Act that the national in-
6 stant criminal background check system is established, a li-
7 censed importer, licensed manufacturer, or licensed dealer shall
8 not transfer a firearm to any other person who is not licensed
9 under this chapter, unless—

10 (A) before the completion of the transfer, the licensee
11 contacts the national instant criminal background check
12 system established under section 103 of that Act;

13 (B)(i) the system provides the licensee with a unique
14 identification number; or

15 (ii) 3 business days (meaning a day on which State offices
16 are open) have elapsed since the licensee contacted the system,
17 and the system has not notified the licensee that the receipt of
18 a firearm by such other person would violate subsection (g) or
19 (n) of this section; and

20 (C) the transferor has verified the identity of the
21 transferee by examining a valid identification document (as
22 defined in section 1028(d) of this title) of the transferee
23 containing a photograph of the transferee.

24 (2) If receipt of a firearm would not violate subsection (g)
25 or (n) or State law, the system shall—

26 (A) assign a unique identification number to the trans-
27 fer;

28 (B) provide the licensee with the number; and

29 (C) destroy all records of the system with respect to
30 the call (other than the identifying number and the date
31 the number was assigned) and all records of the system re-
32 lating to the person or the transfer.

33 (3) Paragraph (1) shall not apply to a firearm transfer be-
34 tween a licensee and another person if—

35 (A)(i) such other person has presented to the licensee
36 a permit that—

1 (I) allows such other person to possess or acquire
2 a firearm; and

3 (II) was issued not more than 5 years earlier by
4 the State in which the transfer is to take place; and

5 (II) was issued not more than 5 years earlier by the
6 State in which the transfer is to take place; and

7 (ii) the law of the State provides that such a permit
8 is to be issued only after an authorized government official
9 has verified that the information available to such official
10 does not indicate that possession of a firearm by such other
11 person would be in violation of law;

12 (B) the Attorney General has approved the transfer
13 under section 5812 of the Internal Revenue Code of 1986;
14 or

15 (C) on application of the transferor, the Attorney Gen-
16 eral has certified that compliance with paragraph (1)(A) is
17 impracticable because—

18 (i) the ratio of the number of law enforcement of-
19 ficers of the State in which the transfer is to occur to
20 the number of square miles of land area of the State
21 does not exceed 0.0025;

22 (ii) the business premises of the licensee at which
23 the transfer is to occur are extremely remote in relation
24 to the chief law enforcement officer (as defined in sub-
25 section (s)(8)); and

26 (iii) there is an absence of telecommunications fa-
27 cilities in the geographical area in which the business
28 premises are located.

29 (4) If the national instant criminal background check sys-
30 tem notifies the licensee that the information available to the
31 system does not demonstrate that the receipt of a firearm by
32 such other person would violate subsection (g) or (n) or State
33 law, and the licensee transfers a firearm to such other person,
34 the licensee shall include in the record of the transfer the
35 unique identification number provided by the system with re-
36 spect to the transfer.

1 (5) If the licensee knowingly transfers a firearm to such
2 other person and knowingly fails to comply with paragraph (1)
3 of this subsection with respect to the transfer and, at the time
4 such other person most recently proposed the transfer, the na-
5 tional instant criminal background check system was operating
6 and information was available to the system demonstrating that
7 receipt of a firearm by such other person would violate sub-
8 section (g) or (n) of this section or State law, the Attorney
9 General may, after notice and opportunity for a hearing, sus-
10 pend for not more than 6 months or revoke any license issued
11 to the licensee under section 923, and may impose on the li-
12 censee a civil fine of not more than \$5,000.

13 (6) Neither a local government nor an employee of the
14 Federal Government or of any State or local government, re-
15 sponsible for providing information to the national instant
16 criminal background check system shall be liable in an action
17 at law for damages—

18 (A) for failure to prevent the sale or transfer of a fire-
19 arm to a person whose receipt or possession of the firearm
20 is unlawful under this section; or

21 (B) for preventing such a sale or transfer to a person
22 who may lawfully receive or possess a firearm.

23 (u) It shall be unlawful for a person to steal or unlawfully
24 take or carry away from the person or the premises of a person
25 who is licensed to engage in the business of importing, manu-
26 facturing, or dealing in firearms, any firearm in the licensee's
27 business inventory that has been shipped or transported in
28 interstate or foreign commerce.

29 (x)(1) It shall be unlawful for a person to sell, deliver, or
30 otherwise transfer to a person who the transferor knows or has
31 reasonable cause to believe is a juvenile—

32 (A) a handgun; or

33 (B) ammunition that is suitable for use only in a
34 handgun.

35 (2) It shall be unlawful for any person who is a juvenile
36 to knowingly possess—

37 (A) a handgun; or

1 (B) ammunition that is suitable for use only in a
2 handgun.

3 (3) This subsection does not apply to—

4 (A) a temporary transfer of a handgun or ammunition
5 to a juvenile or to the possession or use of a handgun or
6 ammunition by a juvenile if the handgun and ammunition
7 are possessed and used by the juvenile—

8 (i) in the course of employment, in the course of
9 ranching or farming related to activities at the resi-
10 dence of the juvenile (or on property used for ranching
11 or farming at which the juvenile, with the permission
12 of the property owner or lessee, is performing activities
13 related to the operation of the farm or ranch), target
14 practice, hunting, or a course of instruction in the safe
15 and lawful use of a handgun;

16 (ii) with the prior written consent of the juvenile's
17 parent or guardian who is not prohibited by Federal,
18 State, or local law from possessing a firearm, except—

19 (I) during transportation by the juvenile of an
20 unloaded handgun in a locked container directly
21 from the place of transfer to a place at which an
22 activity described in clause (i) is to take place and
23 transportation by the juvenile of that handgun, un-
24 loaded and in a locked container, directly from the
25 place at which such an activity took place to the
26 transferor; or

27 (II) with respect to ranching or farming activi-
28 ties as described in clause (i), a juvenile may pos-
29 sess and use a handgun or ammunition with the
30 prior written approval of the juvenile's parent or
31 legal guardian and at the direction of an adult who
32 is not prohibited by Federal, State or local law
33 from possessing a firearm;

34 (II) with respect to ranching or farming
35 activities as described in clause (i), a juvenile
36 may possess and use a handgun or ammunition
37 with the prior written approval of the juvenile's

1 parent or legal guardian and at the direction of
2 an adult who is not prohibited by Federal,
3 State or local law from possessing a firearm;

4 (iii) the juvenile has the prior written consent in
5 the juvenile's possession at all times when a handgun
6 is in the possession of the juvenile; and

7 (iv) in accordance with State and local law;

8
9 (B) a juvenile who is a member of the Armed Forces
10 of the United States or the National Guard who possesses
11 or is armed with a handgun in the line of duty;

12 (C) a transfer by inheritance of title (but not posses-
13 sion) of a handgun or ammunition to a juvenile; or

14 (D) the possession of a handgun or ammunition by a
15 juvenile taken in defense of the juvenile or other persons
16 against an intruder into the residence of the juvenile or a
17 residence in which the juvenile is an invited guest.

18 (4) A handgun or ammunition, the possession of which is
19 transferred to a juvenile in circumstances in which the trans-
20 feror is not in violation of this subsection shall not be subject
21 to permanent confiscation by the Government if its possession
22 by the juvenile subsequently becomes unlawful because of the
23 conduct of the juvenile, but shall be returned to the lawful
24 owner when such handgun or ammunition is no longer required
25 by the Government for the purposes of investigation or prosecu-
26 tion.

27 (5) For purposes of this subsection, the term "juvenile"
28 means a person who is less than 18 years of age.

29 (6)(A) In a prosecution of a violation of this subsection,
30 the court shall require the presence of a juvenile defendant's
31 parent or legal guardian at all proceedings.

32 (B) The court may use the contempt power to enforce sub-
33 paragraph (A).

34 (C) The court may excuse attendance of a parent or legal
35 guardian of a juvenile defendant at a proceeding in a prosecu-
36 tion of a violation of this subsection for good cause shown.

1 (y) PROVISIONS RELATING TO ALIENS ADMITTED UNDER
2 NONIMMIGRANT VISAS.—

3 (1) DEFINITIONS.—In this subsection—

4 (A) the term “alien” has the same meaning as in
5 section 101(a)(3) of the Immigration and Nationality
6 Act (8 U.S.C. 1101(a)(3)); and

7 (B) the term “nonimmigrant visa” has the same
8 meaning as in section 101(a)(26) of the Immigration
9 and Nationality Act (8 U.S.C. 1101(a)(26)).

10 (2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B),
11 and (s)(3)(B)(v)(II) do not apply to any alien who has been
12 lawfully admitted to the United States under a non-
13 immigrant visa, if that alien is—

14 (A) admitted to the United States for lawful hunting
15 or sporting purposes or is in possession of a hunting license
16 or permit lawfully issued in the United States;

17 (B) an official representative of a foreign government
18 who is—

19 (i) accredited to the United States Government or
20 the Government’s mission to an international organiza-
21 tion having its headquarters in the United States; or

22 (ii) en route to or from another country to which
23 that alien is accredited;

24 (C) an official of a foreign government or a distin-
25 guished foreign visitor who has been so designated by the
26 Department of State; or

27 (D) a foreign law enforcement officer of a friendly for-
28 eign government entering the United States on official law
29 enforcement business.

30 (3) WAIVER.—

31 (A) CONDITIONS FOR WAIVER.—Any individual
32 who has been admitted to the United States under a
33 nonimmigrant visa may receive a waiver from the re-
34 quirements of subsection (g)(5), if—

35 (i) the individual submits to the Attorney Gen-
36 eral a petition that meets the requirements of sub-
37 paragraph (C); and

1 (ii) the Attorney General approves the peti-
2 tion.

3 (B) PETITION.—Each petition under subpara-
4 graph (B) shall—

5 (i) demonstrate that the petitioner has resided
6 in the United States for a continuous period of not
7 less than 180 days before the date on which the pe-
8 tition is submitted under this paragraph; and

9 (ii) include a written statement from the em-
10 bassy or consulate of the petitioner, authorizing the
11 petitioner to acquire a firearm or ammunition and
12 certifying that the alien would not, absent the ap-
13 plication of subsection (g)(5)(B), otherwise be pro-
14 hibited from such acquisition under subsection (g).

15 (C) APPROVAL OF PETITION.—The Attorney Gen-
16 eral shall approve a petition submitted in accordance
17 with this paragraph, if the Attorney General deter-
18 mines that waiving the requirements of subsection
19 (g)(5)(B) with respect to the petitioner—

20 (i) would be in the interests of justice; and

21 (ii) would not jeopardize the public safety.

22 **§ 583. Licensing**

23 (a) No person shall engage in the business of importing,
24 manufacturing, or dealing in firearms, or importing or manu-
25 facturing ammunition, until he has filed an application with
26 and received a license to do so from the Attorney General. The
27 application shall be in such form and contain only that infor-
28 mation necessary to determine eligibility for licensing as the
29 Attorney General shall by regulation prescribe and shall include
30 a photograph and fingerprints of the applicant. Each applicant
31 shall pay a fee for obtaining such a license, a separate fee being
32 required for each place in which the applicant is to do business,
33 as follows:

34 (1) If the applicant is a manufacturer—

35 (A) of destructive devices, ammunition for destructive
36 devices or armor piercing ammunition, a fee of \$1,000 per
37 year;

1 (B) of firearms other than destructive devices, a fee of
2 \$50 per year; or

3 (C) of ammunition for firearms, other than ammuni-
4 tion for destructive devices or armor piercing ammunition,
5 a fee of \$10 per year.

6 (2) If the applicant is an importer—

7 (A) of destructive devices, ammunition for destructive
8 devices or armor piercing ammunition, a fee of \$1,000 per
9 year; or

10 (B) of firearms other than destructive devices or am-
11 munition for firearms other than destructive devices, or
12 ammunition other than armor piercing ammunition, a fee
13 of \$50 per year.

14 (3) If the applicant is a dealer—

15 (A) in destructive devices or ammunition for destruc-
16 tive devices, a fee of \$1,000 per year; or

17 (B) who is not a dealer in destructive devices, a fee
18 of \$200 for 3 years, except that the fee for renewal of a
19 valid license shall be \$90 for 3 years.

20 (b) Any person desiring to be licensed as a collector shall
21 file an application for such license with the Attorney General.
22 The application shall be in such form and contain only that in-
23 formation necessary to determine eligibility as the Attorney
24 General shall by regulation prescribe. The fee for such license
25 shall be \$10 per year. Any license granted under this sub-
26 section shall only apply to transactions in curios and relics.

27 (c) Upon the filing of a proper application and payment
28 of the prescribed fee, the Attorney General shall issue to a
29 qualified applicant the appropriate license which, subject to the
30 provisions of this chapter and other applicable provisions of
31 law, shall entitle the licensee to transport, ship, and receive
32 firearms and ammunition covered by such license in interstate
33 or foreign commerce during the period stated in the license.
34 Nothing in this chapter shall be construed to prohibit a licensed
35 manufacturer, importer, or dealer from maintaining and dis-
36 posing of a personal collection of firearms, subject only to such
37 restrictions as apply in this chapter to dispositions by a person

1 other than a licensed manufacturer, importer, or dealer. If any
2 firearm is so disposed of by a licensee within one year after its
3 transfer from his business inventory into such licensee's per-
4 sonal collection or if such disposition or any other acquisition
5 is made for the purpose of willfully evading the restrictions
6 placed upon licensees by this chapter, then such firearm shall
7 be deemed part of such licensee's business inventory, except
8 that any licensed manufacturer, importer, or dealer who has
9 maintained a firearm as part of a personal collection for one
10 year and who sells or otherwise disposes of such firearm shall
11 record the description of the firearm in a bound volume, con-
12 taining the name and place of residence and date of birth of
13 the transferee if the transferee is an individual, or the identity
14 and principal and local places of business of the transferee if
15 the transferee is a corporation or other business entity: Pro-
16 vided, That no other recordkeeping shall be required.

17 (d)(1) Any application submitted under subsection (a) or
18 (b) of this section shall be approved if—

19 (A) the applicant is twenty-one years of age or over;

20 (B) the applicant (including, in the case of a corpora-
21 tion, partnership, or association, any individual possessing,
22 directly or indirectly, the power to direct or cause the direc-
23 tion of the management and policies of the corporation,
24 partnership, or association) is not prohibited from trans-
25 porting, shipping, or receiving firearms or ammunition in
26 interstate or foreign commerce under section 922(g) and
27 (n) of this chapter;

28 (C) the applicant has not willfully violated any of the
29 provisions of this chapter or regulations issued thereunder;

30 (D) the applicant has not willfully failed to disclose
31 any material information required, or has not made any
32 false statement as to any material fact, in connection with
33 his application;

34 (E) the applicant has in a State (i) premises from
35 which he conducts business subject to license under this
36 chapter or from which he intends to conduct such business
37 within a reasonable period of time, or (ii) in the case of a

1 collector, premises from which he conducts his collecting
2 subject to license under this chapter or from which he in-
3 tends to conduct such collecting within a reasonable period
4 of time;

5 (F) the applicant certifies that—

6 (i) the business to be conducted under the license is
7 not prohibited by State or local law in the place where the
8 licensed premise is located;

9 (ii)(I) within 30 days after the application is approved
10 the business will comply with the requirements of State and
11 local law applicable to the conduct of the business; and

12 (II) the business will not be conducted under the license
13 until the requirements of State and local law applicable to the
14 business have been met; and

15 (II) the business will not be conducted under the license
16 until the requirements of State and local law applicable to the
17 business have been met; and

18 (iii) that the applicant has sent or delivered a form to
19 be prescribed by the Attorney General, to the chief law en-
20 forcement officer of the locality in which the premises are
21 located, which indicates that the applicant intends to apply
22 for a Federal firearms license; and

23 (G) in the case of an application to be licensed as a
24 dealer, the applicant certifies that secure gun storage or
25 safety devices will be available at any place in which fire-
26 arms are sold under the license to persons who are not li-
27 censees (subject to the exception that in any case in which
28 a secure gun storage or safety device is temporarily un-
29 available because of theft, casualty loss, consumer sales,
30 backorders from a manufacturer, or any other similar rea-
31 son beyond the control of the licensee, the dealer shall not
32 be considered to be in violation of the requirement under
33 this subparagraph to make available such a device).

34 (2) The Attorney General must approve or deny an appli-
35 cation for a license within the 60-day period beginning on the
36 date it is received. If the Attorney General fails to act within
37 such period, the applicant may file an action under section

1 1361 of title 28 to compel the Attorney General to act. If the
2 Attorney General approves an applicant's application, such ap-
3 plicant shall be issued a license upon the payment of the pre-
4 scribed fee.

5 (e) The Attorney General may, after notice and oppor-
6 tunity for hearing, revoke any license issued under this section
7 if the holder of such license has willfully violated any provision
8 of this chapter or any rule or regulation prescribed by the At-
9 torney General under this chapter or fails to have secure gun
10 storage or safety devices available at any place in which fire-
11 arms are sold under the license to persons who are not licens-
12 ees (except that in any case in which a secure gun storage or
13 safety device is temporarily unavailable because of theft, cas-
14 ualty loss, consumer sales, backorders from a manufacturer, or
15 any other similar reason beyond the control of the licensee, the
16 dealer shall not be considered to be in violation of the require-
17 ment to make available such a device). The Attorney General
18 may, after notice and opportunity for hearing, revoke the li-
19 cense of a dealer who willfully transfers armor piercing ammu-
20 nition. The Attorney General's action under this subsection
21 may be reviewed only as provided in subsection (f) of this sec-
22 tion.

23 (f)(1) Any person whose application for a license is denied
24 and any holder of a license which is revoked shall receive a
25 written notice from the Attorney General stating specifically
26 the grounds upon which the application was denied or upon
27 which the license was revoked. Any notice of a revocation of a
28 license shall be given to the holder of such license before the
29 effective date of the revocation.

30 (2) If the Attorney General denies an application for, or
31 revokes, a license, he shall, upon request by the aggrieved
32 party, promptly hold a hearing to review his denial or revoca-
33 tion. In the case of a revocation of a license, the Attorney Gen-
34 eral shall upon the request of the holder of the license stay the
35 effective date of the revocation. A hearing held under this para-
36 graph shall be held at a location convenient to the aggrieved
37 party.

1 (3) If after a hearing held under paragraph (2) the Attor-
2 ney General decides not to reverse his decision to deny an ap-
3 plication or revoke a license, the Attorney General shall give
4 notice of his decision to the aggrieved party. The aggrieved
5 party may at any time within sixty days after the date notice
6 was given under this paragraph file a petition with the United
7 States district court for the district in which he resides or has
8 his principal place of business for a de novo judicial review of
9 such denial or revocation. In a proceeding conducted under this
10 subsection, the court may consider any evidence submitted by
11 the parties to the proceeding whether or not such evidence was
12 considered at the hearing held under paragraph (2). If the
13 court decides that the Attorney General was not authorized to
14 deny the application or to revoke the license, the court shall
15 order the Attorney General to take such action as may be nec-
16 essary to comply with the judgment of the court.

17 (4) If criminal proceedings are instituted against a li-
18 censee alleging any violation of this chapter or of rules or regu-
19 lations prescribed under this chapter, and the licensee is acquit-
20 ted of such charges, or such proceedings are terminated, other
21 than upon motion of the Government before trial upon such
22 charges, the Attorney General shall be absolutely barred from
23 denying or revoking any license granted under this chapter
24 where such denial or revocation is based in whole or in part
25 on the facts which form the basis of such criminal charges. No
26 proceedings for the revocation of a license shall be instituted
27 by the Attorney General more than one year after the filing of
28 the indictment or information.

29 (g)(1)(A) Each licensed importer, licensed manufacturer,
30 and licensed dealer shall maintain such records of importation,
31 production, shipment, receipt, sale, or other disposition of fire-
32 arms at his place of business for such period, and in such form,
33 as the Attorney General may by regulations prescribe. Such im-
34 porters, manufacturers, and dealers shall not be required to
35 submit to the Attorney General reports and information with
36 respect to such records and the contents thereof, except as ex-
37 pressly required by this section. The Attorney General, when he

1 has reasonable cause to believe a violation of this chapter has
2 occurred and that evidence thereof may be found on such prem-
3 ises, may, upon demonstrating such cause before a Federal
4 magistrate judge and securing from such magistrate judge a
5 warrant authorizing entry, enter during business hours the
6 premises (including places of storage) of any licensed firearms
7 importer, licensed manufacturer, licensed dealer, licensed col-
8 lector, or any licensed importer or manufacturer of ammuni-
9 tion, for the purpose of inspecting or examining—

10 (i) any records or documents required to be kept by
11 such licensed importer, licensed manufacturer, licensed
12 dealer, or licensed collector under this chapter or rules or
13 regulations under this chapter, and

14 (ii) any firearms or ammunition kept or stored by such
15 licensed importer, licensed manufacturer, licensed dealer, or
16 licensed collector, at such premises.

17 (B) The Attorney General may inspect or examine the in-
18 ventory and records of a licensed importer, licensed manufac-
19 turer, or licensed dealer without such reasonable cause or war-
20 rant—

21 (i) in the course of a reasonable inquiry during the
22 course of a criminal investigation of a person or persons
23 other than the licensee;

24 (ii) for ensuring compliance with the record keeping
25 requirements of this chapter—

26 (I) not more than once during any 12-month pe-
27 riod; or

28 (II) at any time with respect to records relating to
29 a firearm involved in a criminal investigation that is
30 traced to the licensee.; or

31 (iii) when such inspection or examination may be re-
32 quired for determining the disposition of one or more par-
33 ticular firearms in the course of a bona fide criminal inves-
34 tigation.

35 (C) The Attorney General may inspect the inventory and
36 records of a licensed collector without such reasonable cause or
37 warrant—

1 (i) for ensuring compliance with the record keeping re-
2 quirements of this chapter not more than once during any
3 twelve-month period; or

4 (ii) when such inspection or examination may be re-
5 quired for determining the disposition of one or more par-
6 ticular firearms in the course of a bona fide criminal inves-
7 tigation.

8 (D) At the election of a licensed collector, the annual in-
9 spection of records and inventory permitted under this para-
10 graph shall be performed at the office of the Attorney General
11 designated for such inspections which is located in closest prox-
12 imity to the premises where the inventory and records of such
13 licensed collector are maintained. The inspection and examina-
14 tion authorized by this paragraph shall not be construed as au-
15 thORIZING the Attorney General to seize any records or other
16 documents other than those records or documents constituting
17 material evidence of a violation of law. If the Attorney General
18 seizes such records or documents, copies shall be provided the
19 licensee within a reasonable time. The Attorney General may
20 make available to any Federal, State, or local law enforcement
21 agency any information which he may obtain by reason of this
22 chapter with respect to the identification of persons prohibited
23 from purchasing or receiving firearms or ammunition who have
24 purchased or received firearms or ammunition, together with a
25 description of such firearms or ammunition, and he may pro-
26 vide information to the extent such information may be con-
27 tained in the records required to be maintained by this chapter,
28 when so requested by any Federal, State, or local law enforce-
29 ment agency.

30 (2) Each licensed collector shall maintain in a bound vol-
31 ume the nature of which the Attorney General may by regula-
32 tions prescribe, records of the receipt, sale, or other disposition
33 of firearms. Such records shall include the name and address
34 of any person to whom the collector sells or otherwise disposes
35 of a firearm. Such collector shall not be required to submit to
36 the Attorney General reports and information with respect to

1 such records and the contents thereof, except as expressly re-
2 quired by this section.

3 (3)(A) Each licensee shall prepare a report of multiple
4 sales or other dispositions whenever the licensee sells or other-
5 wise disposes of, at one time or during any five consecutive
6 business days, two or more pistols, or revolvers, or any com-
7 bination of pistols and revolvers totalling two or more, to an
8 unlicensed person. The report shall be prepared on a form spec-
9 ified by the Attorney General and forwarded to the office speci-
10 fied thereon and to the department of State police or State law
11 enforcement agency of the State or local law enforcement agen-
12 cy of the local jurisdiction in which the sale or other disposition
13 took place, not later than the close of business on the day that
14 the multiple sale or other disposition occurs.

15 (B) Except in the case of forms and contents thereof re-
16 garding a purchaser who is prohibited by subsection (g) or (n)
17 of section 922 of this title from receipt of a firearm, the de-
18 partment of State police or State law enforcement agency or
19 local law enforcement agency of the local jurisdiction shall not
20 disclose any such form or the contents thereof to any person
21 or entity, and shall destroy each such form and any record of
22 the contents thereof no more than 20 days from the date such
23 form is received. No later than the date that is 6 months after
24 the effective date of this subparagraph, and at the end of each
25 6-month period thereafter, the department of State police or
26 State law enforcement agency or local law enforcement agency
27 of the local jurisdiction shall certify to the Attorney General of
28 the United States that no disclosure contrary to this subpara-
29 graph has been made and that all forms and any record of the
30 contents thereof have been destroyed as provided in this sub-
31 paragraph.

32 (4) Where a firearms or ammunition business is discon-
33 tinued and succeeded by a new licensee, the records required
34 to be kept by this chapter shall appropriately reflect such facts
35 and shall be delivered to the successor. Where discontinuance
36 of the business is absolute, such records shall be delivered with-
37 in thirty days after the business discontinuance to the Attorney

1 General. However, where State law or local ordinance requires
2 the delivery of records to other responsible authority, the Attor-
3 ney General may arrange for the delivery of such records to
4 such other responsible authority.

5 (5)(A) Each licensee shall, when required by letter issued
6 by the Attorney General, and until notified to the contrary in
7 writing by the Attorney General, submit on a form specified by
8 the Attorney General, for periods and at the times specified in
9 such letter, all record information required to be kept by this
10 chapter or such lesser record information as the Attorney Gen-
11 eral in such letter may specify.

12 (B) The Attorney General may authorize such record in-
13 formation to be submitted in a manner other than that pre-
14 scribed in subparagraph (A) of this paragraph when it is shown
15 by a licensee that an alternate method of reporting is reason-
16 ably necessary and will not unduly hinder the effective adminis-
17 tration of this chapter. A licensee may use an alternate method
18 of reporting if the licensee describes the proposed alternate
19 method of reporting and the need therefor in a letter applica-
20 tion submitted to the Attorney General, and the Attorney Gen-
21 eral approves such alternate method of reporting.

22 (6) Each licensee shall report the theft or loss of a firearm
23 from the licensee's inventory or collection, within 48 hours after
24 the theft or loss is discovered, to the Attorney General and to
25 the appropriate local authorities.

26 (7) Each licensee shall respond immediately to, and in no
27 event later than 24 hours after the receipt of, a request by the
28 Attorney General for information contained in the records re-
29 quired to be kept by this chapter as may be required for deter-
30 mining the disposition of 1 or more firearms in the course of
31 a bona fide criminal investigation. The requested information
32 shall be provided orally or in writing, as the Attorney General
33 may require. The Attorney General shall implement a system
34 whereby the licensee can positively identify and establish that
35 an individual requesting information via telephone is employed
36 by and authorized by the agency to request such information.

1 (h) Licenses issued under the provisions of subsection (c)
2 of this section shall be kept posted and kept available for in-
3 spection on the premises covered by the license.

4 (i) Licensed importers and licensed manufacturers shall
5 identify by means of a serial number engraved or cast on the
6 receiver or frame of the weapon, in such manner as the Attor-
7 ney General shall by regulations prescribe, each firearm im-
8 ported or manufactured by such importer or manufacturer.

9 (j) A licensed importer, licensed manufacturer, or licensed
10 dealer may, under rules or regulations prescribed by the Attor-
11 ney General, conduct business temporarily at a location other
12 than the location specified on the license if such temporary lo-
13 cation is the location for a gun show or event sponsored by any
14 national, State, or local organization, or any affiliate of any
15 such organization devoted to the collection, competitive use, or
16 other sporting use of firearms in the community, and such loca-
17 tion is in the State which is specified on the license. Records
18 of receipt and disposition of firearms transactions conducted at
19 such temporary location shall include the location of the sale
20 or other disposition and shall be entered in the permanent
21 records of the licensee and retained on the location specified on
22 the license. Nothing in this subsection shall authorize any li-
23 censee to conduct business in or from any motorized or towed
24 vehicle. Notwithstanding the provisions of subsection (a) of this
25 section, a separate fee shall not be required of a licensee with
26 respect to business conducted under this subsection. Any in-
27 spection or examination of inventory or records under this
28 chapter by the Attorney General at such temporary location
29 shall be limited to inventory consisting of, or records relating
30 to, firearms held or disposed at such temporary location. Noth-
31 ing in this subsection shall be construed to authorize the Attor-
32 ney General to inspect or examine the inventory or records of
33 a licensed importer, licensed manufacturer, or licensed dealer at
34 any location other than the location specified on the license.
35 Nothing in this subsection shall be construed to diminish in
36 any manner any right to display, sell, or otherwise dispose of
37 firearms or ammunition, which is in effect before the date of

1 the enactment of the Firearms Owners' Protection Act, includ-
 2 ing the right of a licensee to conduct "curios or relics" firearms
 3 transfers and business away from their business premises with
 4 another licensee without regard as to whether the location of
 5 where the business is conducted is located in the State specified
 6 on the license of either licensee.

7 (k) Licensed importers and licensed manufacturers shall
 8 mark all armor piercing projectiles and packages containing
 9 such projectiles for distribution in the manner prescribed by
 10 the Attorney General by regulation. The Attorney General shall
 11 furnish information to each dealer licensed under this chapter
 12 defining which projectiles are considered armor piercing ammu-
 13 nition as defined in section 921(a)(17)(B).

14 (l) The Attorney General shall notify the chief law enforce-
 15 ment officer in the appropriate State and local jurisdictions of
 16 the names and addresses of all persons in the State to whom
 17 a firearms license is issued.

18 **§ 584. Penalties**

19 (a)(1) Except as otherwise provided in this subsection,
 20 subsection (b), (c), or (f) of this section, or in section 592, who-
 21 ever—

22 (A) knowingly makes any false statement or represen-
 23 tation with respect to the information required by this
 24 chapter to be kept in the records of a person licensed under
 25 this chapter or in applying for any license or exemption or
 26 relief from disability under the provisions of this chapter;

27 (B) knowingly violates subsection (a)(4), (f), (k), or
 28 (q) of section 582;

29 (C) knowingly imports or brings into the United
 30 States or any possession thereof any firearm or ammuni-
 31 tion in violation of section 582(l); or

32 (D) knowingly violates any other provision of this
 33 chapter,

34 shall be imprisoned not more than five years.

35 (2) Whoever knowingly violates subsection (a)(6), (d), (g),
 36 (h), (i), (j), or (o) of section 582 shall be imprisoned not more
 37 than 10 years.

1 (3) Any licensed dealer, licensed importer, licensed manu-
2 facturer, or licensed collector who knowingly—

3 (A) makes any false statement or representation with
4 respect to the information required by the provisions of this
5 chapter to be kept in the records of a person licensed under
6 this chapter, or

7 (B) violates subsection (m) of section 582,
8 shall be imprisoned not more than one year.

9 (4) Whoever violates section 582(q) shall be imprisoned
10 for not more than 5 years. Notwithstanding any other provision
11 of law, the term of imprisonment imposed under this paragraph
12 shall not run concurrently with any other term of imprisonment
13 imposed under any other provision of law. Except for the au-
14 thorization of a term of imprisonment of not more than 5 years
15 made in this paragraph, for the purpose of any other law a vio-
16 lation of section 582(q) shall be deemed to be a misdemeanor.

17 (5) Whoever knowingly violates subsection (s) or (t) of sec-
18 tion 582 shall be imprisoned for not more than 1 year.

19 (6)(A)(i) A juvenile who violates section 582(x) shall be
20 imprisoned not more than 1 year, except that a juvenile de-
21 scribed in clause (ii) shall be sentenced to probation on appro-
22 priate conditions and shall not be incarcerated unless the juve-
23 nile fails to comply with a condition of probation.

24 (ii) A juvenile is described in this clause if—

25 (I) the offense of which the juvenile is charged is pos-
26 session of a handgun or ammunition in violation of section
27 582(x)(2); and

28 (II) the juvenile has not been convicted in any court
29 of an offense (including an offense under section 582(x) or
30 a similar State law, but not including any other offense
31 consisting of conduct that if engaged in by an adult would
32 not constitute an offense) or adjudicated as a juvenile de-
33 linquent for conduct that if engaged in by an adult would
34 constitute an offense.

35 (II) the juvenile has not been convicted in any court
36 of an offense (including an offense under section 582(x) or
37 a similar State law, but not including any other offense

1 consisting of conduct that if engaged in by an adult would
2 not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would
3 constitute an offense.
4

5 (B) A person other than a juvenile who knowingly violates
6 section 582(x)—

7 (i) shall be imprisoned not more than 1 year; and

8 (ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or
9 having reasonable cause to know that the juvenile intended
10 to carry or otherwise possess or discharge or otherwise use
11 the handgun or ammunition in the commission of a crime
12 of violence, shall be imprisoned not more than 10 years.
13

14 (7) Whoever knowingly violates section 594 shall be imprisoned not more than 3 years.
15

16 (b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or
17 with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is
18 to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall
19 be imprisoned not more than ten years.
20
21

22 (c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any
23 other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a
24 crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or
25 dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm,
26 or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such
27 crime of violence or drug trafficking crime—
28
29

30 (i) be sentenced to a term of imprisonment of not less
31 than 5 years;
32

33 (ii) if the firearm is brandished, be sentenced to a
34 term of imprisonment of not less than 7 years; and
35
36
37

1 (iii) if the firearm is discharged, be sentenced to a
2 term of imprisonment of not less than 10 years.

3 (B) If the firearm possessed by a person convicted of a
4 violation of this subsection—

5 (i) is a short-barreled rifle, short-barreled shotgun, or
6 semiautomatic assault weapon, the person shall be sen-
7 tenced to a term of imprisonment of not less than 10 years;
8 or

9 (ii) is a machinegun or a destructive device, or is
10 equipped with a firearm silencer or firearm muffler, the
11 person shall be sentenced to a term of imprisonment of not
12 less than 30 years.

13 (C) In the case of a second or subsequent conviction under
14 this subsection, the person shall—

15 (i) be sentenced to a term of imprisonment of not less
16 than 25 years; and

17 (ii) if the firearm involved is a machinegun or a de-
18 structive device, or is equipped with a firearm silencer or
19 firearm muffler, be sentenced to imprisonment for life.

20 (D) Notwithstanding any other provision of law—

21 (i) a court shall not place on probation any person
22 convicted of a violation of this subsection; and

23 (ii) no term of imprisonment imposed on a person
24 under this subsection shall run concurrently with any other
25 term of imprisonment imposed on the person, including any
26 term of imprisonment imposed for the crime of violence or
27 drug trafficking crime during which the firearm was used,
28 carried, or possessed.

29 (2) For purposes of this subsection, the term “drug traf-
30 ficking crime” means any felony punishable under the Con-
31 trolled Substances Act (21 U.S.C. 801 et seq.), the Controlled
32 Substances Import and Export Act (21 U.S.C. 951 et seq.), or
33 the Maritime Drug Law Enforcement Act (46 U.S.C. App.
34 1901 et seq.).

35 (3) For purposes of this subsection the term “crime of vio-
36 lence” means an offense that is a felony and—

1 (A) has as an element the use, attempted use, or
2 threatened use of physical force against the person or prop-
3 erty of another, or

4 (B) that by its nature, involves a substantial risk that
5 physical force against the person or property of another
6 may be used in the course of committing the offense.

7 (4) For purposes of this subsection, the term “brandish”
8 means, with respect to a firearm, to display all or part of the
9 firearm, or otherwise make the presence of the firearm known
10 to another person, in order to intimidate that person, regard-
11 less of whether the firearm is directly visible to that person.

12 (d)(1) Any firearm or ammunition involved in or used in
13 any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h),
14 (i), (j), or (k) of section 582, or knowing importation or bring-
15 ing into the United States or any possession thereof any fire-
16 arm or ammunition in violation of section 582(l), or knowing
17 violation of section 584, or willful violation of any other provi-
18 sion of this chapter or any rule or regulation promulgated
19 thereunder, or any violation of any other criminal law of the
20 United States, or any firearm or ammunition intended to be
21 used in any offense referred to in paragraph (3) of this sub-
22 section, where such intent is demonstrated by clear and con-
23 vincing evidence, shall be subject to seizure and forfeiture, and
24 all provisions of the Internal Revenue Code of 1986 relating to
25 the seizure, forfeiture, and disposition of firearms, as defined
26 in section 5845(a) of that Code, shall, so far as applicable, ex-
27 tend to seizures and forfeitures under the provisions of this
28 chapter: Provided, That upon acquittal of the owner or pos-
29 sessor, or dismissal of the charges against him other than upon
30 motion of the Government prior to trial, or lapse of or court
31 termination of the restraining order to which he is subject, the
32 seized or relinquished firearms or ammunition shall be returned
33 forthwith to the owner or possessor or to a person delegated
34 by the owner or possessor unless the return of the firearms or
35 ammunition would place the owner or possessor or his delegate
36 in violation of law. Any action or proceeding for the forfeiture

1 of firearms or ammunition shall be commenced within one hun-
2 dred and twenty days of such seizure.

3 (2)(A) In any action or proceeding for the return of fire-
4 arms or ammunition seized under the provisions of this chap-
5 ter, the court shall allow the prevailing party, other than the
6 United States, a reasonable attorney's fee, and the United
7 States shall be liable therefor.

8 (B) In any other action or proceeding under the provisions
9 of this chapter, the court, when it finds that such action was
10 without foundation, or was initiated vexatiously, frivolously, or
11 in bad faith, shall allow the prevailing party, other than the
12 United States, a reasonable attorney's fee, and the United
13 States shall be liable therefor.

14 (C) Only those firearms or quantities of ammunition par-
15 ticularly named and individually identified as involved in or
16 used in any violation of the provisions of this chapter or any
17 rule or regulation issued thereunder, or any other criminal law
18 of the United States or as intended to be used in any offense
19 referred to in paragraph (3) of this subsection, where such in-
20 tent is demonstrated by clear and convincing evidence, shall be
21 subject to seizure, forfeiture, and disposition.

22 (D) The United States shall be liable for attorneys' fees
23 under this paragraph only to the extent provided in advance by
24 appropriation Acts.

25 (3) The offenses referred to in paragraphs (1) and (2)(C)
26 of this subsection are—

27 (A) any crime of violence, as that term is defined in
28 section 584(c)(3) of this title;

29 (B) any offense punishable under the Controlled Sub-
30 stances Act (21 U.S.C. 801 et seq.) or the Controlled Sub-
31 stances Import and Export Act (21 U.S.C. 951 et seq.);

32 (C) any offense described in section 582(a)(1),
33 582(a)(3), 582(a)(5), or 582(b)(3) of this title, where the
34 firearm or ammunition intended to be used in any such of-
35 fense is involved in a pattern of activities which includes a
36 violation of any offense described in section 582(a)(1),
37 582(a)(3), 582(a)(5), or 582(b)(3) of this title;

1 (D) any offense described in section 582(d) of this
2 title where the firearm or ammunition is intended to be
3 used in such offense by the transferor of such firearm or
4 ammunition;

5 (E) any offense described in section 582(i), 582(j),
6 582(l), 582(n), or 584(b) of this title; and

7 (F) any offense which may be prosecuted in a court
8 of the United States which involves the exportation of fire-
9 arms or ammunition.

10 (e)(1) In the case of a person who violates section 582(g)
11 of this title and has three previous convictions by any court re-
12 ferred to in section 582(g)(1) of this title for a violent felony
13 or a serious drug offense, or both, committed on occasions dif-
14 ferent from one another, such person shall be imprisoned not
15 less than fifteen years, and, notwithstanding any other provi-
16 sion of law, the court shall not suspend the sentence of, or
17 grant a probationary sentence to, such person with respect to
18 the conviction under section 582(g).

19 (2) As used in this subsection—

20 (A) the term “serious drug offense” means—

21 (i) an offense under chapter 17 or the Maritime
22 Drug Law Enforcement Act (46 U.S.C. App. 1901 et
23 seq.) for which a maximum term of imprisonment of
24 ten years or more is prescribed by law; or

25 (ii) an offense under State law, involving manufac-
26 turing, distributing, or possessing with intent to manu-
27 facture or distribute, a controlled substance (as defined
28 in section 102 of the Controlled Substances Act (21
29 U.S.C. 802)), for which a maximum term of imprison-
30 ment of ten years or more is prescribed by law;

31 (B) the term “violent felony” means any crime punish-
32 able by imprisonment for a term exceeding one year, or any
33 act of juvenile delinquency involving the use or carrying of
34 a firearm, knife, or destructive device that would be punish-
35 able by imprisonment for such term if committed by an
36 adult, that—

1 (i) has as an element the use, attempted use, or
2 threatened use of physical force against the person of
3 another; or

4 (ii) is burglary, arson, or extortion, involves use of
5 explosives, or otherwise involves conduct that presents
6 a serious potential risk of physical injury to another;
7 and

8 (C) the term “conviction” includes a finding that a
9 person has committed an act of juvenile delinquency involv-
10 ing a violent felony.

11 (f) In the case of a person who knowingly violates section
12 582(p), such person shall be or imprisoned not more than 5
13 years.

14 (g) Whoever, with the intent to engage in conduct which—

15 (1) constitutes an offense listed in section 1961(1),

16 (2) is punishable under chapter 17 or the Maritime
17 Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

18 (3) violates any State law relating to any controlled
19 substance (as defined in section 102(6) of the Controlled
20 Substances Act (21 U.S.C. 802(6))), or

21 (4) constitutes a crime of violence (as defined in sub-
22 section (c)(3)),

23 travels from any State or foreign country into any other State
24 and acquires, transfers, or attempts to acquire or transfer, a
25 firearm in such other State in furtherance of such purpose,
26 shall be imprisoned not more than 10 years.

27 (h) Whoever knowingly transfers a firearm, knowing that
28 such firearm will be used to commit a crime of violence (as de-
29 fined in subsection (c)(3)) or drug trafficking crime (as defined
30 in subsection (c)(2)) shall be imprisoned not more than 10
31 years.

32 (i)(1) A person who knowingly violates section 582(u) shall
33 be imprisoned not more than 10 years.

34 (2) Nothing contained in this subsection shall be construed
35 as indicating an intent on the part of Congress to occupy the
36 field in which provisions of this subsection operate to the exclu-
37 sion of State laws on the same subject matter, nor shall any

1 provision of this subsection be construed as invalidating any
2 provision of State law unless such provision is inconsistent with
3 any of the purposes of this subsection.

4 (j) A person who, in the course of a violation of subsection
5 (c), causes the death of a person through the use of a firearm,
6 shall—

7 (1) if the killing is a murder (as defined in section
8 1111), be punished by death or by imprisonment for any
9 term of years or for life; and

10 (2) if the killing is manslaughter (as defined in section
11 1112), be punished as provided in that section.

12 (k) A person who, with intent to engage in or to promote
13 conduct that—

14 (1) is punishable under chapter 17 or the Maritime
15 Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

16 (2) violates any law of a State relating to any con-
17 trolled substance (as defined in section 102 of the Con-
18 trolled Substances Act, 21 U.S.C. 802); or

19 (3) constitutes a crime of violence (as defined in sub-
20 section (c)(3)),

21 smuggles or knowingly brings into the United States a firearm,
22 or attempts to do so, shall be imprisoned not more than 10
23 years.

24 (l) A person who steals any firearm which is moving as,
25 or is a part of, or which has moved in, interstate or foreign
26 commerce shall be imprisoned for not more than 10 years.

27 (l) A person who steals any firearm which is moving as,
28 or is a part of, or which has moved in, interstate or foreign
29 commerce shall be imprisoned for not more than 10 years.

30 (m) A person who steals any firearm from a licensed im-
31 porter, licensed manufacturer, licensed dealer, or licensed col-
32 lector shall be imprisoned not more than 10 years.

33 (n) A person who, with the intent to engage in conduct
34 that constitutes a violation of section 582(a)(1)(A), travels
35 from any State or foreign country into any other State and ac-
36 quires, or attempts to acquire, a firearm in such other State

1 in furtherance of such purpose shall be imprisoned for not
2 more than 10 years.

3 (o) A person who conspires to commit an offense under
4 subsection (c) shall be imprisoned for not more than 20 years;
5 and if the firearm is a machinegun or destructive device, or is
6 equipped with a firearm silencer or muffler, shall be imprisoned
7 for any term of years or life.

8 **§ 585. Exceptions: Relief from disabilities**

9 (a)(1) The provisions of this chapter, except for sections
10 582(d)(9) and 582(g)(9) and provisions relating to firearms
11 subject to the prohibitions of section 582(p), shall not apply
12 with respect to the transportation, shipment, receipt, posses-
13 sion, or importation of any firearm or ammunition imported
14 for, sold or shipped to, or issued for the use of, the United
15 States or any department or agency thereof or any State or
16 any department, agency, or political subdivision thereof.

17 (2) The provisions of this chapter, except for provisions re-
18 lating to firearms subject to the prohibitions of section 582(p),
19 shall not apply with respect to (A) the shipment or receipt of
20 firearms or ammunition when sold or issued by the Secretary
21 of the Army pursuant to section 4308 of title 10 before the re-
22 peal of such section by section 1624(a) of the Corporation for
23 the Promotion of Rifle Practice and Firearms Safety Act, and
24 (B) the transportation of any such firearm or ammunition car-
25 ried out to enable a person, who lawfully received such firearm
26 or ammunition from the Secretary of the Army, to engage in
27 military training or in competitions.

28 (3) Unless otherwise prohibited by this chapter, except for
29 provisions relating to firearms subject to the prohibitions of
30 section 582(p), or any other Federal law, a licensed importer,
31 licensed manufacturer, or licensed dealer may ship to a member
32 of the United States Armed Forces on active duty outside the
33 United States or to clubs, recognized by the Department of De-
34 fense, whose entire membership is composed of such members,
35 and such members or clubs may receive a firearm or ammuni-
36 tion determined by the Attorney General to be generally recog-

1 nized as particularly suitable for sporting purposes and in-
2 tended for the personal use of such member or club.

3 (4) When established to the satisfaction of the Attorney
4 General to be consistent with the provisions of this chapter, ex-
5 cept for provisions relating to firearms subject to the prohibi-
6 tions of section 582(p), and other applicable Federal and State
7 laws and published ordinances, the Attorney General may au-
8 thorize the transportation, shipment, receipt, or importation
9 into the United States to the place of residence of any member
10 of the United States Armed Forces who is on active duty out-
11 side the United States (or who has been on active duty outside
12 the United States within the 60-day period immediately pre-
13 ceeding the transportation, shipment, receipt, or importation), of
14 any firearm or ammunition which is (A) determined by the At-
15 torney General to be generally recognized as particularly suit-
16 able for sporting purposes, or determined by the Department
17 of Defense to be a type of firearm normally classified as a war
18 souvenir, and (B) intended for the personal use of such mem-
19 ber.

20 **§ 586. Remedy for erroneous denial of firearm**

21 Any person denied a firearm pursuant to subsection (s) or
22 (t) of section 582—

23 (1) due to the provision of erroneous information re-
24 lating to the person by any State or political subdivision
25 thereof, or by the national instant criminal background
26 check system established under section 103 of the Brady
27 Handgun Violence Prevention Act; or

28 (2) who was not prohibited from receipt of a firearm
29 pursuant to subsection (g) or (n) of section 582,

30 may bring an action against the State or political subdivision
31 responsible for providing the erroneous information, or respon-
32 sible for denying the transfer, or against the United States, as
33 the case may be, for an order directing that the erroneous in-
34 formation be corrected or that the transfer be approved, as the
35 case may be. In any action under this section, the court, in its
36 discretion, may allow the prevailing party a reasonable attor-
37 ney's fee as part of the costs.

1 **§ 587. Rules and regulations**

2 (a) The Attorney General may prescribe only such rules
3 and regulations as are necessary to carry out the provisions of
4 this chapter, including—

5 (1) regulations providing that a person licensed under
6 this chapter, when dealing with another person so licensed,
7 shall provide such other licensed person a certified copy of
8 this license;

9 (2) regulations providing for the issuance, at a reason-
10 able cost, to a person licensed under this chapter, of cer-
11 tified copies of his license for use as provided under regula-
12 tions issued under paragraph (1) of this subsection; and

13 (3) regulations providing for effective receipt and se-
14 cure storage of firearms relinquished by or seized from per-
15 sons described in subsection (d)(8) or (g)(8) of section 582.

16 No such rule or regulation prescribed after the date of the en-
17 actment of the Firearms Owners' Protection Act may require
18 that records required to be maintained under this chapter or
19 any portion of the contents of such records, be recorded at or
20 transferred to a facility owned, managed, or controlled by the
21 United States or any State or any political subdivision thereof,
22 nor that any system of registration of firearms, firearms own-
23 ers, or firearms transactions or dispositions be established.
24 Nothing in this section expands or restricts the Attorney Gen-
25 eral's authority to inquire into the disposition of any firearm
26 in the course of a criminal investigation.

27 (b) The Attorney General shall give not less than ninety
28 days public notice, and shall afford interested parties oppor-
29 tunity for hearing, before prescribing such rules and regula-
30 tions.

31 (c) The Attorney General shall not prescribe rules or regu-
32 lations that require purchasers of black powder under the ex-
33 emption provided in section 615 to complete affidavits or forms
34 attesting to that exemption.

35 **§ 588. Interstate transportation of firearms**

36 Notwithstanding any other provision of any law or any
37 rule or regulation of a State or any political subdivision thereof,

1 any person who is not otherwise prohibited by this chapter
2 from transporting, shipping, or receiving a firearm shall be en-
3 titled to transport a firearm for any lawful purpose from any
4 place where he may lawfully possess and carry such firearm to
5 any other place where he may lawfully possess and carry such
6 firearm if, during such transportation the firearm is unloaded,
7 and neither the firearm nor any ammunition being transported
8 is readily accessible or is directly accessible from the passenger
9 compartment of such transporting vehicle: Provided, That in
10 the case of a vehicle without a compartment separate from the
11 driver's compartment the firearm or ammunition shall be con-
12 tained in a locked container other than the glove compartment
13 or console.

14 **§ 589. Carrying of concealed firearms by qualified**
15 **law enforcement officers**

16 (a) Notwithstanding any other provision of the law of any
17 State or any political subdivision thereof, an individual who is
18 a qualified law enforcement officer and who is carrying the
19 identification required by subsection (d) may carry a concealed
20 firearm that has been shipped or transported in interstate or
21 foreign commerce, subject to subsection (b).

22 (b) This section shall not be construed to supersede or
23 limit the laws of any State that—

24 (1) permit private persons or entities to prohibit or re-
25 strict the possession of concealed firearms on their prop-
26 erty; or

27 (2) prohibit or restrict the possession of firearms on
28 any State or local government property, installation, build-
29 ing, base, or park.

30 (c) As used in this section, the term “qualified law en-
31 forcement officer” means an employee of a governmental agen-
32 cy who—

33 (1) is authorized by law to engage in or supervise the
34 prevention, detection, investigation, or prosecution of, or
35 the incarceration of any person for, any violation of law,
36 and has statutory powers of arrest;

37 (2) is authorized by the agency to carry a firearm;

1 (3) is not the subject of any disciplinary action by the
2 agency;

3 (4) meets standards, if any, established by the agency
4 which require the employee to regularly qualify in the use
5 of a firearm;

6 (5) is not under the influence of alcohol or another in-
7 toxicating or hallucinatory drug or substance; and

8 (6) is not prohibited by Federal law from receiving a
9 firearm.

10 (d) The identification required by this subsection is the
11 photographic identification issued by the governmental agency
12 for which the individual is employed as a law enforcement offi-
13 cer.

14 (e) As used in this section, the term “firearm” does not
15 include—

16 (1) any machinegun (as defined in section 5845 of the
17 National Firearms Act);

18 (2) any firearm silencer (as defined in section 581 of
19 this title); and

20 (3) any destructive device (as defined in section 581
21 of this title).

22 **§ 590. Carrying of concealed firearms by qualified**
23 **retired law enforcement officers**

24 (a) Notwithstanding any other provision of the law of any
25 State or any political subdivision thereof, an individual who is
26 a qualified retired law enforcement officer and who is carrying
27 the identification required by subsection (d) may carry a con-
28 cealed firearm that has been shipped or transported in inter-
29 state or foreign commerce, subject to subsection (b).

30 (b) This section shall not be construed to supersede or
31 limit the laws of any State that—

32 (1) permit private persons or entities to prohibit or re-
33 strict the possession of concealed firearms on their prop-
34 erty; or

35 (2) prohibit or restrict the possession of firearms on
36 any State or local government property, installation, build-
37 ing, base, or park.

1 (c) As used in this section, the term “qualified retired law
2 enforcement officer” means an individual who—

3 (1) retired in good standing from service with a public
4 agency as a law enforcement officer, other than for reasons
5 of mental instability;

6 (2) before such retirement, was authorized by law to
7 engage in or supervise the prevention, detection, investiga-
8 tion, or prosecution of, or the incarceration of any person
9 for, any violation of law, and had statutory powers of ar-
10 rest;

11 (3)(A) before such retirement, was regularly employed
12 as a law enforcement officer for an aggregate of 15 years
13 or more; or

14 (B) retired from service with such agency, after com-
15 pleting any applicable probationary period of such service,
16 due to a service-connected disability, as determined by such
17 agency;

18 (4) has a nonforfeitable right to benefits under the re-
19 tirement plan of the agency;

20 (5) during the most recent 12-month period, has met,
21 at the expense of the individual, the State’s standards for
22 training and qualification for active law enforcement offi-
23 cers to carry firearms;

24 (6) is not under the influence of alcohol or another in-
25 toxicating or hallucinatory drug or substance; and

26 (7) is not prohibited by Federal law from receiving a
27 firearm.

28 (d) The identification required by this subsection is—

29 (1) a photographic identification issued by the agency
30 from which the individual retired from service as a law en-
31 forcement officer that indicates that the individual has, not
32 less recently than one year before the date the individual
33 is carrying the concealed firearm, been tested or otherwise
34 found by the agency to meet the standards established by
35 the agency for training and qualification for active law en-
36 forcement officers to carry a firearm of the same type as
37 the concealed firearm; or

1 (2)(A) a photographic identification issued by the
2 agency from which the individual retired from service as a
3 law enforcement officer; and

4 (B) a certification issued by the State in which the in-
5 dividual resides that indicates that the individual has, not
6 less recently than one year before the date the individual
7 is carrying the concealed firearm, been tested or otherwise
8 found by the State to meet the standards established by the
9 State for training and qualification for active law enforce-
10 ment officers to carry a firearm of the same type as the
11 concealed firearm.

12 (e) As used in this section, the term “firearm” does not
13 include—

14 (1) any machinegun (as defined in section 5845 of the
15 National Firearms Act);

16 (2) any firearm silencer (as defined in section 581 of
17 this title); and

18 (3) a destructive device (as defined in section 581 of
19 this title).

20 **§ 591. Effect on State law**

21 No provision of this subchapter shall be construed as indi-
22 cating an intent on the part of the Congress to occupy the field
23 in which such provision operates to the exclusion of the law of
24 any State on the same subject matter, unless there is a direct
25 and positive conflict between such provision and the law of the
26 State so that the two cannot be reconciled or consistently stand
27 together.

28 **§ 592. Use of restricted ammunition**

29 (a)(1) Whoever, during and in relation to the commission
30 of a crime of violence or drug trafficking crime (including a
31 crime of violence or drug trafficking crime which provides for
32 an enhanced punishment if committed by the use of a deadly
33 or dangerous weapon or device) for which he may be prosecuted
34 in a court of the United States, uses or carries a firearm and
35 is in possession of armor piercing ammunition capable of being
36 fired in that firearm, shall, in addition to the punishment pro-
37 vided for the commission of such crime of violence or drug traf-

1 ficking crime be sentenced to a term of imprisonment for not
2 less than five years.

3 (2) For purposes of this subsection, the term “drug traf-
4 ficking crime” means any felony punishable under the Con-
5 trolled Substances Act (21 U.S.C. 801 et seq.), the Controlled
6 Substances Import and Export Act (21 U.S.C. 951 et seq.), or
7 the Maritime Drug Law Enforcement Act (46 U.S.C. App.
8 1901 et seq.).

9 (b) Notwithstanding any other provision of law, the court
10 shall not suspend the sentence of any person convicted of a vio-
11 lation of this section, nor place the person on probation, nor
12 shall the terms of imprisonment run concurrently with any
13 other terms of imprisonment, including that imposed for the
14 crime in which the armor piercing ammunition was used or
15 possessed.

16 **§ 593. Possession of firearms and dangerous weap-**
17 **ons in Federal facilities**

18 (a) Except as provided in subsection (d), whoever know-
19 ingly possesses or causes to be present a firearm or other dan-
20 gerous weapon in a Federal facility (other than a Federal court
21 facility), or attempts to do so, shall be imprisoned not more
22 than 1 year.

23 (b) Whoever, with intent that a firearm or other dan-
24 gerous weapon be used in the commission of a crime, knowingly
25 possesses or causes to be present such firearm or dangerous
26 weapon in a Federal facility, or attempts to do so, shall be im-
27 prisoned not more than 5 years.

28 (c) A person who kills any person in the course of a viola-
29 tion of subsection (a) or (b), or in the course of an attack on
30 a Federal facility involving the use of a firearm or other dan-
31 gerous weapon, or attempts or conspires to do such an act,
32 shall be punished as provided in subchapter A of chapter 10.

33 (d) Subsection (a) shall not apply to—

34 (1) the lawful performance of official duties by an offi-
35 cer, agent, or employee of the United States, a State, or
36 a political subdivision thereof, who is authorized by law to

1 engage in or supervise the prevention, detection, investiga-
2 tion, or prosecution of any violation of law;

3 (2) the possession of a firearm or other dangerous
4 weapon by a Federal official or a member of the Armed
5 Forces if such possession is authorized by law; or

6 (3) the lawful carrying of firearms or other dangerous
7 weapons in a Federal facility incident to hunting or other
8 lawful purposes.

9 (e)(1) Except as provided in paragraph (2), whoever know-
10 ingly possesses or causes to be present a firearm in a Federal
11 court facility, or attempts to do so, shall be imprisoned not
12 more than 2 years.

13 (2) Paragraph (1) shall not apply to conduct which is de-
14 scribed in paragraph (1) or (2) of subsection (d).

15 (f) Nothing in this section limits the power of a court of
16 the United States to punish for contempt or to promulgate
17 rules or orders regulating, restricting, or prohibiting the posses-
18 sion of weapons within any building housing such court or any
19 of its proceedings, or upon any grounds appurtenant to such
20 building.

21 (g) As used in this section:

22 (1) The term “Federal facility” means a building or
23 part thereof owned or leased by the Federal Government,
24 where Federal employees are regularly present for the pur-
25 pose of performing their official duties.

26 (2) The term “dangerous weapon” means a weapon,
27 device, instrument, material, or substance, animate or inan-
28 imate, that is used for, or is readily capable of, causing
29 death or serious bodily injury, except that such term does
30 not include a pocket knife with a blade of less than 2 1/
31 2 inches in length.

32 (3) The term “Federal court facility” means the court-
33 room, judges’ chambers, witness rooms, jury deliberation
34 rooms, attorney conference rooms, prisoner holding cells,
35 offices of the court clerks, the United States attorney, and
36 the United States marshal, probation and parole offices,
37 and adjoining corridors of any court of the United States.

1 (h) Notice of the provisions of subsections (a) and (b)
 2 shall be posted conspicuously at each public entrance to each
 3 Federal facility, and notice of subsection (e) shall be posted
 4 conspicuously at each public entrance to each Federal court fa-
 5 cility, and no person shall be convicted of an offense under sub-
 6 section (a) or (e) with respect to a Federal facility if such no-
 7 tice is not so posted at such facility, unless such person had
 8 actual notice of subsection (a) or (e), as the case may be.

9 **§ 594. Prohibition on purchase, ownership, or pos-**
 10 **session of body armor by violent felons**

11 (a) IN GENERAL.—Except as provided in subsection (b),
 12 it shall be unlawful for a person to purchase, own, or possess
 13 body armor, if that person has been convicted of a felony that
 14 is—

15 (1) a crime of violence; or

16 (2) an offense under State law that would constitute
 17 a crime of violence under paragraph (1) if it occurred with-
 18 in the special maritime and territorial jurisdiction of the
 19 United States.

20 (b) AFFIRMATIVE DEFENSE.—

21 (1) IN GENERAL.—It shall be an affirmative defense
 22 under this section that—

23 (A) the defendant obtained prior written certifi-
 24 cation from his or her employer that the defendant’s
 25 purchase, use, or possession of body armor was nec-
 26 essary for the safe performance of lawful business ac-
 27 tivity; and

28 (B) the use and possession by the defendant were
 29 limited to the course of such performance.

30 (2) EMPLOYER.—In this subsection, the term “em-
 31 ployer” means any other individual employed by the de-
 32 fendant’s business that supervises defendant’s activity. If
 33 that defendant has no supervisor, prior written certification
 34 is acceptable from any other employee of the business.

35 SUBCHAPTER C—EXPLOSIVES

Sec.

601. Prohibited transactions involving nuclear materials.

1 **§ 601. Prohibited transactions involving nuclear**
2 **materials**

3 (a) Whoever, if one of the circumstances described in sub-
4 section (c) of this section occurs—

5 (1) without lawful authority, intentionally receives,
6 possesses, uses, transfers, alters, disposes of, or disperses
7 any nuclear material or nuclear byproduct material and—

8 (A) thereby knowingly causes the death of or seri-
9 ous bodily injury to any person or substantial damage
10 to property or to the environment; or

11 (B) circumstances exist, or have been represented
12 to the defendant to exist, that are likely to cause the
13 death or serious bodily injury to any person, or sub-
14 stantial damage to property or to the environment;

15 (2) with intent to deprive another of nuclear material
16 or nuclear byproduct material, knowingly—

17 (A) takes and carries away nuclear material or nu-
18 clear byproduct material of another without authority;

19 (B) makes an unauthorized use, disposition, or
20 transfer, of nuclear material or nuclear byproduct ma-
21 terial belonging to another; or

22 (C) uses fraud and thereby obtains nuclear mate-
23 rial or nuclear byproduct material belonging to another;

24 (3) knowingly—

25 (A) uses force; or

26 (B) threatens or places another in fear that any
27 person other than the actor will imminently be subject
28 to bodily injury;

29 and thereby takes nuclear material or nuclear byproduct
30 material belonging to another from the person or presence
31 of any other;

32 (4) intentionally intimidates any person and thereby
33 obtains nuclear material or nuclear byproduct material be-
34 longing to another;

35 (5) with intent to compel any person, international or-
36 ganization, or governmental entity to do or refrain from

1 doing any act, knowingly threatens to engage in conduct
2 described in paragraph (2)(A) or (3) of this subsection;

3 (6) knowingly threatens to use nuclear material or nu-
4 clear byproduct material to cause death or serious bodily
5 injury to any person or substantial damage to property or
6 to the environment under circumstances in which the threat
7 may reasonably be understood as an expression of serious
8 purposes;

9 (7) attempts to commit an offense under paragraph
10 (1), (2), (3), or (4) of this subsection; or

11 (8) is a party to a conspiracy of two or more persons
12 to commit an offense under paragraph (1), (2), (3), or (4)
13 of this subsection, if any of the parties intentionally en-
14 gages in any conduct in furtherance of such offense;

15 shall be punished as provided in subsection (b) of this section.

16 (b) The punishment for an offense under—

17 (1) paragraphs (1) through (7) of subsection (a) of
18 this section is—

19 (A) a fine under this title; and

20 (B) imprisonment—

21 (i) for any term of years or for life (I) if, while
22 committing the offense, the offender knowingly
23 causes the death of any person; or (II) if, while
24 committing an offense under paragraph (1) or (3)
25 of subsection (a) of this section, the offender, under
26 circumstances manifesting extreme indifference to
27 the life of an individual, knowingly engages in any
28 conduct and thereby recklessly causes the death of
29 or serious bodily injury to any person; and

30 (ii) for not more than 20 years in any other
31 case; and

32 (2) paragraph (8) of subsection (a) of this section is—

33 (A) a fine under this title; and

34 (B) imprisonment—

35 (i) for not more than 20 years if the offense
36 which is the object of the conspiracy is punishable
37 under paragraph (1)(B)(i); and

1 (ii) for not more than 10 years in any other
2 case.

3 (c) The circumstances referred to in subsection (a) of this
4 section are that—

5 (1) the offense is committed in the United States or
6 the special maritime and territorial jurisdiction of the
7 United States, or the special aircraft jurisdiction of the
8 United States (as defined in section 46501 of title 49);

9 (2) an offender or a victim is—

10 (A) a national of the United States; or

11 (B) a United States corporation or other legal en-
12 tity;

13 (3) after the conduct required for the offense occurs
14 the defendant is found in the United States, even if the
15 conduct required for the offense occurs outside the United
16 States;

17 (4) the conduct required for the offense occurs with
18 respect to the carriage of a consignment of nuclear material
19 or nuclear byproduct material for peaceful purposes by any
20 means of transportation intended to go beyond the territory
21 of the state where the shipment originates beginning with
22 the departure from a facility of the shipper in that state
23 and ending with the arrival at a facility of the receiver
24 within the state of ultimate destination and either of such
25 states is the United States; or

26 (5) either—

27 (A) the governmental entity under subsection
28 (a)(5) is the United States; or

29 (B) the threat under subsection (a)(6) is directed
30 at the United States.

31 (d) The Attorney General may request assistance from the
32 Secretary of Defense under chapter 18 of title 10 in the en-
33 forcement of this section and the Secretary of Defense may
34 provide such assistance in accordance with chapter 18 of title
35 10, except that the Secretary of Defense may provide such as-
36 sistance through any Department of Defense personnel.

1 (e)(1) The Attorney General may also request assistance
2 from the Secretary of Defense under this subsection in the en-
3 forcement of this section. Notwithstanding section 1385 of this
4 title, the Secretary of Defense may, in accordance with other
5 applicable law, provide such assistance to the Attorney General
6 if—

7 (A) an emergency situation exists (as jointly deter-
8 mined by the Attorney General and the Secretary of De-
9 fense in their discretion); and

10 (B) the provision of such assistance will not adversely
11 affect the military preparedness of the United States (as
12 determined by the Secretary of Defense in such Secretary’s
13 discretion).

14 (2) As used in this subsection, the term “emergency situa-
15 tion” means a circumstance—

16 (A) that poses a serious threat to the interests of the
17 United States; and

18 (B) in which—

19 (i) enforcement of the law would be seriously im-
20 paired if the assistance were not provided; and

21 (ii) civilian law enforcement personnel are not ca-
22 pable of enforcing the law.

23 (3) Assistance under this section may include—

24 (A) use of personnel of the Department of Defense to
25 arrest persons and conduct searches and seizures with re-
26 spect to violations of this section; and

27 (B) such other activity as is incidental to the enforce-
28 ment of this section, or to the protection of persons or
29 property from conduct that violates this section.

30 (4) The Secretary of Defense may require reimbursement
31 as a condition of assistance under this section.

32 (5) The Attorney General may delegate the Attorney Gen-
33 eral’s function under this subsection only to a Deputy, Asso-
34 ciate, or Assistant Attorney General.

35 (f) As used in this section—

36 (1) the term “nuclear material” means material con-
37 taining any—

1 (A) plutonium ;

2 (B) uranium not in the form of ore or ore residue
3 that contains the mixture of isotopes as occurring in
4 nature;

5 (C) enriched uranium, defined as uranium that
6 contains the isotope 233 or 235 or both in such
7 amount that the abundance ratio of the sum of those
8 isotopes to the isotope 238 is greater than the ratio of
9 the isotope 235 to the isotope 238 occurring in nature;
10 or

11 (D) uranium 233;

12 (2) the term “nuclear byproduct material” means any
13 material containing any radioactive isotope created through
14 an irradiation process in the operation of a nuclear reactor
15 or accelerator;

16 (3) the term “international organization” means a
17 public international organization designated as such pursu-
18 ant to section 1 of the International Organizations Immuni-
19 ties Act (22 U.S.C. 288) or a public organization created
20 pursuant to treaty or other agreement under international
21 law as an instrument through or by which two or more for-
22 eign governments engage in some aspect of their conduct
23 of international affairs;

24 (7) the term “United States corporation or other legal
25 entity” means any corporation or other entity organized
26 under the laws of the United States or any State, Common-
27 wealth, territory, possession, or district of the United
28 States.

29 SUBCHAPTER D—IMPORTATION, MANUFACTURE,
30 DISTRIBUTION AND STORAGE OF EXPLOSIVE MA-
31 TERIALS

Sec.

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1 **§ 611. Definitions**

2 In this subchapter the following definitions apply:

3 (1) The term “explosive materials” means explosives,
4 blasting agents, and detonators.

5 (2) Except for the purposes of subsections (d), (e), (f),
6 (g), (h), (i), and (j) of section 614, the term “explosives”
7 means any chemical compound mixture, or device, the pri-
8 mary or common purpose of which is to function by explo-
9 sion; the term includes, but is not limited to, dynamite and
10 other high explosives, black powder, pellet powder, initi-
11 ating explosives, detonators, safety fuses, squibs, deto-
12 nating cord, igniter cord, and igniters. The Attorney Gen-
13 eral shall publish and revise at least annually in the Fed-
14 eral Register a list of these and any additional explosives
15 which he determines to be within the coverage of this chap-
16 ter. For the purposes of subsections (d), (e), (f), (g), (h),
17 and (i) of section 614, the term “explosive” is defined in
18 subsection (j) of such section 614.

19 (3) The term “blasting agent” means any material or
20 mixture, consisting of fuel and oxidizer, intended for blast-
21 ing, not otherwise defined as an explosive: Provided, That
22 the finished product, as mixed for use or shipment, cannot
23 be detonated by means of a numbered 8 test blasting cap
24 when unconfined.

25 (4) The term “detonator” means any device containing
26 a detonating charge that is used for initiating detonation
27 in an explosive; the term includes electric blasting caps of
28 instantaneous and delay types, blasting caps for use with
29 safety fuses and detonating-cord delay connectors.

30 (5) The term “importer” means any person engaged
31 in the business of importing or bringing explosive materials
32 into the United States for purposes of sale or distribution.

33 (6) The term “manufacturer” means any person en-
34 gaged in the business of manufacturing explosive materials

1 for purposes of sale or distribution or for that person's own
2 use.

3 (7) The term "dealer" means any person engaged in
4 the business of distributing explosive materials at wholesale
5 or retail.

6 (8) The term "permittee" means any user of explo-
7 sives for a lawful purpose, who has obtained either a user
8 permit or a limited permit under the provisions of this
9 chapter.

10 (9) The term "Attorney General" means the Attorney
11 General of the United States.

12 (10) The term "crime punishable by imprisonment for
13 a term exceeding one year" shall not mean (1) any Federal
14 or State offenses pertaining to antitrust violations, unfair
15 trade practices, restraints of trade, or other similar of-
16 fenses relating to the regulation of business practices as the
17 Attorney General may by regulation designate, or (2) any
18 State offense (other than one involving a firearm or explo-
19 sive) classified by the laws of the State as a misdemeanor
20 and punishable by a term of imprisonment of two years or
21 less.

22 (11) The term "crime punishable by imprisonment for
23 a term exceeding one year" shall not mean (1) any Federal
24 or State offenses pertaining to antitrust violations, unfair
25 trade practices, restraints of trade, or other similar of-
26 fenses relating to the regulation of business practices as the
27 Attorney General may by regulation designate, or (2) any
28 State offense (other than one involving a firearm or explo-
29 sive) classified by the laws of the State as a misdemeanor
30 and punishable by a term of imprisonment of two years or
31 less.

32 (12) The term "licensee" means any importer, manu-
33 facturer, or dealer licensed under the provisions of this
34 chapter.

35 (13) The term "distribute" means sell, issue, give,
36 transfer, or otherwise dispose of.

1 (14) The term “convention on the Marking of Plastic
2 Explosives” means the Convention on the Marking of Plas-
3 tic Explosives for the Purpose of Detection, Done at Mon-
4 treal on 1 March 1991.

5 (15) The term “detection agent” means any one of the
6 substances specified in this subsection when introduced into
7 a plastic explosive or formulated in such explosive as a part
8 of the manufacturing process in such a manner as to
9 achieve homogeneous distribution in the finished explosive,
10 including—

11 (A) Ethylene glycol dinitrate (EGDN),
12 $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum
13 concentration in the finished explosive is 0.2 percent by
14 mass;

15 (B) 2,3-Dimethyl-2,3-dinitrobutane (DMNB),

16 (C) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$,
17 molecular weight 137, when the minimum concentra-
18 tion in the finished explosive is 0.5 percent by mass;

19 (D) Ortho-Mononitrotoluene (o-MNT),
20 $C_7H_7NO_2$, molecular weight 137, when the minimum con-
21 centration in the finished explosive is 0.5 percent by mass;
22 and

23 (E) any other substance in the concentration spec-
24 ified by the Attorney General, after consultation with
25 the Secretary of State and the Secretary of Defense,
26 that has been added to the table in part 2 of the Tech-
27 nical Annex to the Convention on the Marking of Plas-
28 tic Explosives.

29 (16) The term “plastic explosive” means an explosive
30 material in flexible or elastic sheet form formulated with
31 one or more high explosives which in their pure form has
32 a vapor pressure less than 10- $\times 10^4$ Pa at a tem-
33 perature of 25/C., is formulated with a binder material, and
34 is as a mixture malleable or flexible at normal room tem-
35 perature.

36 (17) The term “alien” means any person who is not
37 a citizen or national of the United States.

1 (18) The term “responsible person” means an indi-
2 vidual who has the power to direct the management and
3 policies of the applicant pertaining to explosive materials.

4 **§ 612. Unlawful acts**

5 (a) It shall be unlawful for any person—

6 (1) to engage in the business of importing, manufac-
7 turing, or dealing in explosive materials without a license
8 issued under this chapter;

9 (2) knowingly to withhold information or to make any
10 false or fictitious oral or written statement or to furnish or
11 exhibit any false, fictitious, or misrepresented identifica-
12 tion, intended or likely to deceive for the purpose of obtain-
13 ing explosive materials, or a license, permit, exemption, or
14 relief from disability under the provisions of this chapter;

15 (3) other than a licensee or permittee knowingly—

16 (A) to transport, ship, cause to be transported, or
17 receive any explosive materials; or

18 (B) to distribute explosive materials to any person
19 other than a licensee or permittee; or

20 (4) who is a holder of a limited permit—

21 (A) to transport, ship, cause to be transported, or
22 receive in interstate or foreign commerce any explosive
23 materials; or

24 (B) to receive explosive materials from a licensee
25 or permittee, whose premises are located outside the
26 State of residence of the limited permit holder, or on
27 more than 6 separate occasions, during the period of
28 the permit, to receive explosive materials from 1 or
29 more licensees or permittees whose premises are located
30 within the State of residence of the limited permit hold-
31 er.

32 (b) It shall be unlawful for any licensee or permittee to
33 knowingly distribute any explosive materials to any person
34 other than—

35 (1) a licensee;

36 (2) a holder of a user permit; or

1 (3) a holder of a limited permit who is a resident of
2 the State where distribution is made and in which the
3 premises of the transferor are located.

4 (c) It shall be unlawful for any licensee to distribute explo-
5 sive materials to any person who the licensee has reason to be-
6 lieve intends to transport such explosive materials into a State
7 where the purchase, possession, or use of explosive materials is
8 prohibited or which does not permit its residents to transport
9 or ship explosive materials into it or to receive explosive mate-
10 rials in it.

11 (d) It shall be unlawful for any person knowingly to dis-
12 tribute explosive materials to any individual who:

13 (1) is under twenty-one years of age;

14 (2) has been convicted in any court of a crime punish-
15 able by imprisonment for a term exceeding one year;

16 (3) is under indictment for a crime punishable by im-
17 prisonment for a term exceeding one year;

18 (4) is a fugitive from justice;

19 (5) is an unlawful user of or addicted to any controlled
20 substance (as defined in section 102 of the Controlled Sub-
21 stances Act (21 U.S.C. 802));

22 (6) has been adjudicated a mental defective or who
23 has been committed to a mental institution;

24 (7) is an alien, other than an alien who—

25 (A) is lawfully admitted for permanent residence
26 (as defined in section 101 (a)(20) of the Immigration
27 and Nationality Act);

28 (B) is in lawful nonimmigrant status, is a refugee
29 admitted under section 207 of the Immigration and
30 Nationality Act (8 U.S.C. 1157), or is in asylum status
31 under section 208 of the Immigration and Nationality
32 Act (8 U.S.C. 1158), and—

33 (i) is a foreign law enforcement officer of a
34 friendly foreign government, as determined by the
35 Attorney General in consultation with the Secretary
36 of State, entering the United States on official law
37 enforcement business, and the shipping, trans-

1 porting, possession, or receipt of explosive materials
2 is in furtherance of this official law enforcement
3 business; or

4 (ii) is a person having the power to direct or
5 cause the direction of the management and policies
6 of a corporation, partnership, or association li-
7 censed pursuant to section 843(a), and the ship-
8 ping, transporting, possession, or receipt of explo-
9 sive materials is in furtherance of such power;

10 (C) is a member of a North Atlantic Treaty Orga-
11 nization (NATO) or other friendly foreign military
12 force, as determined by the Attorney General in con-
13 sultation with the Secretary of Defense, who is present
14 in the United States under military orders for training
15 or other military purpose authorized by the United
16 States and the shipping, transporting, possession, or
17 receipt of explosive materials is in furtherance of the
18 authorized military purpose; or

19 (D) is lawfully present in the United States in co-
20 operation with the Director of Central Intelligence, and
21 the shipment, transportation, receipt, or possession of
22 the explosive materials is in furtherance of such co-
23 operation;

24 (8) has been discharged from the armed forces under
25 dishonorable conditions;

26 (9) having been a citizen of the United States, has re-
27 nounced the citizenship of that person.

28 (e) It shall be unlawful for any licensee knowingly to dis-
29 tribute any explosive materials to any person in any State
30 where the purchase, possession, or use by such person of such
31 explosive materials would be in violation of any State law or
32 any published ordinance applicable at the place of distribution.

33 (f) It shall be unlawful for any licensee or permittee will-
34 fully to manufacture, import, purchase, distribute, or receive
35 explosive materials without making such records as the Attor-
36 ney General may by regulation require, including, but not lim-
37 ited to, a statement of intended use, the name, date, place of

1 birth, social security number or taxpayer identification number,
2 and place of residence of any natural person to whom explosive
3 materials are distributed. If explosive materials are distributed
4 to a corporation or other business entity, such records shall in-
5 clude the identity and principal and local places of business and
6 the name, date, place of birth, and place of residence of the
7 natural person acting as agent of the corporation or other busi-
8 ness entity in arranging the distribution.

9 (g) It shall be unlawful for any licensee or permittee know-
10 ingly to make any false entry in any record which he is re-
11 quired to keep pursuant to this section or regulations promul-
12 gated under section 617.

13 (h) It shall be unlawful for any person to receive, possess,
14 transport, ship, conceal, store, barter, sell, dispose of, or pledge
15 or accept as security for a loan, any stolen explosive materials
16 which are moving as, which are part of, which constitute, or
17 which have been shipped or transported in, interstate or foreign
18 commerce, either before or after such materials were stolen,
19 knowing or having reasonable cause to believe that the explo-
20 sive materials were stolen.

21 (i) It shall be unlawful for any person—

22 (1) who is under indictment for, or who has been con-
23 victed in any court of, a crime punishable by imprisonment
24 for a term exceeding one year;

25 (2) who is a fugitive from justice;

26 (3) who is an unlawful user of or addicted to any con-
27 trolled substance (as defined in section 102 of the Con-
28 trolled Substances Act (21 U.S.C. 802));

29 (4) who has been adjudicated as a mental defective or
30 who has been committed to a mental institution;

31 (5) who is an alien, other than an alien who—

32 (A) is lawfully admitted for permanent residence
33 (as that term is defined in section 101(a)(20) of the
34 Immigration and Nationality Act);

35 (B) is in lawful nonimmigrant status, is a refugee
36 admitted under section 207 of the Immigration and
37 Nationality Act (8 U.S.C. 1157), or is in asylum status

1 under section 208 of the Immigration and Nationality
2 Act (8 U.S.C. 1158), and—

3 (i) is a foreign law enforcement officer of a
4 friendly foreign government, as determined by the
5 Attorney General in consultation with the Secretary
6 of State, entering the United States on official law
7 enforcement business, and the shipping, trans-
8 porting, possession, or receipt of explosive materials
9 is in furtherance of this official law enforcement
10 business; or

11 (ii) is a person having the power to direct or
12 cause the direction of the management and policies
13 of a corporation, partnership, or association li-
14 censed pursuant to section 843(a), and the ship-
15 ping, transporting, possession, or receipt of explo-
16 sive materials is in furtherance of such power;

17 (C) is a member of a North Atlantic Treaty Orga-
18 nization (NATO) or other friendly foreign military
19 force, as determined by the Attorney General in con-
20 sultation with the Secretary of Defense, who is present
21 in the United States under military orders for training
22 or other military purpose authorized by the United
23 States and the shipping, transporting, possession, or
24 receipt of explosive materials is in furtherance of the
25 authorized military purpose; or

26 (D) is lawfully present in the United States in co-
27 operation with the Director of Central Intelligence, and
28 the shipment, transportation, receipt, or possession of
29 the explosive materials is in furtherance of such co-
30 operation;

31 (6) who has been discharged from the armed forces
32 under dishonorable conditions;

33 (7) who, having been a citizen of the United States,
34 has renounced the citizenship of that person;

35 (j) It shall be unlawful for any person to store any explo-
36 sive material in a manner not in conformity with regulations
37 promulgated by the Attorney General. In promulgating such

1 regulations, the Attorney General shall take into consideration
2 the class, type, and quantity of explosive materials to be stored,
3 as well as the standards of safety and security recognized in
4 the explosives industry.

5 (k) It shall be unlawful for any person who has knowledge
6 of the theft or loss of any explosive materials from his stock,
7 to fail to report such theft or loss within twenty-four hours of
8 discovery thereof, to the Attorney General and to appropriate
9 local authorities.

10 (l) It shall be unlawful for any person to manufacture any
11 plastic explosive that does not contain a detection agent.

12 (l) It shall be unlawful for any person to manufacture any
13 plastic explosive that does not contain a detection agent.

14 (m)(1) It shall be unlawful for any person to import or
15 bring into the United States, or export from the United States,
16 any plastic explosive that does not contain a detection agent.

17 (2) This subsection does not apply to the importation or
18 bringing into the United States, or the exportation from the
19 United States, of any plastic explosive that was imported or
20 brought into, or manufactured in the United States prior to the
21 date of enactment of this subsection by or on behalf of any
22 agency of the United States performing military or police func-
23 tions (including any military reserve component) or by or on
24 behalf of the National Guard of any State, not later than 15
25 years after the date of entry into force of the Convention on
26 the Marking of Plastic Explosives, with respect to the United
27 States.

28 (n)(1) It shall be unlawful for any person to ship, trans-
29 port, transfer, receive, or possess any plastic explosive that does
30 not contain a detection agent.

31 (2) This subsection does not apply to—

32 (A) the shipment, transportation, transfer, receipt, or
33 possession of any plastic explosive that was imported or
34 brought into, or manufactured in the United States prior
35 to the date of enactment of this subsection by any person
36 during the period beginning on that date and ending 3
37 years after that date of enactment; or

1 (B) the shipment, transportation, transfer, receipt, or
2 possession of any plastic explosive that was imported or
3 brought into, or manufactured in the United States prior
4 to the date of enactment of this subsection by or on behalf
5 of any agency of the United States performing a military
6 or police function (including any military reserve compo-
7 nent) or by or on behalf of the National Guard of any
8 State, not later than 15 years after the date of entry into
9 force of the Convention on the Marking of Plastic Explo-
10 sives, with respect to the United States.

11 (o) It shall be unlawful for any person, other than an
12 agency of the United States (including any military reserve
13 component) or the National Guard of any State, possessing any
14 plastic explosive on the date of enactment of this subsection,
15 to fail to report to the Attorney General within 120 days after
16 such date of enactment the quantity of such explosives pos-
17 sessed, the manufacturer or importer, any marks of identifica-
18 tion on such explosives, and such other information as the At-
19 torney General may prescribe by regulation.

20 (p) DISTRIBUTION OF INFORMATION RELATING TO EXPLO-
21 SIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DE-
22 STRUCTION.—

23 (1) DEFINITIONS.—In this subsection—

24 (A) the term “destructive device” has the same
25 meaning as in section 581;

26 (B) the term “explosive” has the same meaning as
27 in section 614; and

28 (C) the term “weapon of mass destruction” has
29 the same meaning as in section 271.

30 (2) PROHIBITION.—It shall be unlawful for any per-
31 son—

32 (A) to teach or demonstrate the making or use of
33 an explosive, a destructive device, or a weapon of mass
34 destruction, or to distribute by any means information
35 pertaining to, in whole or in part, the manufacture or
36 use of an explosive, destructive device, or weapon of
37 mass destruction, with the intent that the teaching,

1 demonstration, or information be used for, or in fur-
2 therance of, an activity that constitutes a Federal
3 crime of violence; or

4 (B) to teach or demonstrate to any person the
5 making or use of an explosive, a destructive device, or
6 a weapon of mass destruction, or to distribute to any
7 person, by any means, information pertaining to, in
8 whole or in part, the manufacture or use of an explo-
9 sive, destructive device, or weapon of mass destruction,
10 knowing that such person intends to use the teaching,
11 demonstration, or information for, or in furtherance of,
12 an activity that constitutes a Federal crime of violence.

13 **§ 613. Licenses and user permits**

14 (a) An application for a user permit or limited permit or
15 a license to import, manufacture, or deal in explosive materials
16 shall be in such form and contain such information as the At-
17 torney General shall by regulation prescribe, including the
18 names of and appropriate identifying information regarding all
19 employees who will be authorized by the applicant to possess
20 explosive materials, as well as fingerprints and a photograph of
21 each responsible person. Each applicant for a license or permit
22 shall pay a fee to be charged as set by the Attorney General,
23 said fee not to exceed \$50 for a limited permit and \$200 for
24 any other license or permit. Each license or user permit shall
25 be valid for not longer than 3 years from the date of issuance
26 and each limited permit shall be valid for not longer than 1
27 year from the date of issuance. Each license or permit shall be
28 renewable upon the same conditions and subject to the same
29 restrictions as the original license or permit, and upon payment
30 of a renewal fee not to exceed one-half of the original fee.

31 (b) Upon the filing of a proper application and payment
32 of the prescribed fee, and subject to the provisions of this chap-
33 ter and other applicable laws, the Attorney General shall issue
34 to such applicant the appropriate license or permit if—

35 (1) the applicant (or, if the applicant is a corporation,
36 partnership, or association, each responsible person with re-

1 spect to the applicant) is not a person described in section
2 612(i);

3 (2) the applicant has not willfully violated any of the
4 provisions of this chapter or regulations issued hereunder;

5 (3) the applicant has in a State premises from which
6 he conducts or intends to conduct business;

7 (4)(A) the Secretary verifies by inspection or, if the
8 application is for an original limited permit or the first or
9 second renewal of such a permit, by such other means as
10 the Attorney General determines appropriate, that the ap-
11 plicant has a place of storage for explosive materials which
12 meets such standards of public safety and security against
13 theft as the Attorney General by regulations shall pre-
14 scribe; and

15 (B) subparagraph (A) shall not apply to an applicant
16 for the renewal of a limited permit if the Secretary has
17 verified, by inspection within the preceding 3 years, the
18 matters described in subparagraph (A) with respect to the
19 applicant; and

20 (5) the applicant has demonstrated and certified in
21 writing that he is familiar with all published State laws and
22 local ordinances relating to explosive materials for the loca-
23 tion in which he intends to do business;

24 (6) none of the employees of the applicant who will be
25 authorized by the applicant to possess explosive materials
26 is any person described in section 612(i); and

27 (7) in the case of a limited permit, the applicant has
28 certified in writing that the applicant will not receive explo-
29 sive materials on more than 6 separate occasions during
30 the 12-month period for which the limited permit is valid.

31 (c) The Attorney General shall approve or deny an appli-
32 cation within a period of 90 days for licenses and permits, be-
33 ginning on the date such application is received by the Attorney
34 General.

35 (d) The Attorney General may revoke any license or per-
36 mit issued under this section if in the opinion of the Attorney
37 General the holder thereof has violated any provision of this

1 chapter or any rule or regulation prescribed by the Attorney
2 General under this chapter, or has become ineligible to acquire
3 explosive materials under section 612(d). The Attorney Gen-
4 eral's action under this subsection may be reviewed only as pro-
5 vided in subsection (e)(2) of this section.

6 (e)(1) Any person whose application is denied or whose li-
7 cense or permit is revoked shall receive a written notice from
8 the Attorney General stating the specific grounds upon which
9 such denial or revocation is based. Any notice of a revocation
10 of a license or permit shall be given to the holder of such li-
11 cense or permit prior to or concurrently with the effective date
12 of the revocation.

13 (2) If the Attorney General denies an application for, or
14 revokes a license, or permit, he shall, upon request by the ag-
15 grievied party, promptly hold a hearing to review his denial or
16 revocation. In the case of a revocation, the Attorney General
17 may upon a request of the holder stay the effective date of the
18 revocation. A hearing under this section shall be at a location
19 convenient to the aggrieved party. The Attorney General shall
20 give written notice of his decision to the aggrieved party within
21 a reasonable time after the hearing. The aggrieved party may,
22 within sixty days after receipt of the Secretary's written deci-
23 sion, file a petition with the United States court of appeals for
24 the district in which he resides or has his principal place of
25 business for a judicial review of such denial or revocation, pur-
26 suant to sections 701 through 706 of title 5.

27 (f) Licensees and holders of user permits shall make avail-
28 able for inspection at all reasonable times their records kept
29 pursuant to this chapter or the regulations issued hereunder,
30 and licensees and permittees shall submit to the Attorney Gen-
31 eral such reports and information with respect to such records
32 and the contents thereof as he shall by regulations prescribe.
33 The Attorney General may enter during business hours the
34 premises (including places of storage) of any licensee or holder
35 of a user permit, for the purpose of inspecting or examining
36 (1) any records or documents required to be kept by such li-
37 censee or permittee, under the provisions of this chapter or reg-

1 ulations issued hereunder, and (2) any explosive materials kept
2 or stored by such licensee or permittee at such premises. Upon
3 the request of any State or any political subdivision thereof, the
4 Attorney General may make available to such State or any po-
5 litical subdivision thereof, any information which he may obtain
6 by reason of the provisions of this chapter with respect to the
7 identification of persons within such State or political subdivi-
8 sion thereof, who have purchased or received explosive mate-
9 rials, together with a description of such explosive materials.
10 The Attorney General may inspect the places of storage for ex-
11 plosive materials of an applicant for a limited permit or, at the
12 time of renewal of such permit, a holder of a limited permit,
13 only as provided in subsection (b)(4).

14 (g) Licenses and user permits issued under the provisions
15 of subsection (b) of this section shall be kept posted and kept
16 available for inspection on the premises covered by the license
17 and permit.

18 (h)(1) If the Attorney General receives, from an employer,
19 the name and other identifying information of a responsible
20 person or an employee who will be authorized by the employer
21 to possess explosive materials in the course of employment with
22 the employer, the Secretary shall determine whether the re-
23 sponsible person or employee is one of the persons described in
24 any paragraph of section 612(i). In making the determination,
25 the Attorney General may take into account a letter or docu-
26 ment issued under paragraph (2).

27 (2)(A) If the Attorney General determines that the respon-
28 sible person or the employee is not one of the persons described
29 in any paragraph of section 612(i), the Attorney General shall
30 notify the employer in writing or electronically of the deter-
31 mination and issue, to the responsible person or employee, a
32 letter of clearance, which confirms the determination.

33 (B) If the Attorney General determines that the respon-
34 sible person or employee is one of the persons described in any
35 paragraph of section 612(i), the Attorney General shall notify
36 the employer in writing or electronically of the determination

1 and issue to the responsible person or the employee, as the case
2 may be, a document that—

3 (i) confirms the determination;

4 (ii) explains the grounds for the determination;

5 (iii) provides information on how the disability may be
6 relieved; and

7 (iv) explains how the determination may be appealed.

8 (i) Furnishing of Samples—

9 (1) In general—Licensed manufacturers and licensed im-
10 porters and persons who manufacture or import explosive mate-
11 rials or ammonium nitrate shall, when required by letter issued
12 by the Secretary, furnish—

13 (A) samples of such explosive materials or ammonium
14 nitrate;

15 (B) information on chemical composition of those
16 products; and

17 (C) any other information that the Secretary deter-
18 mines is relevant to the identification of the explosive mate-
19 rials or to identification of the ammonium nitrate.

20 (2) REIMBURSEMENT.—The Attorney General shall, by
21 regulation, authorize reimbursement of the fair market value of
22 samples furnished pursuant to this subsection, as well as the
23 reasonable costs of shipment.

24 **§ 614. Penalties**

25 (a) Any person—

26 (1) who violates any of subsections (a) through (i) or
27 (l) through (o) of section 614 shall be imprisoned for not
28 more than 10 years; and

29 (2) violates subsection (p)(2) of section 612, shall be im-
30 prisoned not more than 20 years.

31 (b) Any person who violates any other provision of section
32 612 of this chapter shall be imprisoned not more than one year.

33 (c)(1) Any explosive materials involved or used or intended
34 to be used in any violation of the provisions of this chapter or
35 any other rule or regulation promulgated thereunder or any
36 violation of any criminal law of the United States shall be sub-
37 ject to seizure and forfeiture, and all provisions of the Internal

1 Revenue Code of 1986 relating to the seizure, forfeiture, and
2 disposition of firearms, as defined in section 5845(a) of that
3 Code, shall, so far as applicable, extend to seizures and forfeit-
4 ures under the provisions of this chapter.

5 (2) Notwithstanding paragraph (1), in the case of the sei-
6 zure of any explosive materials for any offense for which the
7 materials would be subject to forfeiture in which it would be
8 impracticable or unsafe to remove the materials to a place of
9 storage or would be unsafe to store them, the seizing officer
10 may destroy the explosive materials forthwith. Any destruction
11 under this paragraph shall be in the presence of at least 1
12 credible witness. The seizing officer shall make a report of the
13 seizure and take samples as the Attorney General may by regu-
14 lation prescribe.

15 (3) Within 60 days after any destruction made pursuant
16 to paragraph (2), the owner of (including any person having an
17 interest in) the property so destroyed may make application to
18 the Attorney General for reimbursement of the value of the
19 property. If the claimant establishes to the satisfaction of the
20 Attorney General that—

21 (A) the property has not been used or involved in a
22 violation of law; or

23 (B) any unlawful involvement or use of the property
24 was without the claimant's knowledge, consent, or willful
25 blindness,

26 the Attorney General shall make an allowance to the claimant
27 not exceeding the value of the property destroyed.

28 (d) Whoever transports or receives, or attempts to trans-
29 port or receive, in interstate or foreign commerce any explosive
30 with the knowledge or intent that it will be used to kill, injure,
31 or intimidate any individual or unlawfully to damage or destroy
32 any building, vehicle, or other real or personal property, shall
33 be imprisoned for not more than ten years; and if personal in-
34 jury results to any person, including any public safety officer
35 performing duties as a direct or proximate result of conduct
36 prohibited by this subsection, shall be imprisoned for not more
37 than twenty years; and if death results to any person, including

1 any public safety officer performing duties as a direct or proxi-
2 mate result of conduct prohibited by this subsection, shall be
3 subject to imprisonment for any term of years, or to the death
4 penalty or to life imprisonment.

5 (e) Whoever, through the use of the mail, telephone, tele-
6 graph, or other instrument of interstate or foreign commerce,
7 or in or affecting interstate or foreign commerce, willfully
8 makes any threat, or maliciously conveys false information
9 knowing the same to be false, concerning an attempt or alleged
10 attempt being made, or to be made, to kill, injure, or intimidate
11 any individual or unlawfully to damage or destroy any building,
12 vehicle, or other real or personal property by means of fire or
13 an explosive shall be imprisoned for not more than 10 years.

14 (f)(1) Whoever maliciously damages or destroys, or at-
15 tempts to damage or destroy, by means of fire or an explosive,
16 any building, vehicle, or other personal or real property in
17 whole or in part owned or possessed by, or leased to, the
18 United States, or any department or agency thereof, or any in-
19 stitution or organization receiving Federal financial assistance,
20 shall be imprisoned for not less than 5 years and not more than
21 20 years.

22 (2) Whoever engages in conduct prohibited by this sub-
23 section, and as a result of such conduct, directly or proximately
24 causes personal injury or creates a substantial risk of injury to
25 any person, including any public safety officer performing du-
26 ties, shall be imprisoned for not less than 7 years and not more
27 than 40 years.

28 (3) Whoever engages in conduct prohibited by this sub-
29 section, and as a result of such conduct directly or proximately
30 causes the death of any person, including any public safety offi-
31 cer performing duties, shall be subject to the death penalty, or
32 imprisoned for not less than 20 years or for life.

33 (g)(1) Except as provided in paragraph (2), whoever pos-
34 sesses an explosive in an airport that is subject to the regu-
35 latory authority of the Federal Aviation Administration, or in
36 any building in whole or in part owned, possessed, or used by,
37 or leased to, the United States or any department or agency

1 thereof, except with the written consent of the agency, depart-
2 ment, or other person responsible for the management of such
3 building or airport, shall be imprisoned for not more than five
4 years.

5 (2) The provisions of this subsection shall not be applica-
6 ble to—

7 (A) the possession of ammunition (as that term is de-
8 fined in regulations issued pursuant to this chapter) in an
9 airport that is subject to the regulatory authority of the
10 Federal Aviation Administration if such ammunition is ei-
11 ther in checked baggage or in a closed container; or

12 (B) the possession of an explosive in an airport if the
13 packaging and transportation of such explosive is exempt
14 from, or subject to and in accordance with, regulations of
15 the Pipeline and Hazardous Materials Safety Administra-
16 tion for the handling of hazardous materials pursuant to
17 chapter 51 of title 49.

18 (h) Whoever—

19 (1) uses fire or an explosive to commit any felony
20 which may be prosecuted in a court of the United States,
21 or

22 (2) carries an explosive during the commission of any
23 felony which may be prosecuted in a court of the United
24 States,

25 including a felony which provides for an enhanced punishment
26 if committed by the use of a deadly or dangerous weapon or
27 device shall, in addition to the punishment provided for such
28 felony, be sentenced to imprisonment for 10 years. In the case
29 of a second or subsequent conviction under this subsection,
30 such person shall be sentenced to imprisonment for 20 years.
31 Notwithstanding any other provision of law, the court shall not
32 place on probation or suspend the sentence of any person con-
33 victed of a violation of this subsection, nor shall the term of
34 imprisonment imposed under this subsection run concurrently
35 with any other term of imprisonment including that imposed
36 for the felony in which the explosive was used or carried.

1 (i) Whoever maliciously damages or destroys, or attempts
2 to damage or destroy, by means of fire or an explosive, any
3 building, vehicle, or other real or personal property used in
4 interstate or foreign commerce or in any activity affecting
5 interstate or foreign commerce shall be imprisoned for not less
6 than 5 years and not more than 20 years; and if personal in-
7 jury results to any person, including any public safety officer
8 performing duties as a direct or proximate result of conduct
9 prohibited by this subsection, shall be imprisoned for not less
10 than 7 years and not more than 40 years; and if death results
11 to any person, including any public safety officer performing
12 duties as a direct or proximate result of conduct prohibited by
13 this subsection, shall also be subject to imprisonment for any
14 term of years, or to the death penalty or to life imprisonment.

15 (j) For the purposes of subsections (d), (e), (f), (g), (h),
16 and (i) of this section and section 612(p)(2), the term “explo-
17 sive” means gunpowders, powders used for blasting, all forms
18 of high explosives, blasting materials, fuzes (other than electric
19 circuit breakers), detonators, and other detonating agents,
20 smokeless powders, other explosive or incendiary devices within
21 the meaning of paragraph (5) of section 232 of this title, and
22 any chemical compounds, mechanical mixture, or device that
23 contains any oxidizing and combustible units, or other ingredi-
24 ents, in such proportions, quantities, or packing that ignition
25 by fire, by friction, by concussion, by percussion, or by detona-
26 tion of the compound, mixture, or device or any part thereof
27 may cause an explosion.

28 (k) A person who steals any explosives materials which are
29 moving as, or are a part of, or which have moved in, interstate
30 or foreign commerce shall be imprisoned for not more than 10
31 years.

32 (l) A person who steals any explosive material from a li-
33 censed importer, licensed manufacturer, or licensed dealer, or
34 from any permittee shall be imprisoned not more than 10
35 years.

36 (l) A person who steals any explosive material from a li-
37 censed importer, licensed manufacturer, or licensed dealer, or

1 from any permittee shall be imprisoned not more than 10
2 years.

3 (m) A person who conspires to commit an offense under
4 subsection (h) shall be imprisoned for any term of years not
5 exceeding 20.

6 (n) Except as otherwise provided in this section, a person
7 who conspires to commit any offense defined in this chapter
8 shall be subject to the same penalties (other than the penalty
9 of death) as the penalties prescribed for the offense the com-
10 mission of which was the object of the conspiracy.

11 (o) Whoever knowingly transfers any explosive materials,
12 knowing or having reasonable cause to believe that such explo-
13 sive materials will be used to commit a crime of violence (as
14 defined in section 584(c)(3)) or drug trafficking crime (as de-
15 fined in section 584(c)(2)) shall be subject to the same pen-
16 alties as may be imposed under subsection (h) for a first con-
17 viction for the use or carrying of an explosive material.

18 (p) THEFT REPORTING REQUIREMENT.—

19 (1) IN GENERAL.—A holder of a license or permit who
20 knows that explosive materials have been stolen from that
21 licensee or permittee, shall report the theft to the Attorney
22 General not later than 24 hours after the discovery of the
23 theft.

24 (2) PENALTY.—A holder of a license or permit who
25 does not report a theft in accordance with paragraph (1),
26 shall be imprisoned not more than 5 years.

27 **§ 615. Exceptions; relief from disabilities**

28 (a) Except in the case of subsection (l), (m), (n), or (o)
29 of section 612 and subsections (d), (e), (f), (g), (h), and (i) of
30 section 614 of this title, this chapter does not apply to—

31 (1) any aspect of the transportation of explosive mate-
32 rials via railroad, water, highway, or air which are regu-
33 lated by the United States Department of Transportation
34 and agencies thereof, and which pertain to safety;

35 (2) the use of explosive materials in medicines and me-
36 dicinal agents in the forms prescribed by the official United
37 States Pharmacopeia, or the National Formulary;

1 (3) the transportation, shipment, receipt, or importa-
2 tion of explosive materials for delivery to any agency of the
3 United States or to any State or political subdivision there-
4 of;

5 (4) small arms ammunition and components thereof;

6 (5) commercially manufactured black powder in quan-
7 tities not to exceed fifty pounds, percussion caps, safety
8 and pyrotechnic fuses, quills, quick and slow matches, and
9 friction primers, intended to be used solely for sporting,
10 recreational, or cultural purposes in antique firearms as de-
11 fined in section 581(a)(16) of title 18 of the United States
12 Code, or in antique devices as exempted from the term “de-
13 structive device” in section 581(a)(4) of title 18 of the
14 United States Code; and

15 (6) the manufacture under the regulation of the mili-
16 tary department of the United States of explosive materials
17 for, or their distribution to or storage or possession by the
18 military or naval services or other agencies of the United
19 States; or to arsenals, navy yards, depots, or other estab-
20 lishments owned by, or operated by or on behalf of, the
21 United States.

22 (b)(1) A person who is prohibited from shipping, trans-
23 porting, receiving, or possessing any explosive under section
24 612(i) may apply to the Attorney General for relief from such
25 prohibition.

26 (2) The Attorney General may grant the relief requested
27 under paragraph (1) if the Attorney General determines that
28 the circumstances regarding the applicability of section 612(i),
29 and the applicant’s record and reputation, are such that the
30 applicant will not be likely to act in a manner dangerous to
31 public safety and that the granting of such relief is not con-
32 trary to the public interest.

33 (3) A licensee or permittee who applies for relief, under
34 this subsection, from the disabilities incurred under this chap-
35 ter as a result of an indictment for or conviction of a crime
36 punishable by imprisonment for a term exceeding 1 year shall
37 not be barred by such disability from further operations under

1 the license or permit pending final action on an application for
2 relief filed pursuant to this section.

3 (c) It is an affirmative defense against any proceeding in-
4 volving subsections (l) through (o) of section 612 if the pro-
5 ponent proves by a preponderance of the evidence that the plas-
6 tic explosive—

7 (1) consisted of a small amount of plastic explosive in-
8 tended for and utilized solely in lawful—

9 (A) research, development, or testing of new or
10 modified explosive materials;

11 (B) training in explosives detection or development
12 or testing of explosives detection equipment; or

13 (C) forensic science purposes; or

14 (2) was plastic explosive that, within 3 years after the
15 date of enactment of the Antiterrorism and Effective Death
16 Penalty Act of 1996, will be or is incorporated in a military
17 device within the territory of the United States and re-
18 mains an integral part of such military device, or is in-
19 tended to be, or is incorporated in, and remains an integral
20 part of a military device that is intended to become, or has
21 become, the property of any agency of the United States
22 performing military or police functions (including any mili-
23 tary reserve component) or the National Guard of any
24 State, wherever such device is located.

25 (3) For purposes of this subsection, the term “military
26 device” includes, shells, bombs, projectiles, mines, missiles,
27 rockets, shaped charges, grenades, perforators, and similar
28 devices lawfully manufactured exclusively for military or
29 police purposes.

30 **§ 616. Additional powers of the Attorney General**

31 (a) The Attorney General is authorized to inspect the site
32 of any accident, or fire, in which there is reason to believe that
33 explosive materials were involved, in order that if any such inci-
34 dent has been brought about by accidental means, precautions
35 may be taken to prevent similar accidents from occurring. In
36 order to carry out the purpose of this subsection, the Attorney
37 General is authorized to enter into or upon any property where

1 explosive materials have been used, are suspected of having
2 been used, or have been found in an otherwise unauthorized lo-
3 cation. Nothing in this chapter shall be construed as modifying
4 or otherwise affecting in any way the investigative authority of
5 any other Federal agency. In addition to any other investiga-
6 tory authority they have with respect to violations of provisions
7 of this chapter, the Federal Bureau of Investigation, together
8 with the Bureau of Alcohol, Tobacco, Firearms, and Explosives,
9 shall have authority to conduct investigations with respect to
10 violations of subsection (d), (e), (f), (g), (h), or (i) of section
11 614.

12 (b) The Attorney General is authorized to establish a na-
13 tional repository of information on incidents involving arson
14 and the suspected criminal misuse of explosives. All Federal
15 agencies having information concerning such incidents shall re-
16 port the information to the Attorney General pursuant to such
17 regulations as deemed necessary to carry out the provisions of
18 this subsection. The repository shall also contain information
19 on incidents voluntarily reported to the Attorney General by
20 State and local authorities.

21 **§ 617. Rules and regulations**

22 The administration of this subchapter shall be vested in
23 the Attorney General. The Attorney General may prescribe
24 such rules and regulations as he deems reasonably necessary to
25 carry out the provisions of this chapter. The Attorney General
26 shall give reasonable public notice, and afford to interested par-
27 ties opportunity for hearing, prior to prescribing such rules and
28 regulations.

29 **§ 618. Effect on State law**

30 No provision of this subchapter shall be construed as indi-
31 cating an intent on the part of the Congress to occupy the field
32 in which such provision operates to the exclusion of the law of
33 any State on the same subject matter, unless there is a direct
34 and positive conflict between such provision and the law of the
35 State so that the two cannot be reconciled or consistently stand
36 together.

1 SUBCHAPTER E—BIOLOGICAL WEAPONS

Sec.

621. Prohibitions with respect to biological weapons.
 622. Requests for military assistance to enforce prohibition in certain emergencies.
 623. Possession by restricted persons.
 624. Variola virus.
 625. Seizure, forfeiture, and destruction.
 626. Injunctions.
 627. Definitions.

2 **§ 621. Prohibitions with respect to biological**
 3 **weapons**

4 (a) IN GENERAL.—Whoever knowingly develops, produces,
 5 stockpiles, transfers, acquires, retains, or possesses any biological
 6 agent, toxin, or delivery system for use as a weapon, or
 7 knowingly assists a foreign state or any organization to do so,
 8 or attempts, threatens, or conspires to do the same, shall be
 9 imprisoned for life or any term of years. There is
 10 extraterritorial Federal jurisdiction over an offense under this
 11 section committed by or against a national of the United
 12 States.

13 (b) ADDITIONAL OFFENSE.—Whoever knowingly possesses
 14 any biological agent, toxin, or delivery system of a type or in
 15 a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, bona fide research, or other
 16 peaceful purpose, shall be imprisoned not more than 10 years.
 17 In this subsection, the terms “biological agent” and “toxin” do
 18 not encompass any biological agent or toxin that is in its naturally occurring environment, if the biological agent or toxin has
 19 not been cultivated, collected, or otherwise extracted from its
 20 natural source.
 21
 22

23 (c) DEFINITION.—For purposes of this section, the term
 24 “for use as a weapon” includes the development, production,
 25 transfer, acquisition, retention, or possession of any biological
 26 agent, toxin, or delivery system for other than prophylactic,
 27 protective, bona fide research, or other peaceful purposes.

1 **§ 622. Requests for military assistance to enforce**
2 **prohibition in certain emergencies**

3 The Attorney General may request the Secretary of De-
4 fense to provide assistance under section 382 of title 10 in sup-
5 port of Department of Justice activities relating to the enforce-
6 ment of section 621 in an emergency situation involving a bio-
7 logical weapon of mass destruction. The authority to make such
8 a request may be exercised by another official of the Depart-
9 ment of Justice in accordance with section 382(f)(2) of title 10.

10 **§ 623. Possession by restricted persons**

11 (a)(1) No restricted person shall ship or transport in or
12 affecting interstate or foreign commerce, or possess in or af-
13 fecting interstate or foreign commerce, any biological agent or
14 toxin, or receive any biological agent or toxin that has been
15 shipped or transported in interstate or foreign commerce, if the
16 biological agent or toxin is listed as a select agent in Appendix
17 A of part 72 of title 42, Code of Federal Regulations, pursuant
18 to section 351A of the Public Health Service Act, and is not
19 exempted under subsection (h) of section 72.6, or Appendix A
20 of part 72, of title 42, Code of Federal Regulations.

21 (2) Whoever knowingly violates this section shall be im-
22 prisoned not more than 10 years, but the prohibition contained
23 in this section shall not apply with respect to any duly author-
24 ized United States governmental activity.

25 (b) TRANSFER TO UNREGISTERED PERSON.—

26 (1) SELECT AGENTS.—Whoever transfers a select
27 agent to a person who the transferor knows or has reason-
28 able cause to believe is not registered as required by regula-
29 tions under subsection (b) or (c) of section 351A of the
30 Public Health Service Act shall be imprisoned for not more
31 than 5 years.

32 (2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOX-
33 INS.—Whoever transfers a biological agent or toxin listed
34 pursuant to section 212(a)(1) of the Agricultural Bioter-
35 rorism Protection Act of 2002 to a person who the trans-
36 feror knows or has reasonable cause to believe is not reg-
37 istered as required by regulations under subsection (b) or

1 (c) of section 212 of such Act shall be imprisoned for not
2 more than 5 years.

3 (c) UNREGISTERED FOR POSSESSION.—

4 (1) SELECT AGENTS.—Whoever knowingly possesses a
5 biological agent or toxin where such agent or toxin is a se-
6 lect agent for which such person has not obtained a reg-
7 istration required by regulations under section 351A(c) of
8 the Public Health Service Act shall be or imprisoned for
9 not more than 5 years.

10 (2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOX-
11 INS.—Whoever knowingly possesses a biological agent or
12 toxin where such agent or toxin is a biological agent or
13 toxin listed pursuant to section 212(a)(1) of the Agricul-
14 tural Bioterrorism Protection Act of 2002 for which such
15 person has not obtained a registration required by regula-
16 tions under section 212(c) of such Act shall be imprisoned
17 for not more than 5 years.

18 (d) In this section:

19 (1) The term “select agent” means a biological agent
20 or toxin to which subsection (a) applies. Such term (includ-
21 ing for purposes of subsection (a)) does not include any
22 such biological agent or toxin that is in its naturally-occur-
23 ring environment, if the biological agent or toxin has not
24 been cultivated, collected, or otherwise extracted from its
25 natural source.

26 (2) The term “restricted person” means an individual
27 who—

28 (A) is under indictment for a crime punishable by
29 imprisonment for a term exceeding 1 year;

30 (B) has been convicted in any court of a crime
31 punishable by imprisonment for a term exceeding 1
32 year;

33 (C) is a fugitive from justice;

34 (D) is an unlawful user of any controlled sub-
35 stance (as defined in section 102 of the Controlled Sub-
36 stances Act (21 U.S.C. 802));

1 (E) is an alien illegally or unlawfully in the United
2 States;

3 (F) has been adjudicated as a mental defective or
4 has been committed to any mental institution;

5 (G)(i) is an alien (other than an alien lawfully ad-
6 mitted for permanent residence) who is a national of a
7 country as to which the Secretary of State, pursuant
8 to section 6(j) of the Export Administration Act of
9 1979 (50 U.S.C. App. 2405(j)), section 620A of chap-
10 ter 1 of part M of the Foreign Assistance Act of 1961
11 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the
12 Arms Export Control Act (22 U.S.C. 2780(d)), has
13 made a determination (that remains in effect) that
14 such country has repeatedly provided support for acts
15 of international terrorism, or (ii) acts for or on behalf
16 of, or operates subject to the direction or control of, a
17 government or official of a country described in this
18 subparagraph;

19 (H) has been discharged from the Armed Services
20 of the United States under dishonorable conditions; or

21 (I) is a member of, acts for or on behalf of, or op-
22 erates subject to the direction or control of, a terrorist
23 organization as defined in section 212(a)(3)(B)(vi) of
24 the Immigration and Nationality Act (8 U.S.C.
25 1182(a)(3)(B)(vi)).

26 (3) The term “alien” has the same meaning as in sec-
27 tion 101(a)(3) of the Immigration and Nationality Act (8
28 U.S.C. 1101(a)(3)).

29 (4) The term “lawfully admitted for permanent resi-
30 dence” has the same meaning as in section 101(a)(20) of
31 the Immigration and Nationality Act (8 U.S.C.
32 1101(a)(20)).

33 § 624. Variola virus

34 (a) UNLAWFUL CONDUCT.—

35 (1) IN GENERAL.—Except as provided in paragraph
36 (2), it shall be unlawful for any person to knowingly
37 produce, engineer, synthesize, acquire, transfer directly or

1 indirectly, receive, possess, import, export, or use, or pos-
2 sess and threaten to use, variola virus.

3 (2) EXCEPTION.—This subsection does not apply to
4 conduct by, or under the authority of, the Secretary of
5 Health and Human Services.

6 (b) JURISDICTION.—Conduct prohibited by subsection (a)
7 is within the jurisdiction of the United States if—

8 (1) the offense occurs in or affects interstate or for-
9 eign commerce;

10 (2) the offense occurs outside of the United States and
11 is committed by a national of the United States;

12 (3) the offense is committed against a national of the
13 United States while the national is outside the United
14 States;

15 (4) the offense is committed against any property that
16 is owned, leased, or used by the United States or by any
17 department or agency of the United States, whether the
18 property is within or outside the United States; or

19 (5) an offender aids or abets any person over whom
20 jurisdiction exists under this subsection in committing an
21 offense under this section or conspires with any person over
22 whom jurisdiction exists under this subsection to commit
23 an offense under this section.

24 (c) CRIMINAL PENALTIES.—

25 (1) IN GENERAL.—Any person who violates, or at-
26 tempts or conspires to violate, subsection (a) shall be sen-
27 tenced to a term of imprisonment not less than 25 years
28 or to imprisonment for life.

29 (2) OTHER CIRCUMSTANCES.—Any person who, in the
30 course of a violation of subsection (a), uses, attempts or
31 conspires to use, or possesses and threatens to use, any
32 item or items described in subsection (a), shall be impris-
33 oned for not less than 30 years or imprisoned for life.

34 (3) SPECIAL CIRCUMSTANCES.—If the death of an-
35 other results from a person's violation of subsection (a), the
36 person shall be punished by imprisonment for life.

1 (d) DEFINITION.—As used in this section, the term
2 “variola virus” means a virus that can cause human smallpox
3 or any derivative of the variola major virus that contains more
4 than 85 percent of the gene sequence of the variola major virus
5 or the variola minor virus.

6 **§ 625. Seizure, forfeiture, and destruction**

7 (a) IN GENERAL.—(1) Except as provided in paragraph
8 (2), the Attorney General may request the issuance, in the
9 same manner as provided for a search warrant, of a warrant
10 authorizing the seizure of any biological agent, toxin, or deliv-
11 ery system that—

12 (A) pertains to conduct prohibited under section 621;

13 or

14 (B) is of a type or in a quantity that under the cir-
15 cumstances has no apparent justification for prophylactic,
16 protective, or other peaceful purposes.

17 (2) In exigent circumstances, seizure and destruction of
18 any biological agent, toxin, or delivery system described in sub-
19 paragraphs (A) and (B) of paragraph (1) may be made upon
20 probable cause without the necessity for a warrant.

21 (b) PROCEDURE.—Property seized pursuant to subsection
22 (a) shall be forfeited to the United States after notice to poten-
23 tial claimants and an opportunity for a hearing. At such hear-
24 ing, the Government shall bear the burden of persuasion by a
25 preponderance of the evidence. Except as inconsistent herewith,
26 the same procedures and provisions of law relating to a for-
27 feiture under the customs laws shall extend to a seizure or for-
28 feiture under this section. The Attorney General may provide
29 for the destruction or other appropriate disposition of any bio-
30 logical agent, toxin, or delivery system seized and forfeited pur-
31 suant to this section.

32 (c) AFFIRMATIVE DEFENSE.—It is an affirmative defense
33 against a forfeiture under subsection (a)(1)(B) of this section
34 that—

35 (1) such biological agent, toxin, or delivery system is
36 for a prophylactic, protective, or other peaceful purpose;
37 and

(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

§ 626. Injunctions

(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

(1) the conduct prohibited under section 621 of this title;

(2) the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 621; or

(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

§ 627. Definitions

As used in this chapter—

(1) the term “biological agent” means any microorganism (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of causing—

(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(B) deterioration of food, water, equipment, supplies, or material of any kind; or

(C) deleterious alteration of the environment;

1 (2) the term “toxin” means the toxic material or prod-
 2 uct of plants, animals, microorganisms (including bacteria,
 3 viruses, fungi, rickettsiae or protozoa), or infectious sub-
 4 stances, or a recombinant or synthesized molecule, what-
 5 ever their origin and method of production, and includes—

6 (A) any poisonous substance or biological product
 7 that may be engineered as a result of biotechnology
 8 produced by a living organism; or

9 (B) any poisonous isomer or biological product,
 10 homolog, or derivative of such a substance;

11 (3) the term “delivery system” means—

12 (A) any apparatus, equipment, device, or means of
 13 delivery specifically designed to deliver or disseminate
 14 a biological agent, toxin, or vector; or

15 (B) any vector;

16 (4) the term “vector” means a living organism, or
 17 molecule, including a recombinant or synthesized molecule,
 18 capable of carrying a biological agent or toxin to a host;
 19 and

20 SUBCHAPTER F—CHEMICAL WEAPONS

Sec.

631. Prohibited activities.

632. Penalties.

633. Individual self-defense devices.

634. Injunctions.

635. Requests for military assistance to enforce prohibition in certain
 emergencies.

636. Definitions.

21 § 631. Prohibited activities

22 (a) UNLAWFUL CONDUCT.—Except as provided in sub-
 23 section (b), it shall be unlawful for any person knowingly—

24 (1) to develop, produce, otherwise acquire, transfer di-
 25 rectly or indirectly, receive, stockpile, retain, own, possess,
 26 or use, or threaten to use, any chemical weapon; or

27 (2) to assist or induce, in any way, any person to vio-
 28 late paragraph (1), or to attempt or conspire to violate
 29 paragraph (1).

30 (b) EXEMPTED AGENCIES AND PERSONS.—

1 (1) IN GENERAL.—Subsection (a) does not apply to
 2 the retention, ownership, possession, transfer, or receipt of
 3 a chemical weapon by a department, agency, or other entity
 4 of the United States, or by a person described in paragraph
 5 (2), pending destruction of the weapon.

6 (2) EXEMPTED PERSONS.—A person referred to in
 7 paragraph (1) is—

8 (A) any person, including a member of the Armed
 9 Forces of the United States, who is authorized by law
 10 or by an appropriate officer of the United States to re-
 11 tain, own, possess, transfer, or receive the chemical
 12 weapon; or

13 (B) in an emergency situation, any otherwise non-
 14 culpable person if the person is attempting to destroy
 15 or seize the weapon.

16 (c) JURISDICTION.—Conduct prohibited by subsection (a)
 17 is within the jurisdiction of the United States if the prohibited
 18 conduct—

19 (1) takes place in the United States;

20 (2) takes place outside of the United States and is
 21 committed by a national of the United States;

22 (3) is committed against a national of the United
 23 States while the national is outside the United States; or

24 (4) is committed against any property that is owned,
 25 leased, or used by the United States or by any department
 26 or agency of the United States, whether the property is
 27 within or outside the United States.

28 § 632. Penalties

29 (a) CRIMINAL PENALTIES.—

30 (1) IN GENERAL.—Any person who violates section
 31 631 of this title shall be imprisoned for any term of years.

32 (2) DEATH PENALTY.—Any person who violates sec-
 33 tion 631 of this title and by whose action the death of an-
 34 other person is the result shall be punished by death or im-
 35 prisoned for life.

36 (b) CIVIL PENALTIES.—

1 (1) IN GENERAL.—The Attorney General may bring a
2 civil action in the appropriate United States district court
3 against any person who violates section 631 of this title
4 and, upon proof of such violation by a preponderance of the
5 evidence, such person shall be subject to pay a civil penalty
6 in an amount not to exceed \$100,000 for each such viola-
7 tion.

8 (2) RELATION TO OTHER PROCEEDINGS.—The imposi-
9 tion of a civil penalty under this subsection does not pre-
10 clude any other criminal or civil statutory, common law, or
11 administrative remedy, which is available by law to the
12 United States or any other person.

13 (c) REIMBURSEMENT OF COSTS.—The court shall order
14 any person convicted of an offense under subsection (a) to re-
15 imburse the United States for any expenses incurred by the
16 United States incident to the seizure, storage, handling, trans-
17 portation, and destruction or other disposition of any property
18 that was seized in connection with an investigation of the com-
19 mission of the offense by that person. A person ordered to re-
20 imburse the United States for expenses under this subsection
21 shall be jointly and severally liable for such expenses with each
22 other person, if any, who is ordered under this subsection to
23 reimburse the United States for the same expenses.

24 **§ 633. Individual self-defense devices**

25 This subchapter does not prohibit any individual self-de-
26 fense device, including one using a pepper spray or chemical
27 mace.

28 **§ 634. Injunctions**

29 The United States may obtain in a civil action an injunc-
30 tion against—

31 (1) the conduct prohibited under section 631 or 674;

32 or

33 (2) the preparation or solicitation to engage in conduct
34 prohibited under section 631 or 675.

1 **§ 635. Requests for military assistance to enforce**
2 **prohibition in certain emergencies**

3 The Attorney General may request the Secretary of De-
4 fense to provide assistance under section 382 of title 10 in sup-
5 port of Department of Justice activities relating to the enforce-
6 ment of section 631 in an emergency situation involving a
7 chemical weapon. The authority to make such a request may
8 be exercised by another official of the Department of Justice
9 in accordance with section 382(f)(2) of title 10.

10 **§ 636. Definitions**

11 In this chapter the following apply:

12 (1) CHEMICAL WEAPON.—The term “chemical weap-
13 on” means the following, together or separately:

14 (A) A toxic chemical and its precursors, except
15 where intended for a purpose not prohibited under this
16 chapter as long as the type and quantity is consistent
17 with such a purpose.

18 (B) A munition or device, specifically designed to
19 cause death or other harm through toxic properties of
20 those toxic chemicals specified in subparagraph (A),
21 which would be released as a result of the employment
22 of such munition or device.

23 (C) Any equipment specifically designed for use di-
24 rectly in connection with the employment of munitions
25 or devices specified in subparagraph (B).

26 (2) CHEMICAL WEAPONS CONVENTION; CONVEN-
27 TION.—The terms “Chemical Weapons Convention” and
28 “Convention” mean the Convention on the Prohibition of
29 the Development, Production, Stockpiling and Use of
30 Chemical Weapons and on Their Destruction, opened for
31 signature on January 13, 1993.

32 (3) KEY COMPONENT OF A BINARY OR MULTICOMP-
33 NENT CHEMICAL SYSTEM.—The term “key component of a
34 binary or multicomponent chemical system” means the pre-
35 cursor which plays the most important role in determining
36 the toxic properties of the final product and reacts rapidly

1 with other chemicals in the binary or multicomponent sys-
2 tem.

3 (4) PRECURSOR.—

4 (A) IN GENERAL.—The term “precursor” means
5 any chemical reactant which takes part at any stage in
6 the production by whatever method of a toxic chemical.
7 The term includes any key component of a binary or
8 multicomponent chemical system.

9 (B) LIST OF PRECURSORS.—Precursors which
10 have been identified for the application of verification
11 measures under Article VI of the Convention are listed
12 in schedules contained in the Annex on Chemicals of
13 the Chemical Weapons Convention.

14 (5) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—
15 The term “purposes not prohibited by this chapter” means
16 the following:

17 (A) PEACEFUL PURPOSES.—Any peaceful purpose
18 related to an industrial, agricultural, research, medical,
19 or pharmaceutical activity or other activity.

20 (B) PROTECTIVE PURPOSES.—Any purpose di-
21 rectly related to protection against toxic chemicals and
22 to protection against chemical weapons.

23 (C) UNRELATED MILITARY PURPOSES.—Any mili-
24 tary purpose of the United States that is not connected
25 with the use of a chemical weapon or that is not de-
26 pendent on the use of the toxic or poisonous properties
27 of the chemical weapon to cause death or other harm.

28 (D) LAW ENFORCEMENT PURPOSES.—Any law en-
29 forcement purpose, including any domestic riot control
30 purpose and including imposition of capital punish-
31 ment.

32 (6) TOXIC CHEMICAL.—

33 (A) IN GENERAL.—The term “toxic chemical”
34 means any chemical which through its chemical action
35 on life processes can cause death, temporary incapacitation
36 or permanent harm to humans or animals. The
37 term includes all such chemicals, regardless of their ori-

gin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

CHAPTER 23—THEFT AND RELATED CRIMES

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SUBCHAPTER A—EMBEZZLEMENT AND THEFT

Sec.	
641.	Public money, property or records.
642.	Accounting generally for public money.
643.	Officer or employee of United States converting property of another.
644.	Theft, embezzlement, or misapplication by bank officer or employee.
645.	Lending, credit and insurance institutions.
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649.	Carrier's funds derived from commerce; State prosecutions.
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654.	Theft or bribery concerning programs receiving Federal funds.
655.	Theft of major artwork.
656.	Theft or embezzlement in connection with health care.
657.	Embezzlement of labor organization assets.

§ 641. Public money, property or records

(a) OFFENSE.—Whoever—

(1) embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

1 (2) receives, conceals, or retains the same with intent
2 to convert it to his use or gain, knowing it to have been
3 embezzled, stolen, purloined or converted;
4 shall be imprisoned not more than ten years; but if the value
5 of such property in the aggregate, combining amounts from all
6 the counts for which the defendant is convicted in a single case,
7 does not exceed the sum of \$1,000, he shall be imprisoned not
8 more than one year.

9 (b) DEFINITION.—As used in this section the term
10 “value” means face, par, or market value, or cost price, either
11 wholesale or retail, whichever is greater.

12 **§ 642. Accounting generally for public money**

13 Whoever, being an officer, employee or agent of the United
14 States or of any department or agency thereof, having received
15 public money which he is not authorized to retain as salary,
16 pay, or emolument, fails to render his accounts for the same
17 as provided by law is guilty of embezzlement, and shall be or
18 imprisoned not more than ten years; but if the amount embez-
19 zled does not exceed \$1,000, he shall be imprisoned not more
20 than one year.

21 **§ 643. Officer or employee of United States con-**
22 **verting property of another**

23 Whoever, being an officer or employee of the United
24 States or of any department or agency thereof, embezzles or
25 wrongfully converts to his own use the money or property of
26 another which comes into his possession or under his control
27 in the execution of such office or employment, or under color
28 or claim of authority as such officer or employee, shall be im-
29 prisoned not more than ten years; but if the sum embezzled is
30 \$1,000 or less, he shall be imprisoned not more than one year.

31 **§ 644. Theft, embezzlement, or misapplication by**
32 **bank officer or employee**

33 (a) OFFENSE.—Whoever, being an officer, director, agent
34 or employee of, or connected in any capacity with any Federal
35 Reserve bank, member bank, depository institution holding
36 company, national bank, insured bank, branch or agency of a
37 foreign bank, or organization operating under section 25 or

1 section 25(a) of the Federal Reserve Act, or a receiver of a na-
2 tional bank, insured bank, branch, agency, or organization or
3 any agent or employee of the receiver, or a Federal Reserve
4 Agent, or an agent or employee of a Federal Reserve Agent or
5 of the Board of Governors of the Federal Reserve System, em-
6 bezzles, abstracts, purloins or knowingly misapplies any of the
7 moneys, funds or credits of such bank, branch, agency, or orga-
8 nization or holding company or any moneys, funds, assets or
9 securities intrusted to the custody or care of such bank,
10 branch, agency, or organization, or holding company or to the
11 custody or care of any such agent, officer, director, employee
12 or receiver, shall be imprisoned not more than 30 years; but
13 if the amount embezzled, abstracted, purloined or misapplied
14 does not exceed \$1,000, he shall be imprisoned not more than
15 one year.

16 (b) DEFINITIONS.—As used in this section—

17 (1) the term “member bank” means any national
18 bank, state bank, or bank and trust company which has be-
19 come a member of one of the Federal Reserve banks;

20 (2) the term “insured bank” means any bank, banking
21 association, trust company, savings bank, or other banking
22 institution, the deposits of which are insured by the Fed-
23 eral Deposit Insurance Corporation;

24 (3) the term “branch or agency of a foreign bank”
25 means a branch or agency described in section 20(9) of this
26 title; and

27 (4) the term “depository institution holding company”
28 has the meaning given such term in section 3 of the Fed-
29 eral Deposit Insurance Act.

30 **§ 645. Lending, credit and insurance institutions**

31 Whoever, being an officer, agent or employee of or con-
32 nected in any capacity with the Federal Deposit Insurance Cor-
33 poration, National Credit Union Administration, Office of
34 Thrift Supervision, the Resolution Trust Corporation, any Fed-
35 eral home loan bank, the Federal Housing Finance Board,
36 Farm Credit Administration, Department of Housing and
37 Urban Development, Federal Crop Insurance Corporation, the

1 Secretary of Agriculture acting through the Farmers Home Ad-
2 ministration or successor agency, the Rural Development Ad-
3 ministration or successor agency, or the Farm Credit System
4 Insurance Corporation, a Farm Credit Bank, a bank for co-
5 operatives or any lending, mortgage, insurance, credit or sav-
6 ings and loan corporation or association authorized or acting
7 under the laws of the United States or any institution, other
8 than an insured bank (as defined in section 656), the accounts
9 of which are insured by the Federal Deposit Insurance Cor-
10 poration, or by the National Credit Union Administration
11 Board or any small business investment company, or any com-
12 munity development financial institution receiving financial as-
13 sistance under the Riegle Community Development and Regu-
14 latory Improvement Act of 1994, and whoever, being a receiver
15 of any such institution, or agent or employee of the receiver,
16 embezzles, abstracts, purloins or knowingly misapplies any
17 moneys, funds, credits, securities or other things of value be-
18 longing to such institution, or pledged or otherwise intrusted to
19 its care, shall be imprisoned not more than 30 years; but if the
20 amount or value embezzled, abstracted, purloined or misapplied
21 does not exceed \$1,000, he shall be imprisoned not more than
22 one year.

23 **§ 646. Property mortgaged or pledged to farm**
24 **credit agencies**

25 Whoever, with intent to defraud, knowingly conceals, re-
26 moves, disposes of, or converts to his own use or to that of an-
27 other, any property mortgaged or pledged to, or held by, the
28 Farm Credit Administration, any Federal intermediate credit
29 bank, or the Federal Crop Insurance Corporation, the Sec-
30 retary of Agriculture acting through the Farmers Home Ad-
31 ministration or successor agency, the Rural Development Ad-
32 ministration or successor agency, any regional agricultural
33 credit corporation, or any bank for cooperatives, shall be im-
34 prisoned not more than five years; but if the value of such
35 property does not exceed \$1,000, he shall be imprisoned not
36 more than one year.

1 **§ 647. Interstate or foreign shipments by carrier;**
2 **State prosecutions**

3 (a) OFFENSE.—Whoever—

4 (1) embezzles, steals, or unlawfully takes, carries
5 away, or conceals, or by fraud or deception obtains from
6 any pipeline system, railroad car, wagon, motortruck, or
7 other vehicle, or from any tank or storage facility, station,
8 station house, platform or depot or from any steamboat,
9 vessel, or wharf, or from any aircraft, air terminal, airport,
10 aircraft terminal or air navigation facility with intent to
11 convert to his own use any goods or chattels moving as or
12 which are a part of or which constitute an interstate or for-
13 eign shipment of freight, express, or other property;

14 (2) buys or receives or has in his possession any such
15 goods or chattels, knowing the same to have been embez-
16 zled or stolen;

17 (3) embezzles, steals, or unlawfully takes, carries
18 away, or by fraud or deception obtains with intent to con-
19 vert to his own use any baggage which shall have come into
20 the possession of any common carrier for transportation in
21 interstate or foreign commerce or breaks into, steals, takes,
22 carries away, or conceals any of the contents of such bag-
23 gage, or buys, receives, or has in his possession any such
24 baggage or any article therefrom of whatever nature, know-
25 ing the same to have been embezzled or stolen; or

26 (4) embezzles, steals, or unlawfully takes by any
27 fraudulent device, scheme, or game, from any railroad car,
28 bus, vehicle, steamboat, vessel, or aircraft operated by any
29 common carrier moving in interstate or foreign commerce
30 or from any passenger thereon any money, baggage, goods,
31 or chattels, or whoever buys, receives, or has in his posses-
32 sion any such money, baggage, goods, or chattels, knowing
33 the same to have been embezzled or stolen;

34 shall be imprisoned not more than ten years, but if the amount
35 or value of such money, baggage, goods or chattels does not ex-
36 ceed \$1,000, shall be imprisoned not more than one year.

1 (b) BAR TO PROSECUTION.—A judgment of conviction or
 2 acquittal on the merits under the laws of any State shall be
 3 a bar to any prosecution under this section for the same act
 4 or acts. Nothing contained in this section shall be construed as
 5 indicating an intent on the part of Congress to occupy the field
 6 in which provisions of this section operate to the exclusion of
 7 State laws on the same subject matter, nor shall any provision
 8 of this section be construed as invalidating any provision of
 9 State law unless such provision is inconsistent with any of the
 10 purposes of this section or any provision thereof.

11 **§ 649. Carrier’s funds derived from commerce;**
 12 **State prosecutions**

13 (a) OFFENSE.—Whoever, being a president, director, offi-
 14 cer, or manager of any firm, association, or corporation en-
 15 gaged in commerce as a common carrier, or whoever, being an
 16 employee of such common carrier riding in or upon any rail-
 17 road car, motortruck, steamboat, vessel, aircraft or other vehi-
 18 cle of such carrier moving in interstate commerce, embezzles,
 19 steals, abstracts, or knowingly misapplies, or knowingly permits
 20 to be misapplied, any of the moneys, funds, credits, securities,
 21 property, or assets of such firm, association, or corporation
 22 arising or accruing from, or used in, such commerce, in whole
 23 or in part, or knowingly converts the same to his own use or
 24 to the use of another, shall be imprisoned not more than ten
 25 years.

26 (b) VENUE.—The offense shall be deemed to have been
 27 committed not only in the district where the violation first oc-
 28 curred but also in any district in which the defendant may have
 29 taken or had possession of such moneys, funds, credits, securi-
 30 ties, property or assets.

31 (c) BAR TO PROSECUTION.—A judgment of conviction or
 32 acquittal on the merits under the laws of any State shall be
 33 a bar to any prosecution hereunder for the same act or acts.

34 **§ 650. Within special maritime and territorial ju-**
 35 **risdiction**

36 Whoever, within the special maritime and territorial juris-
 37 diction of the United States, takes and carries away, with in-

1 tent to steal or purloin, any personal property of another shall,
2 if the property taken is of a value exceeding \$1,000, or is taken
3 from the person of another, be imprisoned not more than five
4 years, and in all other cases, imprisoned not more than one
5 year.

6 **§ 651. Receiving stolen property within special**
7 **maritime and territorial jurisdiction**

8 Whoever, within the special maritime and territorial jurisdic-
9 tion of the United States, buys, receives, or conceals any
10 money, goods, bank notes, or other thing which may be the
11 subject of larceny, which has been feloniously taken, stolen, or
12 embezzled, from any other person, knowing the same to have
13 been so taken, stolen, or embezzled, shall be imprisoned not
14 more than three years, but if the amount or value of thing so
15 taken, stolen or embezzled does not exceed \$1,000, the offender
16 shall be imprisoned not more than one year.

17 **§ 652. Theft or embezzlement from employee ben-**
18 **efit plan**

19 (a) OFFENSE.—Whoever embezzles, steals, or unlawfully
20 and knowingly abstracts or converts any property of any em-
21 ployee welfare benefit plan or employee pension benefit plan, or
22 of any fund connected therewith, shall be imprisoned not more
23 than five years.

24 (b) DEFINITION.—As used in this section, the term “any
25 employee welfare benefit plan or employee pension benefit
26 plan” means any employee benefit plan subject to any provision
27 of title I of the Employee Retirement Income Security Act of
28 1974.

29 **§ 653. Theft or embezzlement from employment**
30 **and training funds; improper inducement;**
31 **obstruction of investigations**

32 (a) THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND
33 TRAINING FUNDS.—Whoever, being an officer, director, agent,
34 or employee of, or connected in any capacity with any agency
35 or organization receiving financial assistance or any funds
36 under the Job Training Partnership Act or title I of the Work-
37 force Investment Act of 1998 knowingly enrolls an ineligible

1 participant, embezzles, knowingly misapplies, steals, or obtains
 2 by fraud any property that is the subject of a financial assist-
 3 ance agreement or contract pursuant to such Act shall be im-
 4 prisoned for not more than 2 years, but if the amount so em-
 5 bezzled, misapplied, stolen, or obtained by fraud does not ex-
 6 ceed \$1,000, the offender shall be imprisoned not more than
 7 1 year.

8 (b) IMPROPER INDUCEMENT.—Whoever, by threat or pro-
 9 curing dismissal of any person from employment or of refusal
 10 to employ or refusal to renew a contract of employment in con-
 11 nection with a financial assistance agreement or contract under
 12 the Job Training Partnership Act or title I of the Workforce
 13 Investment Act of 1998 induces any person to give up any
 14 money or thing of any value to any person (including such or-
 15 ganization or agency receiving funds) shall be imprisoned not
 16 more than 1 year.

17 **§ 654. Theft or bribery concerning programs re-**
 18 **ceiving Federal funds**

19 (a) OFFENSE.—Whoever, as made applicable by subsection

20 (b)—

21 (1) being an agent of an organization, or of a State,
 22 local, or Indian tribal government, or any agency thereof—

23 (A) embezzles, steals, obtains by fraud, or other-
 24 wise without authority knowingly converts or inten-
 25 tionally misapplies, property that—

26 (i) is valued at \$5,000 or more, and

27 (ii) is owned by, or is under the care, custody,
 28 or control of such organization, government, or
 29 agency; or

30 (B) corruptly solicits or demands for the benefit of
 31 any person, or accepts or agrees to accept, anything of
 32 value from any person, intending to be influenced or re-
 33 warding in connection with any business, transaction, or
 34 series of transactions of such organization, government,
 35 or agency involving any thing of value of \$5,000 or
 36 more; or

1 (2) corruptly gives, offers, or agrees to give anything
2 of value to any person, with intent to influence or reward
3 an agent of an organization or of a State, local or Indian
4 tribal government, or any agency thereof, in connection
5 with any business, transaction, or series of transactions of
6 such organization, government, or agency involving any-
7 thing of value of \$5,000 or more;

8 shall be imprisoned not more than 10 years.

9 (b) APPLICABILITY.—Subsection (a) applies if the organi-
10 zation, government, or agency receives, in any one year period,
11 benefits in excess of \$10,000 under a Federal program involv-
12 ing a grant, contract, subsidy, loan, guarantee, insurance, or
13 other form of Federal assistance.

14 (c) EXCLUSION.—This section does not apply to bona fide
15 salary, wages, fees, or other compensation paid, or expenses
16 paid or reimbursed, in the usual course of business.

17 (d) DEFINITIONS.—As used in this section—

18 (1) the term “agent” means a person authorized to act
19 on behalf of another person or a government and, in the
20 case of an organization or government, includes a servant
21 or employee, and a partner, director, officer, manager, and
22 representative;

23 (2) the term “government agency” means a subdivi-
24 sion of the executive, legislative, judicial, or other branch
25 of government, including a department, independent estab-
26 lishment, commission, administration, authority, board, and
27 bureau, and a corporation or other legal entity established,
28 and subject to control, by a government or governments for
29 the execution of a governmental or intergovernmental pro-
30 gram;

31 (3) the term “local” means of or pertaining to a polit-
32 ical subdivision within a State; and

33 (4) the term “in any one-year period” means a contin-
34 uous period that commences no earlier than twelve months
35 before the commission of the offense or that ends no later
36 than twelve months after the commission of the offense.

1 Such period may include time both before and after the
2 commission of the offense.

3 **§ 655. Theft of major artwork**

4 (a) OFFENSES.—A person who—

5 (1) steals or obtains by fraud from the care, custody,
6 or control of a museum any object of cultural heritage; or

7 (2) knowing that an object of cultural heritage has
8 been stolen or obtained by fraud, if in fact the object was
9 stolen or obtained from the care, custody, or control of a
10 museum (whether or not that fact is known to the person),
11 receives, conceals, exhibits, or disposes of the object,

12 shall be imprisoned not more than 10 years.

13 (b) DEFINITIONS.—In this section—

14 (1) the term “museum” means an organized and per-
15 manent institution, the activities of which affect interstate
16 or foreign commerce, that—

17 (A) is situated in the United States;

18 (B) is established for an essentially educational or
19 aesthetic purpose;

20 (C) has a professional staff; and

21 (D) owns, utilizes, and cares for tangible objects
22 that are exhibited to the public on a regular schedule;
23 and

24 (2) the term “object of cultural heritage” means an
25 object that is—

26 (A) over 100 years old and worth in excess of
27 \$5,000; or

28 (B) worth at least \$100,000.

29 **§ 656. Theft or embezzlement in connection with**
30 **health care**

31 Whoever knowingly embezzles, steals, or otherwise without
32 authority converts or intentionally misapplies any of the mon-
33 eys, funds, securities, premiums, credits, property, or other as-
34 sets of a health care benefit program, shall be imprisoned not
35 more than 10 years, but if the value of such property does not
36 exceed the sum of \$100 the offender shall be imprisoned not
37 more than one year.

1 **§ 657. Embezzlement of labor organization assets.**

2 (a) OFFENSE.—Whoever, being an officer or employee of
3 a labor organization, embezzles, steals, or unlawfully and know-
4 ingly abstracts or converts any of the property of the organiza-
5 tion shall be imprisoned for not more than five years.

6 (b) DEFINITION.—As used in this section the term “labor
7 organization” has the meaning given that term in the National
8 Labor Relations Act.

9 SUBCHAPTER B—STOLEN PROPERTY

Sec.

- 671. Transportation of stolen vehicles.
- 672. Sale or receipt of stolen vehicles.
- 673. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.
- 674. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.
- 675. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging.
- 676. Criminal infringement of a copyright.
- 677. Copyright infringement.
- 678. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.
- 679. Unauthorized recording of motion pictures in a motion picture exhibition facility.
- 680. Trafficking in counterfeit goods or services.
- 682. Trafficking in certain motor vehicles or motor vehicle parts.
- 683. Chop shops.
- 684. Definitions.

10 **§ 671. Transportation of stolen vehicles**

11 Whoever transports in interstate or foreign commerce a
12 motor vehicle or aircraft, knowing the same to have been sto-
13 len, shall be imprisoned not more than 10 years.

14 **§ 672. Sale or receipt of stolen vehicles**

15 Whoever receives, possesses, conceals, stores, barter, sells,
16 or disposes of any motor vehicle or aircraft, which has crossed
17 a State or United States boundary after being stolen, knowing
18 the same to have been stolen, shall be imprisoned not more
19 than 10 years.

20 **§ 673. Transportation of stolen goods, securities,
21 moneys, fraudulent State tax stamps, or
22 articles used in counterfeiting**

23 Whoever—

1 (1) transports, transmits, or transfers in interstate or
 2 foreign commerce any goods, wares, merchandise, securities
 3 or money, of the value of \$5,000 or more, knowing the
 4 same to have been stolen, converted or taken by fraud;

5 (2) having devised or intending to devise any scheme
 6 or artifice to defraud, or for obtaining money or property
 7 by means of false or fraudulent pretenses, representations,
 8 or promises, transports or causes to be transported, or in-
 9 duces any person or persons to travel in, or to be trans-
 10 ported in interstate or foreign commerce in the execution
 11 or concealment of a scheme or artifice to defraud that per-
 12 son or those persons of money or property having a value
 13 of \$5,000 or more;

14 (3) with unlawful intent, transports in interstate or
 15 foreign commerce any falsely made, forged, altered, or
 16 counterfeited securities or tax stamps, knowing the same to
 17 have been falsely made, forged, altered, or counterfeited;

18 (4) with unlawful intent, transports in interstate or
 19 foreign commerce any traveler's check bearing a forged
 20 countersignature; or

21 (5) with unlawful intent, transports in interstate or
 22 foreign commerce, any tool, implement, or thing used or
 23 fitted to be used in falsely making, forging, altering, or
 24 counterfeiting any security or tax stamps, or any part
 25 thereof;

26 shall be imprisoned not more than ten years.

27 **§ 674. Sale or receipt of stolen goods, securities,**
 28 **moneys, or fraudulent State tax stamps**

29 Whoever—

30 (1) receives, possesses, conceals, stores, barter, sells,
 31 or disposes of any goods, wares, or merchandise, securities,
 32 or money of the value of \$5,000 or more, or pledges or ac-
 33 cepts as security for a loan any goods, wares, or merchan-
 34 dise, or securities, of the value of \$500 or more, which have
 35 crossed a State or United States boundary after being sto-
 36 len, unlawfully converted, or taken, knowing the same to
 37 have been stolen, unlawfully converted, or taken;

1 (2) counterfeit documentation or packaging, shall be
2 fined under this title or imprisoned for not more than 5
3 years.

4 (b) DEFINITIONS.—As used in this section—

5 (1) the term “counterfeit label” means an identifying
6 label or container that appears to be genuine, but is not;

7 (2) the term “traffic” means to transport, transfer or
8 otherwise dispose of, to another, as consideration for any-
9 thing of value or to make or obtain control of with intent
10 to so transport, transfer or dispose of;

11 (3) the terms “copy”, “phonorecord”, “motion pic-
12 ture”, “computer program”, “audiovisual work”, “literary
13 work”, “pictorial, graphic, or sculptural work”, “sound re-
14 cording”, “work of visual art”, and “copyright owner”
15 have, respectively, the meanings given those terms in sec-
16 tion 101 (relating to definitions) of title 17;

17 (4) the term “illicit label” means a genuine certificate,
18 licensing document, registration card, or similar labeling
19 component—

20 (A) that is used by the copyright owner to verify
21 that a phonorecord, a copy of a computer program, a
22 copy of a motion picture or other audiovisual work, a
23 copy of a literary work, a copy of a pictorial, graphic,
24 or sculptural work, a work of visual art, or documenta-
25 tion or packaging is not counterfeit or infringing of any
26 copyright; and

27 (B) that is, without the authorization of the copy-
28 right owner—

29 (i) distributed or intended for distribution not
30 in connection with the copy, phonorecord, or work
31 of visual art to which such labeling component was
32 intended to be affixed by the respective copyright
33 owner; or

34 (ii) in connection with a genuine certificate or
35 licensing document, knowingly falsified in order to
36 designate a higher number of licensed users or cop-
37 ies than authorized by the copyright owner, unless

1 that certificate or document is used by the copy-
2 right owner solely for the purpose of monitoring or
3 tracking the copyright owner's distribution channel
4 and not for the purpose of verifying that a copy or
5 phonorecord is noninfringing;

6 (5) the term "documentation or packaging" means
7 documentation or packaging, in physical form, for a phono-
8 record, copy of a computer program, copy of a motion pic-
9 ture or other audiovisual work, copy of a literary work,
10 copy of a pictorial, graphic, or sculptural work, or work of
11 visual art; and

12 (6) the term "counterfeit documentation or pack-
13 aging" means documentation or packaging that appears to
14 be genuine, but is not.

15 (c) APPLICATION.—Subsection (a) applies if—

16 (1) the offense is committed within the special mari-
17 time and territorial jurisdiction of the United States; or
18 within the special aircraft jurisdiction of the United States
19 (as defined in section 46501 of title 49);

20 (2) the mail or a facility of interstate or foreign com-
21 merce is used or intended to be used in the commission of
22 the offense;

23 (3) the counterfeit label or illicit label is affixed to, en-
24 closes, or accompanies, or is designed to be affixed to, en-
25 close, or accompany—

26 (A) a phonorecord of a copyrighted sound record-
27 ing or copyrighted musical work;

28 (B) a copy of a copyrighted computer program;

29 (C) a copy of a copyrighted motion picture or
30 other audiovisual work;

31 (D) a copy of a literary work;

32 (E) a copy of a pictorial, graphic, or sculptural
33 work;

34 (F) a work of visual art; or

35 (G) copyrighted documentation or packaging; or

36 (4) the counterfeited documentation or packaging is
37 copyrighted.

1 (d) FORFEITURE.—When any person is convicted of any
2 violation of subsection (a), the court in its judgment of conviction shall in addition to the penalty therein prescribed, order
3 the forfeiture and destruction or other disposition of all counterfeit labels or illicit labels and all articles to which counterfeit
4 labels or illicit labels have been affixed or which were intended
5 to have had such labels affixed, and of any equipment, device,
6 or material used to manufacture, reproduce, or assemble the
7 counterfeit labels or illicit labels.

10 (e) APPLICATION OF SECTION 509 OF TITLE XVII.—Except to the extent they are inconsistent with the provisions of
11 this title, all provisions of section 509, title 17, are applicable
12 to violations of subsection (a).

14 (f) CIVIL REMEDIES.—

15 (1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection
16 (a) may bring a civil action in an appropriate
17 United States district court.

19 (2) DISCRETION OF COURT.—In any action brought
20 under paragraph (1), the court—

21 (A) may grant 1 or more temporary or permanent
22 injunctions on such terms as the court determines to
23 be reasonable to prevent or restrain a violation of subsection
24 (a);

25 (B) at any time while the action is pending, may
26 order the impounding, on such terms as the court determines to be reasonable, of any article that is in the
27 custody or control of the alleged violator and that the
28 court has reasonable cause to believe was involved in a
29 violation of subsection (a); and

31 (C) may award to the injured party—

32 (i) reasonable attorney fees and costs; and

33 (ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or

34 (II) statutory damages, as provided in paragraph (4).
36

1 (II) statutory damages, as provided in para-
2 graph (4).

3 (3) ACTUAL DAMAGES AND PROFITS.—

4 (A) IN GENERAL.—The injured party is entitled to
5 recover—

6 (i) the actual damages suffered by the injured
7 party as a result of a violation of subsection (a),
8 as provided in subparagraph (B) of this paragraph;
9 and

10 (ii) any profits of the violator that are attrib-
11 utable to a violation of subsection (a) and are not
12 taken into account in computing the actual dam-
13 ages.

14 (B) CALCULATION OF DAMAGES.—The court shall
15 calculate actual damages by multiplying—

16 (i) the value of the phonorecords, copies, or
17 works of visual art which are, or are intended to
18 be, affixed with, enclosed in, or accompanied by
19 any counterfeit labels, illicit labels, or counterfeit
20 documentation or packaging, by

21 (ii) the number of phonorecords, copies, or
22 works of visual art which are, or are intended to
23 be, affixed with, enclosed in, or accompanied by
24 any counterfeit labels, illicit labels, or counterfeit
25 documentation or packaging.

26 (C) DEFINITION.—For purposes of this para-
27 graph, the “value” of a phonorecord, copy, or work of
28 visual art is—

29 (i) in the case of a copyrighted sound record-
30 ing or copyrighted musical work, the retail value of
31 an authorized phonorecord of that sound recording
32 or musical work;

33 (ii) in the case of a copyrighted computer pro-
34 gram, the retail value of an authorized copy of that
35 computer program;

36 (iii) in the case of a copyrighted motion pic-
37 ture or other audiovisual work, the retail value of

1 an authorized copy of that motion picture or audio-
2 visual work;

3 (iv) in the case of a copyrighted literary work,
4 the retail value of an authorized copy of that lit-
5 erary work;

6 (v) in the case of a pictorial, graphic, or sculp-
7 tural work, the retail value of an authorized copy
8 of that work; and

9 (vi) in the case of a work of visual art, the re-
10 tail value of that work.

11 (4) STATUTORY DAMAGES.—The injured party may
12 elect, at any time before final judgment is rendered, to re-
13 cover, instead of actual damages and profits, an award of
14 statutory damages for each violation of subsection (a) in a
15 sum of not less than \$2,500 or more than \$25,000, as the
16 court considers appropriate.

17 (5) SUBSEQUENT VIOLATION.—The court may in-
18 crease an award of damages under this subsection by 3
19 times the amount that would otherwise be awarded, as the
20 court considers appropriate, if the court finds that a person
21 has subsequently violated subsection (a) within 3 years
22 after a final judgment was entered against that person for
23 a violation of that subsection.

24 (6) LIMITATION ON ACTIONS.—A civil action may not
25 be commenced under section unless it is commenced within
26 3 years after the date on which the claimant discovers the
27 violation of subsection (a).

28 **§ 676. Criminal infringement of a copyright**

29 (a) SECTION 506A OFFENSES IN GENERAL.—Whoever vio-
30 lates section 506(a) (relating to criminal offenses) of title 17
31 shall be punished as provided in subsections (b), (c), and (d)
32 and such penalties shall be in addition to any other provisions
33 of title 17 or any other law.

34 (b) SUBSECTION (a)(1)(A) OFFENSES.—Whoever commits
35 an offense under section 506(a)(1)(A) of title 17—

36 (1) shall be imprisoned not more than 5 years, if the
37 offense consists of the reproduction or distribution, includ-

1 ing by electronic means, during any 180-day period, of at
2 least 10 copies or phonorecords, of 1 or more copyrighted
3 works, which have a total retail value of more than \$2,500;

4 (2) shall be imprisoned not more than 10 years if the
5 offense is a second or subsequent offense under paragraph
6 (1); and

7 (3) shall be imprisoned not more than 1 year in any
8 other case.

9 (c) SUBSECTION (a)(1)(B) OFFENSES.—Whoever commits
10 an offense under section 506(a)(1)(B) of title 17—

11 (1) shall be imprisoned not more than 3 years, if the
12 offense consists of the reproduction or distribution of 10 or
13 more copies or phonorecords of 1 or more copyrighted
14 works, which have a total retail value of \$2,500 or more;

15 (2) shall be imprisoned not more than 6 years, or if
16 the offense is a second or subsequent offense under para-
17 graph (1); and

18 (3) shall be imprisoned not more than 1 year, or if the
19 offense consists of the reproduction or distribution of 1 or
20 more copies or phonorecords of 1 or more copyrighted
21 works, which have a total retail value of more than \$1,000.

22 (d) SUBSECTION (A)(1)(C) OFFENSES.—Whoever commits
23 an offense under section 506(a)(1)(C) of title 17—

24 (1) shall be imprisoned not more than 3 years;

25 (2) shall be imprisoned not more than 5 years if the
26 offense was committed for purposes of commercial advan-
27 tage or private financial gain;

28 (3) shall be imprisoned not more than 6 years if the
29 offense is a second or subsequent offense; and

30 (4) shall be imprisoned not more than 10 years if the
31 offense is a second or subsequent offense under paragraph
32 (2).

33 (e) VICTIM IMPACT.—

34 (1) IN GENERAL.—During preparation of the
35 presentence report pursuant to Rule 32(c) of the Federal
36 Rules of Criminal Procedure, victims of the offense shall be
37 permitted to submit, and the probation officer shall receive,

1 a victim impact statement that identifies the victim of the
 2 offense and the extent and scope of the injury and loss suf-
 3 fered by the victim, including the estimated economic im-
 4 pact of the offense on that victim.

5 (2) PERSONS PERMITTED TO SUBMIT.—Persons per-
 6 mitted to submit victim impact statements shall include—

7 (A) producers and sellers of legitimate works affected
 8 by conduct involved in the offense;

9 (B) holders of intellectual property rights in such
 10 works; and

11 (C) the legal representatives of such producers, sellers,
 12 and holders.

13 (f) DEFINITIONS.—As used in this section—

14 (1) the terms “phonorecord” and “copies” have, re-
 15 spectively, the meanings set forth in section 101 (relating
 16 to definitions) of title 17;

17 (2) the terms “reproduction” and “distribution” refer
 18 to the exclusive rights of a copyright owner under clauses
 19 (1) and (3) respectively of section 106 (relating to exclusive
 20 rights in copyrighted works), as limited by sections 107
 21 through 122, of title 17;

22 (3) the term “financial gain” has the meaning given
 23 the term in section 101 of title 17; and

24 (4) the term “work being prepared for commercial dis-
 25 tribution” has the meaning given the term in section
 26 506(a) of title 17.

27 § 677. Copyright infringement

28 (a) CRIMINAL INFRINGEMENT.—

29 (1) IN GENERAL.—Any person who knowingly in-
 30 fringes a copyright shall be punished as provided under sec-
 31 tion 676, if the infringement was committed—

32 (A) for purposes of commercial advantage or pri-
 33 vate financial gain;

34 (B) by the reproduction or distribution, including
 35 by electronic means, during any 180-day period, of 1
 36 or more copies or phonorecords of 1 or more copy-

1 righted works, which have a total retail value of more
2 than \$1,000; or

3 (C) by the distribution of a work being prepared
4 for commercial distribution, by making it available on
5 a computer network accessible to members of the pub-
6 lic, if such person knew or should have known that the
7 work was intended for commercial distribution.

8 (2) EVIDENCE.—For purposes of this subsection, evi-
9 dence of reproduction or distribution of a copyrighted work,
10 by itself, shall not be sufficient to establish knowing in-
11 fringement of a copyright.

12 (3) DEFINITION.—In this subsection, the term “work
13 being prepared for commercial distribution” means—

14 (A) a computer program, a musical work, a mo-
15 tion picture or other audiovisual work, or a sound re-
16 cording, if, at the time of unauthorized distribution—

17 (i) the copyright owner has a reasonable ex-
18 pectation of commercial distribution; and

19 (ii) the copies or phonorecords of the work
20 have not been commercially distributed; or

21 (B) a motion picture, if, at the time of unauthor-
22 ized distribution, the motion picture—

23 (i) has been made available for viewing in a
24 motion picture exhibition facility; and

25 (ii) has not been made available in copies for
26 sale to the general public in the United States in
27 a format intended to permit viewing outside a mo-
28 tion picture exhibition facility.

29 (b) FORFEITURE AND DESTRUCTION.—When any person
30 is convicted of any violation of subsection (a), the court in its
31 judgment of conviction shall, in addition to the penalty therein
32 prescribed, order the forfeiture and destruction or other dis-
33 position of all infringing copies or phonorecords and all imple-
34 ments, devices, or equipment used in the manufacture of such
35 infringing copies or phonorecords.

36 (c) FRAUDULENT COPYRIGHT NOTICE.—Any person who,
37 with fraudulent intent, places on any article a notice of copy-

1 right or words of the same purport that such person knows to
2 be false, or who, with fraudulent intent, publicly distributes or
3 imports for public distribution any article bearing such notice
4 or words that such person knows to be false, shall be fined not
5 more than \$2,500.

6 (d) FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.—
7 Any person who, with fraudulent intent, removes or alters any
8 notice of copyright appearing on a copy of a copyrighted work
9 shall be fined not more than \$2,500.

10 (e) FALSE REPRESENTATION.—Any person who knowingly
11 makes a false representation of a material fact in the applica-
12 tion for copyright registration provided for by section 409 of
13 title 17, or in any written statement filed in connection with
14 the application, shall be fined not more than \$2,500.

15 (f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing
16 in this section applies to infringement of the rights conferred
17 by section 106A(a) of title 17.

18 **§ 678. Unauthorized fixation of and trafficking in**
19 **sound recordings and music videos of live**
20 **musical performances**

21 (a) OFFENSE.—Whoever, without the consent of the per-
22 former or performers involved, knowingly and for purposes of
23 commercial advantage or private financial gain—

24 (1) fixes the sounds or sounds and images of a live
25 musical performance in a copy or phonorecord, or repro-
26 duces copies or phonorecords of such a performance from
27 an unauthorized fixation;

28 (2) transmits or otherwise communicates to the public
29 the sounds or sounds and images of a live musical perform-
30 ance; or

31 (3) distributes or offers to distribute, sells or offers to
32 sell, rents or offers to rent, or traffics in any copy or pho-
33 norecord fixed as described in paragraph (1), regardless of
34 whether the fixations occurred in the United States;

35 shall be imprisoned for not more than 5 years or if the offense
36 is a second or subsequent offense, shall be imprisoned for not
37 more than 10 years.

1 (b) FORFEITURE AND DESTRUCTION.—When a person is
2 convicted of a violation of subsection (a), the court shall order
3 the forfeiture and destruction of any copies or phonorecords
4 created in violation thereof, as well as any plates, molds, mat-
5 rices, masters, tapes, and film negatives by means of which
6 such copies or phonorecords may be made. The court may also,
7 in its discretion, order the forfeiture and destruction of any
8 other equipment by means of which such copies or
9 phonorecords may be reproduced, taking into account the na-
10 ture, scope, and proportionality of the use of the equipment in
11 the offense.

12 (c) SEIZURE AND FORFEITURE.—If copies or
13 phonorecords of sounds or sounds and images of a live musical
14 performance are fixed outside of the United States without the
15 consent of the performer or performers involved, such copies or
16 phonorecords are subject to seizure and forfeiture in the United
17 States in the same manner as property imported in violation
18 of the customs laws. The Secretary of the Treasury shall, not
19 later than 60 days after the date of the enactment of the Uru-
20 guay Round Agreements Act, issue regulations to carry out this
21 subsection, including regulations by which any performer may,
22 upon payment of a specified fee, be entitled to notification by
23 the United States Customs Service of the importation of copies
24 or phonorecords that appear to consist of unauthorized fixa-
25 tions of the sounds or sounds and images of a live musical per-
26 formance.

27 (d) VICTIM IMPACT STATEMENT.—(1) During preparation
28 of the presentence report pursuant to Rule 32(c) of the Federal
29 Rules of Criminal Procedure, victims of the offense shall be
30 permitted to submit, and the probation officer shall receive, a
31 victim impact statement that identifies the victim of the offense
32 and the extent and scope of the injury and loss suffered by the
33 victim, including the estimated economic impact of the offense
34 on that victim.

35 (2) Persons permitted to submit victim impact statements
36 shall include—

1 (A) producers and sellers of legitimate works affected
2 by conduct involved in the offense;

3 (B) holders of intellectual property rights in such
4 works; and

5 (C) the legal representatives of such producers, sellers,
6 and holders.

7 (e) DEFINITIONS.—As used in this section—

8 (1) the terms “copy”, “fixed”, “musical work”, “pho-
9 norecord”, “reproduce”, “sound recordings”, and “trans-
10 mit” mean those terms within the meaning of title 17; and

11 (2) the term “traffic in” means transport, transfer, or
12 otherwise dispose of, to another, as consideration for any-
13 thing of value, or make or obtain control of with intent to
14 transport, transfer, or dispose of.

15 (f) APPLICABILITY.—This section shall apply to any con-
16 duct that occurs on or after the date of the enactment of the
17 Uruguay Round Agreements Act.

18 **§ 679. Unauthorized recording of motion pictures**
19 **in a motion picture exhibition facility**

20 (a) OFFENSE.—Any person who, without the authorization
21 of the copyright owner, knowingly uses or attempts to use an
22 audiovisual recording device to transmit or make a copy of a
23 motion picture or other audiovisual work protected under title
24 17, or any part thereof, from a performance of such work in
25 a motion picture exhibition facility, shall—

26 (1) be imprisoned for not more than 3 years; or

27 (2) if the offense is a second or subsequent offense, be
28 imprisoned for no more than 6 years.

29 The possession by a person of an audiovisual recording device
30 in a motion picture exhibition facility may be considered as evi-
31 dence in any proceeding to determine whether that person com-
32 mitted an offense under this subsection, but shall not, by itself,
33 be sufficient to support a conviction of that person for such of-
34 fense.

35 (b) FORFEITURE AND DESTRUCTION.—When a person is
36 convicted of a violation of subsection (a), the court in its judg-
37 ment of conviction shall, in addition to any penalty provided,

1 order the forfeiture and destruction or other disposition of all
2 unauthorized copies of motion pictures or other audiovisual
3 works protected under title 17, or parts thereof, and any audio-
4 visual recording devices or other equipment used in connection
5 with the offense.

6 (c) AUTHORIZED ACTIVITIES.—This section does not pre-
7 vent any lawfully authorized investigative, protective, or intel-
8 ligence activity by an officer, agent, or employee of the United
9 States, a State, or a political subdivision of a State, or by a
10 person acting under a contract with the United States, a State,
11 or a political subdivision of a State.

12 (d) IMMUNITY FOR THEATERS.—With reasonable cause,
13 the owner or lessee of a motion picture exhibition facility where
14 a motion picture or other audiovisual work is being exhibited,
15 the authorized agent or employee of such owner or lessee, the
16 licensor of the motion picture or other audiovisual work being
17 exhibited, or the agent or employee of such licensor—

18 (1) may detain, in a reasonable manner and for a rea-
19 sonable time, any person suspected of a violation of this
20 section with respect to that motion picture or audiovisual
21 work for the purpose of questioning or summoning a law
22 enforcement officer; and

23 (2) shall not be held liable in any civil or criminal ac-
24 tion arising out of a detention under paragraph (1).

25 (e) VICTIM IMPACT STATEMENT.—

26 (1) IN GENERAL.—During the preparation of the
27 presentence report under rule 32(c) of the Federal Rules
28 of Criminal Procedure, victims of an offense under this sec-
29 tion shall be permitted to submit to the probation officer
30 a victim impact statement that identifies the victim of the
31 offense and the extent and scope of the injury and loss suf-
32 fered by the victim, including the estimated economic im-
33 pact of the offense on that victim.

34 (2) CONTENTS.—A victim impact statement submitted
35 under this subsection shall include—

36 (A) producers and sellers of legitimate works af-
37 fected by conduct involved in the offense;

1 (B) holders of intellectual property rights in the
2 works described in subparagraph (A); and

3 (C) the legal representatives of such producers,
4 sellers, and holders.

5 (f) STATE LAW NOT PREEMPTED.—Nothing in this sec-
6 tion may be construed to annul or limit any rights or remedies
7 under the laws of any State.

8 (g) DEFINITIONS.—In this section, the following defini-
9 tions shall apply:

10 (1) TITLE 17 DEFINITIONS.—The terms “audiovisual
11 work”, “copy”, “copyright owner”, “motion picture”, “mo-
12 tion picture exhibition facility”, and “transmit” have, re-
13 spectively, the meanings given those terms in section 101
14 of title 17.

15 (2) AUDIOVISUAL RECORDING DEVICE.—The term
16 “audiovisual recording device” means a digital or analog
17 photographic or video camera, or any other technology or
18 device capable of enabling the recording or transmission of
19 a copyrighted motion picture or other audiovisual work, or
20 any part thereof, regardless of whether audiovisual record-
21 ing is the sole or primary purpose of the device.

22 **§ 680. Trafficking in counterfeit goods or services**

23 (a) OFFENSE.—Whoever intentionally traffics or attempts
24 to traffic in goods or services and knowingly uses a counterfeit
25 mark on or in connection with such goods or services shall, if
26 an individual, be imprisoned not more than 10 years, and, if
27 an organization, be fined not more than \$5,000,000. In the
28 case of an offense by a person under this section that occurs
29 after that person is convicted of another offense under this sec-
30 tion, the person convicted, if an individual, shall be imprisoned
31 not more than 20 years, and if an organization, shall be fined
32 not more than \$15,000,000.

33 (b) DESTRUCTION.—Upon a determination by a prepon-
34 derance of the evidence that any articles in the possession of
35 a defendant in a prosecution under this section bear counterfeit
36 marks, the United States may obtain an order for the destruc-
37 tion of such articles.

1 (c) DEFENSE, AFFIRMATIVE DEFENSES, AND LIMITATIONS
2 ON REMEDIES.—All defenses, affirmative defenses, and limita-
3 tions on remedies that would be applicable in an action under
4 the Lanham Act shall be applicable in a prosecution under this
5 section.

6 (d) VICTIM IMPACT STATEMENT.—(1) During preparation
7 of the presentence report pursuant to Rule 32(c) of the Federal
8 Rules of Criminal Procedure, victims of the offense shall be
9 permitted to submit, and the probation officer shall receive, a
10 victim impact statement that identifies the victim of the offense
11 and the extent and scope of the injury and loss suffered by the
12 victim, including the estimated economic impact of the offense
13 on that victim.

14 (2) Persons permitted to submit victim impact statements
15 shall include—

16 (A) producers and sellers of legitimate goods or serv-
17 ices affected by conduct involved in the offense;

18 (B) holders of intellectual property rights in such
19 goods or services; and

20 (C) the legal representatives of such producers, sellers,
21 and holders.

22 (e) DEFINITIONS.—For the purposes of this section—

23 (1) the term “counterfeit mark” means—

24 (A) a spurious mark—

25 (i) that is used in connection with trafficking
26 in goods or services;

27 (ii) that is identical with, or substantially in-
28 distinguishable from, a mark registered for those
29 goods or services on the principal register in the
30 United States Patent and Trademark Office and in
31 use, whether or not the defendant knew such mark
32 was so registered; and

33 (iii) the use of which is likely to cause confu-
34 sion, to cause mistake, or to deceive; or

35 (B) a spurious designation that is identical with,
36 or substantially indistinguishable from, a designation

1 as to which the remedies of the Lanham Act are made
2 available by reason of section 220506 of title 36
3 but such term does not include any mark or designation
4 used in connection with goods or services of which the man-
5 ufacturer or producer was, at the time of the manufacture
6 or production in question authorized to use the mark or
7 designation for the type of goods or services so manufac-
8 tured or produced, by the holder of the right to use such
9 mark or designation;

10 (2) the term “traffic” means transport, transfer, or
11 otherwise dispose of, to another, as consideration for any-
12 thing of value, or make or obtain control of with intent so
13 to transport, transfer, or dispose of; and

14 (3) the term “Lanham Act” means the Act entitled
15 “An Act to provide for the registration and protection of
16 trademarks used in commerce, to carry out the provisions
17 of certain international conventions, and for other pur-
18 poses”, approved July 5, 1946 (15 U.S.C. 1051 et seq.).

19 (f) REPORT.—(1) Beginning with the first year after the
20 date of enactment of this subsection, the Attorney General shall
21 include in the report of the Attorney General to Congress on
22 the business of the Department of Justice prepared pursuant
23 to section 522 of title 28, an accounting, on a district by dis-
24 trict basis, of the following with respect to all actions taken by
25 the Department of Justice that involve trafficking in counter-
26 feit labels for phonorecords, copies of computer programs or
27 computer program documentation or packaging, copies of mo-
28 tion pictures or other audiovisual works (as defined in section
29 2318 of this title), criminal infringement of copyrights (as de-
30 fined in section 2319 of this title), unauthorized fixation of and
31 trafficking in sound recordings and music videos of live musical
32 performances (as defined in section 2319A of this title), or
33 trafficking in goods or services bearing counterfeit marks (as
34 defined in section 2320 of this title):

35 (A) The number of open investigations.

36 (B) The number of cases referred by the United
37 States Customs Service.

1 (C) The number of cases referred by other agencies or
2 sources.

3 (D) The number and outcome, including settlements,
4 sentences, recoveries, and penalties, of all prosecutions
5 brought under sections 2318, 2319, 2319A, and 2320 of
6 title 18.

7 (2)(A) The report under paragraph (1), with respect to
8 criminal infringement of copyright, shall include the following:

9 (i) The number of infringement cases in these cat-
10 egories: audiovisual (videos and films); audio (sound re-
11 cordings); literary works (books and musical compositions);
12 computer programs; video games; and, others.

13 (ii) The number of online infringement cases.

14 (iii) The number and dollar amounts of fines assessed
15 in specific categories of dollar amounts. These categories
16 shall be: no fines ordered; fines under \$500; fines from
17 \$500 to \$1,000; fines from \$1,000 to \$5,000; fines from
18 \$5,000 to \$10,000; and fines over \$10,000.

19 (iv) The total amount of restitution ordered in all
20 copyright infringement cases.

21 (B) In this paragraph, the term “online infringement
22 cases” as used in paragraph (2) means those cases where the
23 infringer—

24 (i) advertised or publicized the infringing work on the
25 Internet; or

26 (ii) made the infringing work available on the Internet
27 for download, reproduction, performance, or distribution by
28 other persons.

29 (C) The information required under subparagraph (A)
30 shall be submitted in the report required in fiscal year 2005
31 and thereafter.

32 **§ 682. Trafficking in certain motor vehicles or**
33 **motor vehicle parts**

34 (a) OFFENSE.—Whoever buys, receives, possesses, or ob-
35 tains control of, with intent to sell or otherwise dispose of, a
36 motor vehicle or motor vehicle part, knowing that an identifica-
37 tion number for such motor vehicle or part has been removed,

1 obliterated, tampered with, or altered, shall be imprisoned not
2 more than ten years.

3 (b) NONAPPLICABILITY.—Subsection (a) does not apply if
4 the removal, obliteration, tampering, or alteration—

5 (1) is caused by collision or fire; or

6 (2) is not a violation of section 718.

7 (c) DEFINITIONS.—As used in this section, the terms
8 “identification number” and “motor vehicle” have the meaning
9 given those terms in section 718.

10 **§ 683. Chop shops**

11 (a) IN GENERAL.—

12 (1) UNLAWFUL ACTION.—Any person who knowingly
13 owns, operates, maintains, or controls a chop shop or con-
14 ducts operations in a chop shop shall be punished by im-
15 prisonment for not more than 15 years. If a conviction of
16 a person under this paragraph is for a violation committed
17 after the first conviction of such person under this para-
18 graph, the maximum punishment shall be doubled with re-
19 spect to any fine and imprisonment.

20 (2) INJUNCTIONS.—The Attorney General shall, as ap-
21 propriate, in the case of any person who violates paragraph
22 (1), commence a civil action for permanent or temporary
23 injunction to restrain such violation.

24 (b) DEFINITION.—For purposes of this section, the term
25 “chop shop” means any building, lot, facility, or other structure
26 or premise where one or more persons engage in receiving, con-
27 cealing, destroying, disassembling, dismantling, reassembling,
28 or storing any passenger motor vehicle or passenger motor ve-
29 hicle part which has been unlawfully obtained in order to alter,
30 counterfeit, deface, destroy, disguise, falsify, forge, obliterate,
31 or remove the identity, including the vehicle identification num-
32 ber or derivative thereof, of such vehicle or vehicle part and to
33 distribute, sell, or dispose of such vehicle or vehicle part in
34 interstate or foreign commerce.

35 **§ 684. Definitions**

36 The following definitions apply in this subchapter:

1 (1) The term “aircraft” means any contrivance now
2 known or hereafter invented, used, or designed for naviga-
3 tion of or for flight in the air.

4 (2) The term “cattle” means one or more bulls, steers,
5 oxen, cows, heifers, or calves, or the carcass or carcasses
6 thereof.

7 (3) The term “livestock” means any domestic animals
8 raised for home use, consumption, or profit, such as horses,
9 pigs, llamas, goats, fowl, sheep, buffalo, and cattle, or the
10 carcasses thereof.

11 (4) The term “money” means the legal tender of the
12 United States or of any foreign country, or any counterfeit
13 thereof.

14 (5) The term “motor vehicle” means an automobile,
15 automobile truck, automobile wagon, motorcycle, or any
16 other self-propelled vehicle designed for running on land
17 but not on rails.

18 (6) The term “securities” means any note, stock cer-
19 tificate, bond, debenture, check, draft, warrant, traveler’s
20 check, letter of credit, warehouse receipt, negotiable bill of
21 lading, evidence of indebtedness, certificate of interest or
22 participation in any profit-sharing agreement, collateral-
23 trust certificate, preorganization certificate or subscription,
24 transferable share, investment contract, voting-trust certifi-
25 cate; valid or blank motor vehicle title; certificate of inter-
26 est in property, tangible or intangible; instrument or docu-
27 ment or writing evidencing ownership of goods, wares, and
28 merchandise, or transferring or assigning any right, title,
29 or interest in or to goods, wares, and merchandise; or, in
30 general, any instrument commonly known as a “security”,
31 or any certificate of interest or participation in, temporary
32 or interim certificate for, receipt for, warrant, or right to
33 subscribe to or purchase any of the foregoing, or any
34 forged, counterfeited, or spurious representation of any of
35 the foregoing.

36 (7) The term “tax stamp” means any tax stamp, tax
37 token, tax meter imprint, or any other form of evidence of

1 an obligation running to a State, or evidence of the dis-
2 charge thereof.

3 (8) The term “value” means the face, par, or market
4 value, whichever is the greatest, and the aggregate value of
5 all goods, wares, and merchandise, securities, and money
6 referred to in a single indictment shall constitute the value
7 thereof.

8 SUBCHAPTER C—COUNTERFEITING AND FORGERY

Sec.

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9 **§ 691. Counterfeit acts committed outside the** 10 **United States**

11 Whoever outside the United States, engages in the act
12 of—

1 (1) making, dealing, or possessing any counterfeit obli-
2 gation or other security of the United States; or

3 (2) making, dealing, or possessing any plate, stone,
4 analog, digital, or electronic image, or other thing, or any
5 part thereof, used to counterfeit such obligation or security,
6 if such act would constitute a violation of section 692, 693, or
7 694 if committed within the United States, shall be punished
8 as is provided for the like offense within the United States.

9 **§ 692. Obligations or securities of United States**

10 Whoever, with intent to defraud, falsely makes, forges,
11 counterfeits, or alters any obligation or other security of the
12 United States, shall be imprisoned not more than 20 years.

13 **§ 693. Uttering counterfeit obligations or securi-**
14 **ties**

15 Whoever, with intent to defraud, passes, utters, publishes,
16 or sells, or attempts to pass, utter, publish, or sell, or with like
17 intent brings into the United States or keeps in possession or
18 conceals any falsely made, forged, counterfeited, or altered obli-
19 gation or other security of the United States, shall be impris-
20 oned not more than 20 years.

21 **§ 694. Dealing in counterfeit obligations or securi-**
22 **ties**

23 Whoever buys, sells, exchanges, transfers, receives, or de-
24 livers any false, forged, counterfeited, or altered obligation or
25 other security of the United States, with the intent that the
26 same be passed, published, or used as true and genuine, shall
27 be imprisoned not more than 20 years.

28 **§ 695. Plates, stones, or analog, digital, or elec-**
29 **tronic images for counterfeiting obliga-**
30 **tions or securities**

31 (a) OFFENSE.—Whoever—

32 (1) having control, custody, or possession of any plate,
33 stone, or other thing, or any part thereof, from which has
34 been printed, or which may be prepared by direction of the
35 Secretary of the Treasury for the purpose of printing, any
36 obligation or other security of the United States, uses such
37 plate, stone, or other thing, or any part thereof, or know-

1 ingly suffers the same to be used for the purpose of print-
2 ing any such or similar obligation or other security, or any
3 part thereof, except as may be printed for the use of the
4 United States by order of the proper officer thereof;

5 (2) makes or executes any plate, stone, or other thing
6 in the likeness of any plate designated for the printing of
7 such obligation or other security;

8 (3) with intent to defraud, makes, executes, acquires,
9 scans,captures, records, receives, transmits, reproduces,
10 sells, or has in such person's control, custody, or posses-
11 sion, an analog, digital, or electronic image of any obliga-
12 tion or other security of the United States;

13 (4) sells any such plate, stone, or other thing, or
14 brings into the United States any such plate, stone, or
15 other thing, except under the direction of the Secretary of
16 the Treasury or other proper officer, or with any other in-
17 tent, in either case, than that such plate, stone, or other
18 thing be used for the printing of the obligations or other
19 securities of the United States;

20 (5) has in his control, custody, or possession any plate,
21 stone, or other thing in any manner made after or in the
22 similitude of any plate, stone, or other thing, from which
23 any such obligation or other security has been printed, with
24 intent to use such plate, stone, or other thing, or to suffer
25 the same to be used in forging or counterfeiting any such
26 obligation or other security, or any part thereof;

27 (6) has in his possession or custody, except under au-
28 thority from the Secretary of the Treasury or other proper
29 officer, any obligation or other security made or executed,
30 in whole or in part, after the similitude of any obligation
31 or other security issued under the authority of the United
32 States, with intent to sell or otherwise use the same; or

33 (7) prints, photographs, or in any other manner makes
34 or executes any engraving, photograph, print, or impression
35 in the likeness of any such obligation or other security, or
36 any part thereof, or sells any such engraving, photograph,
37 print, or impression, except to the United States, or brings

1 into the United States, any such engraving, photograph,
2 print, or impression, except by direction of some proper of-
3 ficer of the United States;

4 shall be imprisoned not more than 25 years.

5 (b) DEFINITION.—For purposes of this section, the term
6 “analog, digital, or electronic image” includes any analog, dig-
7 ital, or electronic method used for the making, execution, acqui-
8 sition, scanning, capturing, recording, retrieval, transmission,
9 or reproduction of any obligation or security, unless such use
10 is authorized by the Secretary of the Treasury. The Secretary
11 shall establish a system (pursuant to section 504) to ensure
12 that the legitimate use of such electronic methods and retention
13 of such reproductions by businesses, hobbyists, press and oth-
14 ers shall not be unduly restricted.

15 **§ 696. Deterrents to counterfeiting of obligations**
16 **and securities**

17 (a) OFFENSE.—Whoever—

18 (1) has in his control or possession, after a distinctive
19 paper has been adopted by the Secretary of the Treasury
20 for the obligations and other securities of the United
21 States, any similar paper adapted to the making of any
22 such obligation or other security, except under the author-
23 ity of the Secretary of the Treasury; or

24 (2) has in his control or possession, after a distinctive
25 counterfeit deterrent has been adopted by the Secretary of
26 the Treasury for the obligations and other securities of the
27 United States by publication in the Federal Register, any
28 essentially identical feature or device adapted to the mak-
29 ing of any such obligation or security, except under the au-
30 thority of the Secretary of the Treasury;

31 shall be imprisoned for not more than 25 years.

32 (b) DEFINITIONS.—As used in this section—

33 (1) the term “distinctive paper” includes any distinc-
34 tive medium of which currency is made, whether of wood
35 pulp, rag, plastic substrate, or other natural or artificial fi-
36 bers or materials; and

1 (2) the term “distinctive counterfeit deterrent” in-
 2 cludes any ink, watermark, seal, security thread, optically
 3 variable device, or other feature or device;

4 (A) in which the United States has an exclusive
 5 property interest; or

6 (B) which is not otherwise in commercial use or in
 7 the public domain and which the Secretary designates
 8 as being necessary in preventing the counterfeiting of
 9 obligations or other securities of the United States.

10 **§ 697. Taking impressions of tools used for obliga-**
 11 **tions or securities**

12 Whoever, without authority from the United States, takes,
 13 procures, or makes an impression, stamp, analog, digital, or
 14 electronic image, or imprint of, from or by the use of any tool,
 15 implement, instrument, or thing used or fitted or intended to
 16 be used in printing, stamping, or impressing, or in making
 17 other tools, implements, instruments, or things to be used or
 18 fitted or intended to be used in printing, stamping, or impress-
 19 ing any obligation or other security of the United States, shall
 20 be imprisoned not more than 25 years.

21 **§ 698. Possessing or selling impressions of tools**
 22 **used for obligations or securities**

23 Whoever—

24 (1) with intent to defraud, possesses, keeps, safe-
 25 guards, or controls, without authority from the United
 26 States, any imprint, stamp, analog, digital, or electronic
 27 image, or impression, taken or made upon any substance
 28 or material whatsoever, of any tool, implement, instrument
 29 or thing, used, fitted or intended to be used, for any of the
 30 purposes mentioned in section 476 of this title; or

31 (2) with intent to defraud, sells, gives, or delivers any
 32 such imprint, stamp, analog, digital, or electronic image, or
 33 impression to any other person;

34 shall be imprisoned not more than 25 years.

35 **§ 699. Foreign obligations or securities**

36 Whoever, within the United States, with intent to defraud,
 37 falsely makes, alters, forges, or counterfeits any bond, certifi-

1 cate, obligation, or other security of any foreign government,
 2 purporting to be or in imitation of any such security issued
 3 under the authority of such foreign government, or any treas-
 4 ury note, bill, or promise to pay, lawfully issued by such foreign
 5 government and intended to circulate as money, shall be im-
 6 prisoned not more than 20 years.

7 **§ 700. Uttering counterfeit foreign obligations or**
 8 **securities**

9 Whoever, within the United States, knowingly and with in-
 10 tent to defraud, utters, passes, or puts off, in payment or nego-
 11 tiation, any false, forged, or counterfeited bond, certificate, ob-
 12 ligation, security, treasury note, bill, or promise to pay, men-
 13 tioned in section 478 of this title, whether or not the same was
 14 made, altered, forged, or counterfeited within the United
 15 States, shall be imprisoned not more than 20 years.

16 **§ 701. Possessing counterfeit foreign obligations**
 17 **or securities**

18 Whoever, within the United States, knowingly and with in-
 19 tent to defraud, possesses or delivers any false, forged, or coun-
 20 terfeit bond, certificate, obligation, security, treasury note, bill,
 21 promise to pay, bank note, or bill issued by a bank or corpora-
 22 tion of any foreign country, shall be imprisoned not more than
 23 20 years.

24 **§ 702. Plates, stones, or analog, digital, or elec-**
 25 **tronic images for counterfeiting foreign**
 26 **obligations or securities**

27 Whoever—

28 (1) within the United States except by lawful author-
 29 ity, controls, holds, or possesses any plate, stone, or other
 30 thing, or any part thereof, from which has been printed or
 31 may be printed any counterfeit note, bond, obligation, or
 32 other security, in whole or in part, of any foreign govern-
 33 ment, bank, or corporation, or uses such plate, stone, or
 34 other thing, or knowingly permits or suffers the same to be
 35 used in counterfeiting such foreign obligations, or any part
 36 thereof;

1 (2) except by lawful authority, makes or engraves any
2 plate, stone, or other thing in the likeness or similitude of
3 any plate, stone, or other thing designated for the printing
4 of the genuine issues of the obligations of any foreign gov-
5 ernment, bank, or corporation; or

6 (3) with intent to defraud, makes, executes, acquires,
7 seals, captures, records, receives, transmits, reproduces,
8 sells, or has in such person's control, custody, or posses-
9 sion, an analog, digital, or electronic image of any bond,
10 certificate, obligation, or other security of any foreign gov-
11 ernment, or of any treasury note, bill, or promise to pay,
12 lawfully issued by such foreign government and intended to
13 circulate as money; or

14 (4) except by lawful authority, prints, photographs, or
15 makes, executes, or sells any engraving, photograph, print,
16 or impression in the likeness of any genuine note, bond, ob-
17 ligation, or other security, or any part thereof, of any for-
18 eign government, bank, or corporation; or

19 (5) brings into the United States any counterfeit plate,
20 stone, or other thing, engraving, photograph, print, or
21 other impressions of the notes, bonds, obligations, or other
22 securities of any foreign government, bank, or corporation;
23 shall be imprisoned not more than 25 years.

24 **§ 703. Uttering counterfeit foreign bank notes**

25 Whoever, within the United States, utters, passes, puts
26 off, or tenders in payment, with intent to defraud, any such
27 false, forged, altered, or counterfeited bank note or bill, men-
28 tioned in section 482 of this title, knowing the same to be so
29 false, forged, altered, and counterfeited, whether or not the
30 same was made, forged, altered, or counterfeited within the
31 United States, shall be imprisoned not more than 20 years.

32 **§ 704. Connecting parts of different notes**

33 Whoever so places or connects together different parts of
34 two or more notes, bills, or other genuine instruments issued
35 under the authority of the United States, or by any foreign
36 government, or corporation, as to produce one instrument, with
37 intent to defraud, shall be guilty of forgery in the same manner

1 as if the parts so put together were falsely made or forged, and
2 shall be imprisoned not more than 10 years.

3 **§ 705. Tokens or paper used as money**

4 (a) OFFENSE.—Whoever—

5 (1) being 18 years of age or over, not lawfully author-
6 ized, makes, issues, or passes any coin, card, token, or de-
7 vice in metal, or its compounds, intended to be used as
8 money, or whoever, being 18 years of age or over, with in-
9 tent to defraud, makes, utters, inserts, or uses any card,
10 token, slug, disk, device, paper, or other thing similar in
11 size and shape to any of the lawful coins or other currency
12 of the United States or any coin or other currency not legal
13 tender in the United States, to procure anything of value,
14 or the use or enjoyment of any property or service from
15 any automatic merchandise vending machine, postage-
16 stamp machine, turnstile, fare box, coinbox telephone, park-
17 ing meter or other lawful receptacle, depository, or contriv-
18 ance designed to receive or to be operated by lawful coins
19 or other currency of the United States; or

20 (2) manufactures, sells, offers, or advertises for sale,
21 or exposes or keeps with intent to furnish or sell any token,
22 slug, disk, device, paper, or other thing similar in size and
23 shape to any of the lawful coins or other currency of the
24 United States, or any token, disk, paper, or other device
25 issued or authorized in connection with rationing or food
26 and fiber distribution by any agency of the United States,
27 with knowledge or reason to believe that such tokens, slugs,
28 disks, devices, papers, or other things are intended to be
29 used unlawfully or fraudulently to procure anything of
30 value, or the use or enjoyment of any property or service
31 from any automatic merchandise vending machine, postage-
32 stamp machine, turnstile, fare box, coinbox telephone, park-
33 ing meter, or other lawful receptacle, depository, or contriv-
34 ance designed to receive or to be operated by lawful coins
35 or other currency of the United States;

36 shall be imprisoned not more than one year.

1 (b) NONPREEMPTION.—Nothing contained in this section
2 shall create immunity from criminal prosecution under the laws
3 of any State.

4 **§ 706. Forfeiture of counterfeit paraphernalia**

5 (a) IN GENERAL.—All counterfeits of any coins or obliga-
6 tions or other securities of the United States or of any foreign
7 government, or any articles, devices, and other things made,
8 possessed, or used in violation of this subchapter or of sections
9 851 and 852, or any material or apparatus used or fitted or
10 intended to be used, in the making of such counterfeits, arti-
11 cles, devices or things, found in the possession of any person
12 without authority from the Secretary of the Treasury or other
13 proper officer, shall be forfeited to the United States.

14 (b) FAILING OR REFUSING TO SURRENDER POSSESSION.—
15 Whoever, having the custody or control of any such counter-
16 feits, material, apparatus, articles, devices, or other things, fails
17 or refuses to surrender possession thereof upon request by any
18 authorized agent of the Treasury Department, or other proper
19 officer, shall be imprisoned not more than one year.

20 (c) REMISSION OR MITIGATION.—

21 (1) SECRETARY OF TREASURY.—Whenever, except as
22 hereinafter in this section provided, any person interested
23 in any article, device, or other thing, or material or appa-
24 ratus seized under this section files with the Secretary of
25 the Treasury, before the disposition thereof, a petition for
26 the remission or mitigation of such forfeiture, the Secretary
27 of the Treasury, if he finds that such forfeiture was in-
28 curred without willful negligence or without any intention
29 on the part of the petitioner to violate the law, or finds the
30 existence of such mitigating circumstances as to justify the
31 remission or the mitigation of such forfeiture, may remit or
32 mitigate the same upon such terms and conditions as he
33 deems reasonable and just.

34 (2) ATTORNEY GENERAL.—If the seizure involves of-
35 fenses other than offenses against the coinage, currency,
36 obligations or securities of the United States or any foreign
37 government, the petition for the remission or mitigation of

1 forfeiture shall be referred to the Attorney General, who
 2 may remit or mitigate the forfeiture upon such terms as he
 3 deems reasonable and just.

4 **§ 707. Bonds and obligations of certain lending**
 5 **agencies**

6 Whoever—

7 (1) falsely makes, forges, counterfeits or alters any
 8 note, bond, debenture, coupon, obligation, instrument, or
 9 writing in imitation or purporting to be in imitation of, a
 10 note, bond, debenture, coupon, obligation, instrument or
 11 writing, issued by the Reconstruction Finance Corporation,
 12 Federal Deposit Insurance Corporation, National Credit
 13 Union Administration, Home Owners' Loan Corporation,
 14 Farm Credit Administration, Department of Housing and
 15 Urban Development, or any land bank, intermediate credit
 16 bank, insured credit union, bank for cooperatives or any
 17 lending, mortgage, insurance, credit or savings and loan
 18 corporation or association authorized or acting under the
 19 laws of the United States; or

20 (2) passes, utters, or publishes, or attempts to pass,
 21 utter or publish any note, bond, debenture, coupon, obliga-
 22 tion, instrument or document knowing the same to have
 23 been falsely made, forged, counterfeited or altered, contrary
 24 to the provisions of this section;

25 shall be imprisoned not more than 10 years.

26 **§ 708. Contracts, deeds, and powers of attorney**

27 Whoever—

28 (1) falsely makes, alters, forges, or counterfeits any
 29 deed, power of attorney, order, certificate, receipt, contract,
 30 or other writing, for the purpose of obtaining or receiving,
 31 or of enabling any other person, either directly or indi-
 32 rectly, to obtain or receive from the United States or any
 33 officers or agents thereof, any sum of money;

34 (2) utters or publishes as true any such false, forged,
 35 altered, or counterfeited writing, with intent to defraud the
 36 United States, knowing the same to be false, altered,
 37 forged, or counterfeited; or

1 (3) transmits to, or presents at any office or officer
2 of the United States, any such writing in support of, or in
3 relation to, any account or claim, with intent to defraud the
4 United States, knowing the same to be false, altered,
5 forged, or counterfeited;

6 shall be imprisoned not more than ten years.

7 **§ 709. Military or naval discharge certificates**

8 Whoever forges, counterfeits, or falsely alters any certifi-
9 cate of discharge from the military or naval service of the
10 United States, or uses, unlawfully possesses or exhibits any
11 such certificate, knowing the same to be forged, counterfeited,
12 or falsely altered, shall be imprisoned not more than one year.

13 **§ 710. Military, naval, or official passes**

14 Whoever falsely makes, forges, counterfeits, alters, or
15 tampers with any naval, military, or official pass or permit,
16 issued by or under the authority of the United States, or with
17 intent to defraud uses or possesses any such pass or permit,
18 or personates or falsely represents himself to be or not to be
19 a person to whom such pass or permit has been duly issued,
20 or knowingly allows any other person to have or use any such
21 pass or permit, issued for his use alone, shall be imprisoned not
22 more than five years.

23 **§ 711. Money orders**

24 Whoever—

25 (1) with intent to defraud, falsely makes, forges, coun-
26 terfeits, engraves, or prints any order in imitation of or
27 purporting to be a blank money order or a money order
28 issued by or under the direction of the Post Office Depart-
29 ment or Postal Service;

30 (2) forges or counterfeits the signature or initials of
31 any person authorized to issue money orders upon or to
32 any money order, postal note, or blank therefor provided or
33 issued by or under the direction of the Post Office Depart-
34 ment or Postal Service, or post office department or cor-
35 poration of any foreign country, and payable in the United
36 States, or any material signature or indorsement thereon,

1 or any material signature to any receipt or certificate of
2 identification thereof;

3 (3) falsely alters, in any material respect, any such
4 money order or postal note;

5 (4) with intent to defraud, passes, utters or publishes
6 or attempts to pass, utter or publish any such forged or al-
7 tered money order or postal note, knowing any material ini-
8 tials, signature, stamp impression or indorsement thereon
9 to be false, forged, or counterfeited, or any material alter-
10 ation therein to have been falsely made;

11 (5) issues any money order or postal note without hav-
12 ing previously received or paid the full amount of money
13 payable therefor, with the purpose of fraudulently obtaining
14 or receiving, or fraudulently enabling any other person, ei-
15 ther directly or indirectly, to obtain or receive from the
16 United States or Postal Service, or any officer, employee,
17 or agent thereof, any sum of money whatever;

18 (6) embezzles, steals, or knowingly converts to his own
19 use or to the use of another, or without authority converts
20 or disposes of any blank money order form provided by or
21 under the authority of the Post Office Department or Post-
22 al Service;

23 (7) receives or possesses any such money order form
24 with the intent to convert it to his own use or gain or use
25 or gain of another knowing it to have been embezzled, sto-
26 len or converted;

27 (8) with intent to defraud the United States, the Post-
28 al Service, or any person, transmits, presents, or causes to
29 be transmitted or presented, any money order or postal
30 note knowing the same—

31 (A) to contain any forged or counterfeited signa-
32 ture, initials, or any stamped impression,

33 (B) to contain any material alteration therein un-
34 lawfully made,

35 (C) to have been unlawfully issued without pre-
36 vious payment of the amount required to be paid upon
37 such issue, or

1 (D) to have been stamped without lawful author-
2 ity; or

3 (9) steals, or with intent to defraud or without being
4 lawfully authorized by the Post Office Department or Post-
5 al Service, receives, possesses, disposes of or attempts to
6 dispose of any postal money order machine or any stamp,
7 tool, or instrument specifically designed to be used in pre-
8 paring or filling out the blanks on postal money order
9 forms;

10 shall be imprisoned not more than five years.

11 **§ 712. Postage stamps, postage meter stamps, and**
12 **postal cards**

13 Whoever—

14 (1) forges or counterfeits any postage stamp, postage
15 meter stamp, or any stamp printed upon any stamped en-
16 velope, or postal card, or any die, plate, or engraving there-
17 of;

18 (2) makes or prints, or knowingly uses or sells, or pos-
19 sesses with intent to use or sell, any such forged or coun-
20 terfeited postage stamp, postage meter stamp, stamped en-
21 velope, postal card, die, plate, or engraving;

22 (3) makes, or knowingly uses or sells, or possesses
23 with intent to use or sell, any paper bearing the watermark
24 of any stamped envelope, or postal card, or any fraudulent
25 imitation thereof;

26 (4) makes or prints, or authorizes to be made or print-
27 ed, any postage stamp, postage meter stamp, stamped en-
28 velope, or postal card, of the kind authorized and provided
29 by the Post Office Department or by the Postal Service,
30 without the special authority and direction of the Depart-
31 ment or Postal Service; or

32 (5) after such postage stamp, postage meter stamp,
33 stamped envelope, or postal card has been printed, with in-
34 tent to defraud, delivers the same to any person not au-
35 thorized by an instrument in writing, duly executed under
36 the hand of the Postmaster General and the seal of the
37 Post Office Department or the Postal Service, to receive it;

1 shall be imprisoned not more than five years.

2 **§ 713. Printing and filming of United States and**
3 **foreign obligations and securities**

4 Notwithstanding any other provision of this subchapter,
5 the following are permitted:

6 (1) The printing, publishing, or importation, or the
7 making or importation of the necessary plates for such
8 printing or publishing, of illustrations of—

9 (A) postage stamps of the United States,

10 (B) revenue stamps of the United States,

11 (C) any other obligation or other security of the
12 United States, and

13 (D) postage stamps, revenue stamps, notes, bonds,
14 and any other obligation or other security of any for-
15 eign government, bank, or corporation.

16 Illustrations permitted by the foregoing provisions of this
17 section shall be made in accordance with the following con-
18 ditions—

19
20 (i) all illustrations shall be in black and white, except
21 that illustrations of postage stamps issued by the United
22 States or by any foreign government and stamps issued
23 under the Migratory Bird Hunting Stamp Act of 1934 may
24 be in color;

25 (ii) all illustrations (including illustrations of
26 uncanceled postage stamps in color and illustrations of
27 stamps issued under the Migratory Bird Hunting Stamp
28 Act of 1934 in color) shall be of a size less than three-
29 fourths or more than one and one-half, in linear dimension,
30 of each part of any matter so illustrated which is covered
31 by subparagraph (A), (B), (C), or (D) of this paragraph,
32 except that black and white illustrations of postage and
33 revenue stamps issued by the United States or by any for-
34 eign government and colored illustrations of canceled post-
35 age stamps issued by the United States may be in the exact
36 linear dimension in which the stamps were issued; and

1 (iii) the negatives and plates used in making the illus-
2 trations shall be destroyed after their final use in accord-
3 ance with this section. The Secretary of the Treasury shall
4 prescribe regulations to permit color illustrations of such
5 currency of the United States as the Secretary determines
6 may be appropriate for such purposes.

7 (2) The provisions of this section shall not permit the
8 reproduction of illustrations of obligations or other securi-
9 ties, by or through electronic methods used for the acquisi-
10 tion, recording, retrieval, transmission, or reproduction of
11 any obligation or other security, unless such use is author-
12 ized by the Secretary of the Treasury. The Secretary shall
13 establish a system to ensure that the legitimate use of such
14 electronic methods and retention of such reproductions by
15 businesses, hobbyists, press or others shall not be unduly
16 restricted.

17 (3) The making or importation of motion-picture
18 films, microfilms, or slides, for projection upon a screen or
19 for use in telecasting, of postage and revenue stamps and
20 other obligations and securities of the United States, and
21 postage and revenue stamps, notes, bonds, and other obli-
22 gations or securities of any foreign government, bank, or
23 corporation. No prints or other reproductions shall be made
24 from such films or slides, except for the purposes of para-
25 graph (1), without the permission of the Secretary of the
26 Treasury. For the purposes of this section the term “post-
27 age stamp”

28 includes postage meter stamps.

29 **§ 715. Seals of courts; signatures of judges or**
30 **court officers**

31 Whoever forges the signature of any judge, register, or
32 other officer of any court of the United States, or of any Terri-
33 tory thereof, or forges or counterfeits the seal of any such
34 court, or knowingly concurs in using any such forged or coun-
35 terfeit signature or seal, for the purpose of authenticating any
36 proceeding or document, or tenders in evidence any such pro-
37 ceeding or document with a false or counterfeit signature of

1 any such judge, register, or other officer, or a false or counter-
2 feit seal of the court, subscribed or attached thereto, knowing
3 such signature or seal to be false or counterfeit, shall be im-
4 prisoned not more than five years.

5 **§ 716. Seals of departments or agencies**

6 (a) OFFENSE.—Whoever—

7 (1) falsely makes, forges, counterfeits, mutilates, or al-
8 ters the seal of any department or agency of the United
9 States, or any facsimile thereof;

10 (2) knowingly uses, affixes, or impresses any such
11 fraudulently made, forged, counterfeited, mutilated, or al-
12 tered seal or facsimile thereof to or upon any certificate,
13 instrument, commission, document, or paper of any de-
14 scription; or

15 (3) with fraudulent intent, possesses, sells, offers for
16 sale, furnishes, offers to furnish, gives away, offers to give
17 away, transports, offers to transport, imports, or offers to
18 import any such seal or facsimile thereof, knowing the
19 same to have been so falsely made, forged, counterfeited,
20 mutilated, or altered,

21 shall be imprisoned not more than 5 years.

22 (b) INCREASED PENALTY.—Notwithstanding subsection
23 (a) or any other provision of law, if a forged, counterfeited, mu-
24 tilated, or altered seal of a department or agency of the United
25 States, or any facsimile thereof, is—

26 (1) so forged, counterfeited, mutilated, or altered;

27 (2) used, affixed, or impressed to or upon any certifi-
28 cate, instrument, commission, document, or paper of any
29 description; or

30 (3) with fraudulent intent, possessed, sold, offered for
31 sale, furnished, offered to furnish, given away, offered to
32 give away, transported, offered to transport, imported, or
33 offered to import,

34 with the intent or effect of facilitating an alien's application
35 for, or receipt of, a Federal benefit to which the alien is not
36 entitled, the penalties which may be imposed for each offense
37 under subsection (a) shall be two times the maximum fine, and

1 3 times the maximum term of imprisonment, or both, that
 2 would otherwise be imposed for an offense under subsection
 3 (a).

4 (c) DEFINITIONS.—For purposes of this section—

5 (1) the term “Federal benefit” means—

6 (A) the issuance of any grant, contract, loan, pro-
 7 fessional license, or commercial license provided by any
 8 agency of the United States or by appropriated funds
 9 of the United States; and

10 (B) any retirement, welfare, Social Security,
 11 health (including treatment of an emergency medical
 12 condition in accordance with section 1903(v) of the So-
 13 cial Security Act (19 U.S.C. 1396b(v))), disability, vet-
 14 erans, public housing, education, food stamps, or unem-
 15 ployment benefit, or any similar benefit for which pay-
 16 ments or assistance are provided by an agency of the
 17 United States or by appropriated funds of the United
 18 States; and

19 (2) each instance of forgery, counterfeiting, mutilation,
 20 or alteration shall constitute a separate offense under this
 21 section.

22 **§ 717. Forging endorsements on Treasury checks**
 23 **or bonds or securities of the United States**

24 (a) IN GENERAL.—Whoever, with intent to defraud—

25 (1) falsely makes or forges any endorsement or signa-
 26 ture on a Treasury check or bond or security of the United
 27 States; or

28 (2) passes, utters, or publishes, or attempts to pass,
 29 utter, or publish, any Treasury check or bond or security
 30 of the United States bearing a falsely made or forged en-
 31 dorsement or signature;

32 shall be imprisoned not more than ten years.

33 (b) SALE EXCHANGE AND SIMILAR CONDUCT.—Whoever,
 34 with knowledge that such Treasury check or bond or security
 35 of the United States is stolen or bears a falsely made or forged
 36 endorsement or signature buys, sells, exchanges, receives, deliv-
 37 ers, retains, or conceals any such Treasury check or bond or

1 security of the United States shall be imprisoned not more than
2 ten years.

3 (c) **REDUCED PENALTY.**—If the face value of the Treas-
4 ury check or bond or security of the United States or the ag-
5 gregate face value, if more than one Treasury check or bond
6 or security of the United States, does not exceed \$1,000, in any
7 of the above-mentioned offenses, the penalty shall be imprison-
8 ment for not more than one year.

9 **§ 718. Altering or removing motor vehicle identi-**
10 **fication numbers**

11 (a) **OFFENSE.**—Whoever—

12 (1) knowingly removes, obliterates, tampers with, or
13 alters an identification number for a motor vehicle or motor
14 vehicle part; or

15 (2) with intent to further the theft of a motor vehicle,
16 knowingly removes, obliterates, tampers with, or alters a
17 decal or device affixed to a motor vehicle pursuant to the
18 Motor Vehicle Theft Prevention Act,

19 shall be imprisoned not more than 5 years.

20 (b) **EXCLUSION.**—

21 (1) **GENERALLY.**—Subsection (a) does not apply to a
22 removal, obliteration, tampering, or alteration by a person
23 specified in paragraph (2) (unless such person knows that
24 the vehicle or part involved is stolen).

25 (2) **PERSONS REFERRED TO IN PARAGRAPH (1).**—The
26 persons referred to in paragraph (1) of this subsection
27 are—

28 (A) a motor vehicle scrap processor or a motor ve-
29 hicle demolisher who complies with applicable State law
30 with respect to such vehicle or part;

31 (B) a person who repairs such vehicle or part, if
32 the removal, obliteration, tampering, or alteration is
33 reasonably necessary for the repair;

34 (C) a person who restores or replaces an identi-
35 fication number for such vehicle or part in accordance
36 with applicable State law; and

1 (D) a person who removes, obliterates, tampers
2 with, or alters a decal or device affixed to a motor vehi-
3 cle pursuant to the Motor Vehicle Theft Prevention
4 Act, if that person is the owner of the motor vehicle,
5 or is authorized to remove, obliterate, tamper with or
6 alter the decal or device by—

7 (i) the owner or his authorized agent;

8 (ii) applicable State or local law; or

9 (iii) regulations promulgated by the Attorney
10 General to implement the Motor Vehicle Theft Pre-
11 vention Act.

12 (c) DEFINITIONS FOR SECTION.—As used in this section—

13 (1) the term “identification number” means a number
14 or symbol that is inscribed or affixed for purposes of identi-
15 fication under chapter 301 and part C of subtitle VI of title
16 49;

17 (2) the term “motor vehicle” has the meaning given
18 that term in section 32101 of title 49;

19 (3) the term “motor vehicle demolisher” means a per-
20 son, including any motor vehicle dismantler or motor vehi-
21 cle recycler, who is engaged in the business of reducing
22 motor vehicles or motor vehicle parts to metallic scrap that
23 is unsuitable for use as either a motor vehicle or a motor
24 vehicle part;

25 (4) the term “motor vehicle scrap processor” means a
26 person—

27 (A) who is engaged in the business of purchasing
28 motor vehicles or motor vehicle parts for reduction to
29 metallic scrap for recycling;

30 (B) who, from a fixed location, uses machinery to
31 process metallic scrap into prepared grades; and

32 (C) whose principal product is metallic scrap for
33 recycling;

34 but such term does not include any activity of any such
35 person relating to the recycling of a motor vehicle or a
36 motor vehicle part as a used motor vehicle or a used motor
37 vehicle part; and

1 (5) the term “tampers with” includes covering a pro-
 2 gram decal or device affixed to a motor vehicle pursuant to
 3 the Motor Vehicle Theft Prevention Act for the purpose of
 4 obstructing its visibility.

5 **§ 719. Securities of the States and private entities**

6 (a) COUNTERFEIT SECURITIES.—Whoever makes, utters
 7 or possesses a counterfeited security of a State or a political
 8 subdivision thereof or of an organization, or whoever makes, ut-
 9 ters or possesses a forged security of a State or political sub-
 10 division thereof or of an organization that operates in or affect-
 11 ing commerce, with intent to deceive another person shall be
 12 imprisoned for not more than ten years.

13 (b) IMPLEMENTS.—Whoever makes, receives, possesses,
 14 sells or otherwise transfers an implement designed for or par-
 15 ticularly suited for making a counterfeit or forged security with
 16 the intent that it be so used shall be punished by imprisonment
 17 for not more than ten years.

18 (c) DEFINITIONS.—As used in this section—

19 (1) the term “counterfeited” means a document that
 20 purports to be genuine but is not, because it has been false-
 21 ly made or manufactured in its entirety;

22 (2) the term “forged” means a document that pur-
 23 ports to be genuine but is not because it has been falsely
 24 altered, completed, signed, or endorsed, or contains a false
 25 addition thereto or insertion therein, or is a combination of
 26 parts of two or more genuine documents; and

27 (3) the term “security” means—

28 (A) a note, stock certificate, treasury stock certifi-
 29 cate, bond, treasury bond, debenture, certificate of de-
 30 posit, interest coupon, bill, check, draft, warrant, debit
 31 instrument as defined in section 916(c) of the Elec-
 32 tronic Fund Transfer Act, money order, traveler’s
 33 check, letter of credit, warehouse receipt, negotiable bill
 34 of lading, evidence of indebtedness, certificate of inter-
 35 est in or participation in any profit-sharing agreement,
 36 collateral-trust certificate, pre-reorganization certificate
 37 of subscription, transferable share, investment contract,

1 voting trust certificate, or certificate of interest in tan-
2 gible or intangible property;

3 (B) an instrument evidencing ownership of goods,
4 wares, or merchandise;

5 (C) any other written instrument commonly known
6 as a security;

7 (D) a certificate of interest in, certificate of par-
8 ticipation in, certificate for, receipt for, or warrant or
9 option or other right to subscribe to or purchase, any
10 of the foregoing; or

11 (E) a blank form of any of the foregoing.

12 **§ 720. Fictitious obligations**

13 (a) OFFENSE.—Whoever, with the intent to defraud—

14 (1) draws, prints, processes, produces, publishes, or
15 otherwise makes, or attempts or causes the same, within
16 the United States;

17 (2) passes, utters, presents, offers, brokers, issues,
18 sells, or attempts or causes the same, or with like intent
19 possesses, within the United States; or

20 (3) utilizes interstate or foreign commerce, including
21 the use of the mails or wire, radio, or other electronic com-
22 munication, to transmit, transport, ship, move, transfer, or
23 attempts or causes the same, to, from, or through the
24 United States,

25 any false or fictitious instrument, document, or other item ap-
26 pearing, representing, purporting, or contriving through scheme
27 or artifice, to be an actual security or other financial instru-
28 ment issued under the authority of the United States, a foreign
29 government, a State or other political subdivision of the United
30 States, or an organization, shall be imprisoned for not more
31 than 25 years.

32 (b) DEFINITIONS.—For purposes of this section, any term
33 used in this section that is defined in section 719(c) has the
34 same meaning given such term in section 719(c).

35 (c) AUTHORITY OF THE UNITED STATES SECRET SERV-
36 ICE.—The United States Secret Service, in addition to any

1 other agency having such authority, shall have authority to in-
 2 vestigate offenses under this section.

3 **CHAPTER 25—FRAUD AND FALSE STATEMENT**
 4 **CRIMES**

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5 **SUBCHAPTER A—FRAUD AND FALSE STATEMENTS**

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794.	Fraud and related activity in connection with electronic mail.
795.	False information and hoaxes.

6 **§ 771. Definitions**

7 As used in this subchapter—

8 (1) the term “member bank” means any national
 9 bank, state bank, or bank or trust company, which has be-
 10 come a member of one of the Federal Reserve banks;

1 (2) the term “insured bank” includes any state bank,
2 banking association, trust company, savings bank, or other
3 banking institution, the deposits of which are insured by
4 the Federal Deposit Insurance Corporation;

5 (3) the term “branch or agency of a foreign bank”
6 means a branch or agency described in paragraph (E) of
7 the definition of financial institution in section 1 of this
8 title; and

9 (4) the term “depository institution holding company”
10 has the meaning given such term in section 3(w)(1) of the
11 Federal Deposit Insurance Act.

12 **§ 772. Statements or entries generally**

13 (a) OFFENSE.—Except as otherwise provided in this sec-
14 tion, whoever, in any matter within the jurisdiction of the exec-
15 utive, legislative, or judicial branch of the Government of the
16 United States, knowingly—

17 (1) falsifies, conceals, or covers up by any trick,
18 scheme, or device a material fact;

19 (2) makes any materially false, fictitious, or fraudulent
20 statement or representation; or

21 (3) makes or uses any false writing or document
22 knowing the same to contain any materially false, fictitious,
23 or fraudulent statement or entry;

24 shall be imprisoned not more than 5 years or, if the offense in-
25 volves international or domestic terrorism (as defined in section
26 2331), imprisoned not more than 8 years.

27 (b) EXCLUSION.—Subsection (a) does not apply to a party
28 to a judicial proceeding, or that party’s counsel, for statements,
29 representations, writings or documents submitted by such party
30 or counsel to a judge or magistrate in that proceeding.

31 (c) APPLICATION TO MATTERS WITHIN THE JURISDICTION
32 OF THE LEGISLATIVE BRANCH.—With respect to any matter
33 within the jurisdiction of the legislative branch, subsection (a)
34 shall apply only to—

35 (1) administrative matters, including a claim for pay-
36 ment, a matter related to the procurement of property or
37 services, personnel or employment practices, or support

1 services, or a document required by law, rule, or regulation
2 to be submitted to the Congress or any office or officer
3 within the legislative branch; or

4 (2) any investigation or review, conducted pursuant to
5 the authority of any committee, subcommittee, commission
6 or office of the Congress, consistent with applicable rules
7 of the House or Senate.

8 **§ 773. Bank entries, reports and transactions**

9 Whoever—

10 (1) being an officer, director, agent or employee of any
11 Federal Reserve bank, member bank, depository institution
12 holding company, national bank, insured bank, branch or
13 agency of a foreign bank, or organization operating under
14 section 25 or section 25(a) of the Federal Reserve Act,
15 without authority from the directors of such bank, branch,
16 agency, or organization or company, issues or puts in cir-
17 culation any notes of such bank, branch, agency, or organi-
18 zation or company;

19 (2) without such authority, makes, draws, issues, puts
20 forth, or assigns any certificate of deposit, draft, order, bill
21 of exchange, acceptance, note, debenture, bond, or other
22 obligation, or mortgage, judgment or decree;

23 (3) makes any false entry in any book, report, or
24 statement of such bank, company, branch, agency, or orga-
25 nization with intent to injure or defraud such bank, com-
26 pany, branch, agency, or organization, or any other com-
27 pany, body politic or corporate, or any individual person, or
28 to deceive any officer of such bank, company, branch, agen-
29 cy, or organization, or the Comptroller of the Currency, or
30 the Federal Deposit Insurance Corporation, or any agent
31 or examiner appointed to examine the affairs of such bank,
32 company, branch, agency, or organization, or the Board of
33 Governors of the Federal Reserve System; or

34 (4) with intent to defraud the United States or any
35 agency thereof, or any financial institution referred to in
36 this section, participates or shares in or receives (directly
37 or indirectly) any money, profit, property, or benefits

1 through any transaction, loan, commission, contract, or any
2 other act of any such financial institution;
3 shall be imprisoned not more than 30 years.

4 **§ 774. Federal credit institution entries, reports**
5 **and transactions**

6 Whoever, being an officer, agent or employee of or con-
7 nected in any capacity with the Federal Deposit Insurance Cor-
8 poration, National Credit Union Administration, Office of
9 Thrift Supervision, any Federal home loan bank, the Federal
10 Housing Finance Board, the Resolution Trust Corporation,
11 Farm Credit Administration, Department of Housing and
12 Urban Development, Federal Crop Insurance Corporation, the
13 Secretary of Agriculture acting through the Farmers Home Ad-
14 ministration or successor agency, the Rural Development Ad-
15 ministration or successor agency, or the Farm Credit System
16 Insurance Corporation, a Farm Credit Bank, a bank for co-
17 operatives or any lending, mortgage, insurance, credit or sav-
18 ings and loan corporation or association authorized or acting
19 under the laws of the United States or any institution, other
20 than an insured bank, the accounts of which are insured by the
21 Federal Deposit Insurance Corporation, or by the National
22 Credit Union Administration Board or any small business in-
23 vestment company, with intent to defraud any such institution
24 or any other company, body politic or corporate, or any indi-
25 vidual, or to deceive any officer, auditor, examiner or agent of
26 any such institution or of department or agency of the United
27 States, makes any false entry in any book, report or statement
28 of or to any such institution, or without being duly authorized,
29 draws any order or bill of exchange, makes any acceptance, or
30 issues, puts forth or assigns any note, debenture, bond or other
31 obligation, or draft, bill of exchange, mortgage, judgment, or
32 decree, or, with intent to defraud the United States or any
33 agency thereof, or any corporation, institution, or association
34 referred to in this section, participates or shares in or receives
35 directly or indirectly any money, profit, property, or benefits
36 through any transaction, loan, commission, contract, or any

1 other act of any such corporation, institution, or association,
2 shall be imprisoned not more than 30 years.

3 **§ 775. Federal Deposit Insurance Corporation**
4 **transactions**

5 Whoever, for the purpose of influencing in any way the ac-
6 tion of the Federal Deposit Insurance Corporation, knowingly
7 makes or invites reliance on a false, forged, or counterfeit
8 statement, document, or thing shall be imprisoned not more
9 than 30 years.

10 **§ 776. Department of Housing and Urban Develop-**
11 **ment and Federal Housing Administration**
12 **transactions**

13 Whoever, for the purpose of obtaining any loan or advance
14 of credit from any person, partnership, association, or corpora-
15 tion with the intent that such loan or advance of credit shall
16 be offered to or accepted by the Department of Housing and
17 Urban Development for insurance, or for the purpose of obtain-
18 ing any extension or renewal of any loan, advance of credit, or
19 mortgage insured by such Department, or the acceptance, re-
20 lease, or substitution of any security on such a loan, advance
21 of credit, or for the purpose of influencing in any way the ac-
22 tion of such Department, makes, passes, utters, or publishes
23 any statement, knowing the same to be false, or alters, forges,
24 or counterfeits any instrument, paper, or document, or utters,
25 publishes, or passes as true any instrument, paper, or docu-
26 ment, knowing it to have been altered, forged, or counterfeited,
27 or knowingly overvalues any security, asset, or income, shall be
28 imprisoned not more than two years.

29 **§ 777. Department of Housing and Urban Develop-**
30 **ment transactions**

31 Whoever—

32 (1) with intent to defraud, makes any false entry in
33 any book of the Department of Housing and Urban Develop-
34 ment or makes any false report or statement to or for
35 such Department; or

1 (2) receives any compensation, rebate, or reward, with
2 intent to defraud such Department or with intent unlaw-
3 fully to defeat its purposes; or

4 (3) induces or influences such Department to purchase
5 or acquire any property or to enter into any contract and
6 knowingly fails to disclose any interest which that person
7 has in such property or in the property to which such con-
8 tract relates, or any special benefit which he expects to re-
9 ceive as a result of such contract;

10 shall be imprisoned not more than one year.

11 **§ 778. Farm loan bonds and credit bank debentures**
12

13 Whoever deceives, defrauds, or imposes upon, or attempts
14 to deceive, defraud, or impose upon any person, partnership,
15 corporation, or association by making any false pretense or rep-
16 resentation concerning the character, issue, security, contents,
17 conditions, or terms of any farm loan bond, or coupon, issued
18 by any Federal land bank or banks; or of any debenture, cou-
19 pon, or other obligation, issued by any Federal intermediate
20 credit bank or banks; or by falsely pretending or representing
21 that any farm loan bond, or coupon, is anything other than,
22 or different from, what it purports to be on the face of said
23 bond or coupon, shall be imprisoned not more than one year.

24 **§ 779. Loan and credit applications generally; re-**
25 **newals and discounts; crop insurance**

26 Whoever knowingly makes any false statement or report,
27 or knowingly overvalues any land, property or security, for the
28 purpose of influencing in any way the action of the Farm Cred-
29 it Administration, Federal Crop Insurance Corporation or a
30 company the Corporation reinsures, the Secretary of Agri-
31 culture acting through the Farmers Home Administration or
32 successor agency, the Rural Development Administration or
33 successor agency, any Farm Credit Bank, production credit as-
34 sociation, agricultural credit association, bank for cooperatives,
35 or any division, officer, or employee thereof, or of any regional
36 agricultural credit corporation established pursuant to law, or
37 a Federal land bank, a Federal land bank association, a Fed-

1 eral Reserve bank, a small business investment company, as de-
 2 fined in section 103 of the Small Business Investment Act of
 3 1958, or the Small Business Administration in connection with
 4 any provision of that Act, a Federal credit union, an insured
 5 State-chartered credit union, any institution the accounts of
 6 which are insured by the Federal Deposit Insurance Corpora-
 7 tion, the Office of Thrift Supervision, any Federal home loan
 8 bank, the Federal Housing Finance Board, the Federal Deposit
 9 Insurance Corporation, the Resolution Trust Corporation, the
 10 Farm Credit System Insurance Corporation, or the National
 11 Credit Union Administration Board, a branch or agency of a
 12 foreign bank (as such terms are defined in paragraphs (1) and
 13 (3) of section 1(b) of the International Banking Act of 1978),
 14 or an organization operating under section 25 or section 25(a)
 15 of the Federal Reserve Act, upon any application, advance, dis-
 16 count, purchase, purchase agreement, repurchase agreement,
 17 commitment, or loan, or any change or extension of any of the
 18 same, by renewal, deferment of action or otherwise, or the ac-
 19 ceptance, release, or substitution of security therefor, shall be
 20 imprisoned not more than 30 years.

21 **§ 780. Naturalization, citizenship or alien registry**

22 (a) OFFENSE.—Whoever

23 (1) knowingly makes any false statement under oath,
 24 in any case, proceeding, or matter relating to, or under, or
 25 by virtue of any law of the United States relating to natu-
 26 ralization, citizenship, or registry of aliens;

27 (2) knowingly, with intent to avoid any duty or liabil-
 28 ity imposed or required by law, denies that he has been
 29 naturalized or admitted to be a citizen, after having been
 30 so naturalized or admitted;

31 (3) uses or attempts to use any certificate of arrival,
 32 declaration of intention, certificate of naturalization, certifi-
 33 cate of citizenship or other documentary evidence of natu-
 34 ralization or of citizenship, or any duplicate or copy there-
 35 of, knowing the same to have been procured by fraud or
 36 false evidence or without required appearance or hearing of
 37 the applicant in court or otherwise unlawfully obtained;

1 (4) knowingly makes any false certificate, acknowledg-
2 ment or statement concerning the appearance before him or
3 the taking of an oath or affirmation or the signature, attes-
4 tation or execution by any person with respect to any appli-
5 cation, declaration, petition, affidavit, deposition, certificate
6 of naturalization, certificate of citizenship or other paper or
7 writing required or authorized by the laws relating to immi-
8 gration, naturalization, citizenship, or registry of aliens;

9 (5) knowingly makes any false statement or claim that
10 he is, or at any time has been, a citizen or national of the
11 United States, with the intent to obtain on behalf of him-
12 self, or any other person, any Federal or State benefit or
13 service, or to engage unlawfully in employment in the
14 United States; or

15 (6) knowingly makes any false statement or claim that
16 he is a citizen of the United States in order to register to
17 vote or to vote in any Federal, State, or local election (in-
18 cluding an initiative, recall, or referendum);
19 shall be imprisoned not more than five years.

20 (b) EXCLUSION.—Subsection (a)(5) does not apply to an
21 alien if each natural parent of the alien (or, in the case of an
22 adopted alien, each adoptive parent of the alien) is or was a
23 citizen (whether by birth or naturalization), the alien perma-
24 nently resided in the United States prior to attaining the age
25 of 16, and the alien reasonably believed at the time of making
26 the false statement or claim that he or she was a citizen of the
27 United States.

28 **§ 781. Highway projects**

29 Whoever—

30 (1) being an officer, agent, or employee of the United
31 States, or of any State or Territory, or whoever, whether
32 a person, association, firm, or corporation, knowingly
33 makes any false statement, false representation, or false re-
34 port as to the character, quality, quantity, or cost of the
35 material used or to be used, or the quantity or quality of
36 the work performed or to be performed, or the costs thereof
37 in connection with the submission of plans, maps, specifica-

1 tions, contracts, or costs of construction of any highway or
 2 related project submitted for approval to the Secretary of
 3 Transportation;

4 (2) knowingly makes any false statement, false rep-
 5 resentation, false report, or false claim with respect to the
 6 character, quality, quantity, or cost of any work performed
 7 or to be performed, or materials furnished or to be fur-
 8 nished, in connection with the construction of any highway
 9 or related project approved by the Secretary of Transpor-
 10 tation; or

11 (3) knowingly makes any false statement or false rep-
 12 resentation as to a material fact in any statement, certifi-
 13 cate, or report submitted pursuant to the provisions of the
 14 Federal-Aid Road Act approved July 11, 1916 (39 Stat.
 15 355), as amended and supplemented;

16 shall be imprisoned not more than five years.

17 **§ 782. False statements and concealment of facts**
 18 **in relation to documents required by the**
 19 **Employee Retirement Income Security Act**
 20 **of 1974**

21 Whoever, in any document required by title I of the Em-
 22 ployee Retirement Income Security Act of 1974 to be pub-
 23 lished, or kept as part of the records of any employee welfare
 24 benefit plan or employee pension benefit plan, or certified to
 25 the administrator of any such plan, makes any false statement
 26 or representation of fact, knowing it to be false, or knowingly
 27 conceals, covers up, or fails to disclose any fact the disclosure
 28 of which is required by such title or is necessary to verify, ex-
 29 plain, clarify or check for accuracy and completeness any report
 30 required by such title to be published or any information re-
 31 quired by such title to be certified, shall be imprisoned not
 32 more than five years.

33 **§ 783. Fraud and related activity in connection**
 34 **with identification documents, authen-**
 35 **tication features, and information**

36 (a) OFFENSE.—Whoever, as made applicable by subsection
 37 (c)—

1 (1) knowingly and without lawful authority produces
2 an identification document, authentication feature, or a
3 false identification document;

4 (2) knowingly transfers an identification document,
5 authentication feature, or a false identification document
6 knowing that such document or feature was stolen or pro-
7 duced without lawful authority;

8 (3) knowingly possesses with intent to use unlawfully
9 or transfer unlawfully five or more identification documents
10 (other than those issued lawfully for the use of the pos-
11 sessor), authentication features, or false identification docu-
12 ments;

13 (4) knowingly possesses an identification document
14 (other than one issued lawfully for the use of the pos-
15 sessor), authentication feature, or a false identification docu-
16 ment, with the intent such document or feature be used
17 to defraud the United States;

18 (5) knowingly produces, transfers, or possesses a docu-
19 ment-making implement or authentication feature with the
20 intent such document-making implement or authentication
21 feature will be used in the production of a false identifica-
22 tion document or another document-making implement or
23 authentication feature which will be so used;

24 (6) knowingly possesses an identification document or
25 authentication feature that is or appears to be an identi-
26 fication document or authentication feature of the United
27 States which is stolen or produced without lawful authority
28 knowing that such document or feature was stolen or pro-
29 duced without such authority;

30 (7) knowingly transfers, possesses, or uses, without
31 lawful authority, a means of identification of another per-
32 son with the intent to commit, or to aid or abet, or in con-
33 nection with, any unlawful activity that constitutes a viola-
34 tion of Federal law, or that constitutes a felony under any
35 applicable State or local law; or

1 (8) knowingly traffics in false or actual authentication
2 features for use in false identification documents, docu-
3 ment-making implements, or means of identification;
4 shall be punished as provided in subsection (b).

5 (b) PUNISHMENT.—The punishment for an offense under
6 subsection (a) of this section is—

7 (1) except as provided in paragraphs (3) and (4), a
8 fine under this title or imprisonment for not more than 15
9 years, or both, if the offense is—

10 (A) the production or transfer of an identification
11 document, authentication feature, or false identification
12 document that is or appears to be—

13 (i) an identification document or authentica-
14 tion feature issued by or under the authority of the
15 United States; or

16 (ii) a birth certificate, or a driver's license or
17 personal identification card;

18 (B) the production or transfer of more than five
19 identification documents, authentication features, or
20 false identification documents;

21 (C) an offense under paragraph (5) of such sub-
22 section; or

23 (D) an offense under paragraph (7) of such sub-
24 section that involves the transfer, possession, or use of
25 1 or more means of identification if, as a result of the
26 offense, any individual committing the offense obtains
27 anything of value aggregating \$1,000 or more during
28 any 1-year period;

29 (2) except as provided in paragraphs (3) and (4), a
30 fine under this title or imprisonment for not more than 5
31 years, or both, if the offense is—

32 (A) any other production, transfer, or use of a
33 means of identification, an identification document, au-
34 thentication feature, or a false identification document;
35 or

36 (B) an offense under paragraph (3) or (7) of such
37 subsection;

1 (3) a fine under this title or imprisonment for not
2 more than 20 years, or both, if the offense is committed—

3 (A) to facilitate a drug trafficking crime (as de-
4 fined in section 592(a)(2));

5 (B) in connection with a crime of violence (as de-
6 fined in section 584(c)(3)); or

7 (C) after a prior conviction under this section be-
8 comes final;

9 (4) a fine under this title or imprisonment for not
10 more than 30 years, or both, if the offense is committed
11 to facilitate an act of domestic terrorism (as defined under
12 section 283) or an act of international terrorism (as de-
13 fined in section 283(1)); and

14 (5) a fine under this title or imprisonment for not
15 more than one year, or both, in any other case.

16 (c) APPLICABILITY.—Subsection (a) applies if—

17 (1) the identification document, authentication feature,
18 or false identification document is or appears to be issued
19 by or under the authority of the United States or the docu-
20 ment-making implement is designed or suited for making
21 such an identification document, authentication feature, or
22 false identification document;

23 (2) the offense is an offense under subsection (a)(4)
24 of this section; or

25 (3) either—

26 (A) the production, transfer, possession, or use
27 prohibited by this section is in or affects interstate or
28 foreign commerce, including the transfer of a document
29 by electronic means; or

30 (B) the means of identification, identification docu-
31 ment, false identification document, or document-mak-
32 ing implement is transported in the mail in the course
33 of the production, transfer, possession, or use prohib-
34 ited by this section.

35 (d) DEFINITIONS.—In this section and section 784—

36 (1) the term “authentication feature” means any
37 hologram, watermark, certification, symbol, code, image, se-

1 quence of numbers or letters, or other feature that either
2 individually or in combination with another feature is used
3 by the issuing authority on an identification document, doc-
4 ument-making implement, or means of identification to de-
5 termine if the document is counterfeit, altered, or otherwise
6 falsified;

7 (2) the term “document-making implement” means
8 any implement, impression, template, computer file, com-
9 puter disc, electronic device, or computer hardware or soft-
10 ware, that is specifically configured or primarily used for
11 making an identification document, a false identification
12 document, or another document-making implement;

13 (3) the term “identification document” means a docu-
14 ment made or issued by or under the authority of the
15 United States Government, a State, political subdivision of
16 a State, a foreign government, political subdivision of a for-
17 eign government, an international governmental or an
18 international quasi-governmental organization which, when
19 completed with information concerning a particular indi-
20 vidual, is of a type intended or commonly accepted for the
21 purpose of identification of individuals;

22 (4) the term “false identification document” means a
23 document of a type intended or commonly accepted for the
24 purposes of identification of individuals that—

25 (A) is not issued by or under the authority of a
26 governmental entity or was issued under the authority
27 of a governmental entity but was subsequently altered
28 for purposes of deceit; and

29 (B) appears to be issued by or under the authority
30 of the United States Government, a State, a political
31 subdivision of a State, a foreign government, a political
32 subdivision of a foreign government, or an international
33 governmental or quasi-governmental organization;

34 (5) the term “false authentication feature” means an
35 authentication feature that—

1 (A) is genuine in origin, but, without the author-
2 ization of the issuing authority, has been tampered
3 with or altered for purposes of deceit;

4 (B) is genuine, but has been distributed, or is in-
5 tended for distribution, without the authorization of the
6 issuing authority and not in connection with a lawfully
7 made identification document, document-making imple-
8 ment, or means of identification to which such authen-
9 tification feature is intended to be affixed or embedded
10 by the respective issuing authority; or

11 (C) appears to be genuine, but is not;

12 (6) the term “issuing authority”—

13 (A) means any governmental entity or agency that
14 is authorized to issue identification documents, means
15 of identification, or authentication features; and

16 (B) includes the United States Government, a
17 State, a political subdivision of a State, a foreign gov-
18 ernment, a political subdivision of a foreign govern-
19 ment, or an international government or quasi-govern-
20 mental organization;;

21 (7) the term “means of identification” means any
22 name or number that may be used, alone or in conjunction
23 with any other information, to identify a specific individual,
24 including any—

25 (A) name, social security number, date of birth,
26 official State or government issued driver’s license or
27 identification number, alien registration number, gov-
28 ernment passport number, employer or taxpayer identi-
29 fication number;

30 (B) unique biometric data, such as fingerprint,
31 voice print, retina or iris image, or other unique phys-
32 ical representation;

33 (C) unique electronic identification number, ad-
34 dress, or routing code; or

35 (D) telecommunication identifying information or
36 access device (as defined in section 1029(e));

1 (8) the term “personal identification card” means an
2 identification document issued by a State or local govern-
3 ment solely for the purpose of identification;

4 (9) the term “produce” includes alter, authenticate, or
5 assemble;

6 (10) the term “transfer” includes selecting an identi-
7 fication document, false identification document, or docu-
8 ment-making implement and placing or directing the place-
9 ment of such identification document, false identification
10 document, or document-making implement on an online lo-
11 cation where it is available to others;

12 (11) the term “traffic” means—

13 (A) to transport, transfer, or otherwise dispose of,
14 to another, as consideration for anything of value; or

15 (B) to make or obtain control of with intent to so
16 transport, transfer, or otherwise dispose of.

17 (e) EXCLUSION.—This section does not prohibit any law-
18 fully authorized investigative, protective, or intelligence activity
19 of a law enforcement agency of the United States, a State, or
20 a political subdivision of a State, or of an intelligence agency
21 of the United States, or any activity authorized under chapter
22 224 of this title.

23 (f) RULE OF CONSTRUCTION.—For purpose of subsection
24 (a)(7), a single identification document or false identification
25 document that contains 1 or more means of identification shall
26 be construed to be 1 means of identification.

27 § 784. Aggravated identity theft

28 (a) OFFENSES.—

29 (1) IN GENERAL.—Whoever, during and in relation to
30 any felony violation enumerated in subsection (c), know-
31 ingly transfers, possesses, or uses, without lawful authority,
32 a means of identification of another person shall, in addi-
33 tion to the punishment provided for such felony, be sen-
34 tenced to a term of imprisonment of 2 years.

35 (2) TERRORISM OFFENSE.—Whoever, during and in
36 relation to any felony violation enumerated in section
37 273(g)(5)(B), knowingly transfers, possesses, or uses, with-

1 out lawful authority, a means of identification of another
2 person or a false identification document shall, in addition
3 to the punishment provided for such felony, be sentenced
4 to a term of imprisonment of 5 years.

5 (b) CONSECUTIVE SENTENCE.—Notwithstanding any
6 other provision of law—

7 (1) a court shall not place on probation any person
8 convicted of a violation of this section;

9 (2) except as provided in paragraph (4), no term of
10 imprisonment imposed on a person under this section shall
11 run concurrently with any other term of imprisonment im-
12 posed on the person under any other provision of law, in-
13 cluding any term of imprisonment imposed for the felony
14 during which the means of identification was transferred,
15 possessed, or used;

16 (3) in determining any term of imprisonment to be im-
17 posed for the felony during which the means of identifica-
18 tion was transferred, possessed, or used, a court shall not
19 in any way reduce the term to be imposed for such crime
20 so as to compensate for, or otherwise take into account,
21 any separate term of imprisonment imposed or to be im-
22 posed for a violation of this section; and

23 (4) a term of imprisonment imposed on a person for
24 a violation of this section may, in the discretion of the
25 court, run concurrently, in whole or in part, only with an-
26 other term of imprisonment that is imposed by the court
27 at the same time on that person for an additional violation
28 of this section, provided that such discretion shall be exer-
29 cised in accordance with any applicable guidelines and pol-
30 icy statements issued by the Sentencing Commission pursu-
31 ant to section 994 of title 28.

32 (c) DEFINITION.—For purposes of this section, the term
33 “felony violation enumerated in subsection (c)” means any of-
34 fense that is a felony violation of—

35 (1) section 641 (relating to theft of public money,
36 property, or rewards), section 644 (relating to theft, embez-

1 zlement, or misapplication by bank officer or employee), or
 2 section 652 (relating to theft from employee benefit plans);

3 (2) section 1091 (relating to false personation of citi-
 4 zenship);

5 (3) section 582(a)(6) (relating to false statements in
 6 connection with the acquisition of a firearm);

7 (4) any provision contained in this subchapter (relat-
 8 ing to fraud and false statements), other than this section
 9 or section 783(a)(7);

10 (5) any provision contained in subchapter B of chapter
 11 25 (relating to mail, bank, and wire fraud);

12 (6) any provision contained in subchapter F of chapter
 13 15 (relating to nationality and citizenship);

14 (7) section 523 of the Gramm-Leach-Bliley Act (15
 15 U.S.C. 6823) (relating to obtaining customer information
 16 by false pretenses);

17 (8) section 243 or 266 of the Immigration and Nation-
 18 ality Act (8 U.S.C. 1253 and 1306) (relating to knowingly
 19 failing to leave the United States after deportation and cre-
 20 ating a counterfeit alien registration card);

21 (9) any provision contained in chapter 8 of title II of
 22 the Immigration and Nationality Act (8 U.S.C. 1321 et
 23 seq.) (relating to various immigration offenses); or

24 (10) section 208, 811, 1107(b), 1128B(a), or 1632 of
 25 the Social Security Act (42 U.S.C. 408, 1011, 1307(b),
 26 1320a-7b(a), and 1383a) (relating to false statements re-
 27 lating to programs under the Act).

28 **§ 785. Fraudulent use of credit card**

29 (a) OFFENSE.—Whoever

30 (1) knowingly in a transaction affecting interstate or
 31 foreign commerce, uses or attempts or conspires to use any
 32 counterfeit, fictitious, altered, forged, lost, stolen, or fraud-
 33 ulently obtained credit card to obtain money, goods, serv-
 34 ices, or anything else of value which within any one-year
 35 period has a value aggregating \$1,000 or more;

36 (2) with unlawful intent, transports or attempts or
 37 conspires to transport in interstate or foreign commerce a

1 counterfeit, fictitious, altered, forged, lost, stolen, or fraud-
2 ulently obtained credit card knowing the same to be coun-
3 terfeit, fictitious, altered, forged, lost, stolen, or fraudu-
4 lently obtained;

5 (3) with unlawful intent, uses any instrumentality of
6 interstate or foreign commerce to sell or transport a coun-
7 terfeit, fictitious, altered, forged, lost, stolen, or fraudu-
8 lently obtained credit card knowing the same to be counter-
9 feit, fictitious, altered, forged, lost, stolen, or fraudulently
10 obtained;

11 (4) knowingly receives, conceals, uses, or transports
12 money, goods, services, or anything else of value (except
13 tickets for interstate or foreign transportation) which—

14 (A)(i) within any one-year period has a value ag-
15 gregating \$1,000 or more; or

16 (ii) has moved in interstate or foreign commerce;
17 and

18 (B) has been obtained with a counterfeit, ficti-
19 tious, altered, forged, lost, stolen, or fraudulently ob-
20 tained credit card;

21 (5) Whoever knowingly receives, conceals, uses, sells,
22 or transports in interstate or foreign commerce one or more
23 tickets for interstate or foreign transportation, which (1)
24 within any one-year period have a value aggregating \$500
25 or more, and (2) have been purchased or obtained with one
26 or more counterfeit, fictitious, altered, forged, lost, stolen,
27 or fraudulently obtained credit cards; or

28 (6) in a transaction affecting interstate or foreign
29 commerce furnishes money, property, services, or anything
30 else of value, which within any one-year period has a value
31 aggregating \$1,000 or more, through the use of any coun-
32 terfeit, fictitious, altered, forged, lost, stolen, or fraudu-
33 lently obtained credit card knowing the same to be counter-
34 feit, fictitious, altered, forged, lost, stolen, or fraudulently
35 obtained;

36 shall be imprisoned not more than ten years.

1 (b) DEFINITIONS.—A term used in this section that has
2 a definition for the purposes of the Consumer Credit Protection
3 Act has that same definition for the purposes of this section.

4 **§ 786. Fraud and related activity in connection**
5 **with access devices**

6 (a) OFFENSE.—Whoever—

7 (1) knowingly and with intent to defraud produces,
8 uses, or traffics in one or more counterfeit access devices;

9 (2) knowingly and with intent to defraud traffics in or
10 uses one or more unauthorized access devices during any
11 one-year period, and by such conduct obtains anything of
12 value aggregating \$1,000 or more during that period;

13 (3) knowingly and with intent to defraud possesses fif-
14 teen or more devices which are counterfeit or unauthorized
15 access devices;

16 (4) knowingly and with intent to defraud produces,
17 traffics in, has control or custody of, or possesses device-
18 making equipment;

19 (5) knowingly and with intent to defraud effects trans-
20 actions, with 1 or more access devices issued to another
21 person or persons, to receive payment or any other thing
22 of value during any 1-year period the aggregate value of
23 which is equal to or greater than \$1,000;

24 (6) without the authorization of the issuer of the ac-
25 cess device, knowingly and with intent to defraud solicits
26 a person for the purpose of—

27 (A) offering an access device; or

28 (B) selling information regarding or an application
29 to obtain an access device;

30 (7) knowingly and with intent to defraud uses, pro-
31 duces, traffics in, has control or custody of, or possesses a
32 telecommunications instrument that has been modified or
33 altered to obtain unauthorized use of telecommunications
34 services;

35 (8) knowingly and with intent to defraud uses, pro-
36 duces, traffics in, has control or custody of, or possesses a
37 scanning receiver;

1 (9) knowingly uses, produces, traffics in, has control
2 or custody of, or possesses hardware or software, knowing
3 it has been configured to insert or modify telecommuni-
4 cation identifying information associated with or contained
5 in a telecommunications instrument so that such instru-
6 ment may be used to obtain telecommunications service
7 without authorization; or

8 (10) without the authorization of the credit card sys-
9 tem member or its agent, knowingly and with intent to de-
10 fraud causes or arranges for another person to present to
11 the member or its agent, for payment, 1 or more evidences
12 or records of transactions made by an access device;
13 shall, if the offense affects interstate or foreign commerce, be
14 punished as provided in subsection (c) of this section.

15 (b) PENALTIES.—The punishment for an offense under
16 subsection (a) is—

17 (1) in the case of an offense that does not occur after
18 a conviction for another offense under this section—

19 (A) if the offense is under paragraph (1), (2), (3),
20 (6), (7), or (10) of subsection (a), a fine under this
21 title or imprisonment for not more than 10 years, or
22 both; and

23 (B) if the offense is under paragraph (4), (5), (8),
24 or (9) of subsection (a), a fine under this title or im-
25 prisonment for not more than 15 years, or both; and

26 (2) in the case of an offense that occurs after a convic-
27 tion for another offense under this section, a fine under
28 this title or imprisonment for not more than 20 years, or
29 both.

30 (c) EXTRATERRITORIAL JURISDICTION.—There is
31 extraterritorial jurisdiction over an offense under this sub-
32 section if—

33 (1) the offense involves an access device issued, owned,
34 managed, or controlled by a financial institution, account
35 issuer, credit card system member, or other entity within
36 the jurisdiction of the United States; and

1 (2) the person transports, delivers, conveys, transfers
2 to or through, or otherwise stores, secrets, or holds within
3 the jurisdiction of the United States, any article used to as-
4 sist in the commission of the offense or the proceeds of
5 such offense or property derived therefrom.

6 (d) **AUTHORITY OF UNITED STATES SECRET SERVICE.**—
7 The United States Secret Service shall, in addition to any other
8 agency having such authority, have the authority to investigate
9 offenses under this section. Such authority of the United States
10 Secret Service shall be exercised in accordance with an agree-
11 ment which shall be entered into by the Secretary of the Treas-
12 ury and the Attorney General.

13 (e) **OFFICIAL DUTY EXCLUSION.**—This section does not
14 prohibit any lawfully authorized investigative, protective, or in-
15 telligence activity of a law enforcement agency of the United
16 States, a State, or a political subdivision of a State, or of an
17 intelligence agency of the United States, or any activity author-
18 ized under chapter 224 of this title.

19 (f) **BUSSINESS EXCLUSION.**—It is not a violation of sub-
20 section (a)(9) for an officer, employee, or agent of, or a person
21 engaged in business with, a facilities-based carrier, to engage
22 in conduct (other than trafficking) otherwise prohibited by that
23 subsection for the purpose of protecting the property or legal
24 rights of that carrier, unless such conduct is for the purpose
25 of obtaining telecommunications service provided by another fa-
26 cilities-based carrier without the authorization of such carrier.

27 (g) **AFFIRMATIVE DEFENSE.**—In a prosecution for a viola-
28 tion of subsection (a)(9), (other than a violation consisting of
29 producing or trafficking) it is an affirmative defense that the
30 conduct charged was engaged in for research or development in
31 connection with a lawful purpose.

32 (h) **DEFINITIONS.**—As used in this section—

33 (1) the term “access device” means any card, plate,
34 code, account number, electronic serial number, mobile
35 identification number, personal identification number, or
36 other telecommunications service, equipment, or instrument
37 identifier, or other means of account access that can be

1 used, alone or in conjunction with another access device, to
2 obtain money, goods, services, or any other thing of value,
3 or that can be used to initiate a transfer of funds (other
4 than a transfer originated solely by paper instrument);

5 (2) the term “counterfeit access device” means any ac-
6 cess device that is counterfeit, fictitious, altered, or forged,
7 or an identifiable component of an access device or a coun-
8 terfeit access device;

9 (3) the term “unauthorized access device” means any
10 access device that is lost, stolen, expired, revoked, canceled,
11 or obtained with intent to defraud;

12 (4) the term “produce” includes design, alter, authen-
13 ticate, duplicate, or assemble;

14 (5) the term “traffic” means transfer, or otherwise
15 dispose of, to another, or obtain control of with intent to
16 transfer or dispose of;

17 (6) the term “device-making equipment” means any
18 equipment, mechanism, or impression designed or primarily
19 used for making an access device or a counterfeit access de-
20 vice;

21 (7) the term “credit card system member” means a fi-
22 nancial institution or other entity that is a member of a
23 credit card system, including an entity, whether affiliated
24 with or identical to the credit card issuer, that is the sole
25 member of a credit card system;

26 (8) the term “scanning receiver” means a device or
27 apparatus that can be used to intercept a wire or electronic
28 communication in violation of chapter 119 or to intercept
29 an electronic serial number, mobile identification number,
30 or other identifier of any telecommunications service, equip-
31 ment, or instrument;

32 (9) the term “telecommunications service” has the
33 meaning given such term in section 3 of title I of the Com-
34 munications Act of 1934 (47 U.S.C. 153);

35 (10) the term “facilities-based carrier” means an enti-
36 ty that owns communications transmission facilities, is re-
37 sponsible for the operation and maintenance of those facili-

1 ties, and holds an operating license issued by the Federal
 2 Communications Commission under the authority of title
 3 III of the Communications Act of 1934; and

4 (11) the term “telecommunication identifying informa-
 5 tion” means electronic serial number or any other number
 6 or signal that identifies a specific telecommunications in-
 7 strument or account, or a specific communication trans-
 8 mitted from a telecommunications instrument.

9 **§ 787. Fraud and related activity in connection**
 10 **with computers**

11 (a) OFFENSE.—Whoever—

12 (1) having knowingly accessed a computer without au-
 13 thorization or exceeding authorized access, and by means of
 14 such conduct having obtained information that has been de-
 15 termined by the United States Government pursuant to an
 16 Executive order or statute to require protection against un-
 17 authorized disclosure for reasons of national defense or for-
 18 eign relations, or any restricted data, as defined in para-
 19 graph y. of section 11 of the Atomic Energy Act of 1954,
 20 with reason to believe that such information so obtained
 21 could be used to the injury of the United States, or to the
 22 advantage of any foreign nation knowingly communicates,
 23 delivers, transmits, or causes to be communicated, deliv-
 24 ered, or transmitted, or attempts to communicate, deliver,
 25 transmit or cause to be communicated, delivered, or trans-
 26 mitted the same to any person not entitled to receive it, or
 27 knowingly retains the same and fails to deliver it to the of-
 28 ficer or employee of the United States entitled to receive
 29 it;

30 (2) intentionally accesses a computer without author-
 31 ization or exceeds authorized access, and thereby obtains—

32 (A) information contained in a financial record of
 33 a financial institution, or of a card issuer as defined in
 34 section 1602(n) of title 15, or contained in a file of a
 35 consumer reporting agency on a consumer, as such
 36 terms are defined in the Fair Credit Reporting Act (15
 37 U.S.C. 1681 et seq.);

1 (B) information from any department or agency of
2 the United States; or

3 (C) information from any protected computer if
4 the conduct involved an interstate or foreign commu-
5 nication;

6 (3) intentionally, without authorization to access any
7 nonpublic computer of a department or agency of the
8 United States, accesses such a computer of that depart-
9 ment or agency that is exclusively for the use of the Gov-
10 ernment of the United States or, in the case of a computer
11 not exclusively for such use, is used by or for the Govern-
12 ment of the United States and such conduct affects that
13 use by or for the Government of the United States;

14 (4) knowingly and with intent to defraud, accesses a
15 protected computer without authorization, or exceeds au-
16 thorized access, and by means of such conduct furthers the
17 intended fraud and obtains anything of value, unless the
18 object of the fraud and the thing obtained consists only of
19 the use of the computer and the value of such use is not
20 more than \$5,000 in any 1-year period;

21 (5)(A)(i) knowingly causes the transmission of a pro-
22 gram, information, code, or command, and as a result of
23 such conduct, intentionally causes damage without author-
24 ization, to a protected computer;

25 (ii) intentionally accesses a protected computer with-
26 out authorization, and as a result of such conduct, reck-
27 lessly causes damage; or

28 (iii) intentionally accesses a protected computer with-
29 out authorization, and as a result of such conduct, causes
30 damage; and

31 (B) by conduct described in clause (i), (ii), or (iii) of
32 subparagraph (A), caused (or, in the case of an attempted
33 offense, would, if completed, have caused)—

34 (i) loss to 1 or more persons during any 1-year pe-
35 riod (and, for purposes of an investigation, prosecution,
36 or other proceeding brought by the United States only,
37 loss resulting from a related course of conduct affecting

1 1 or more other protected computers) aggregating at
2 least \$5,000 in value;

3 (ii) the modification or impairment, or potential
4 modification or impairment, of the medical examina-
5 tion, diagnosis, treatment, or care of 1 or more individ-
6 uals;

7 (iii) physical injury to any person;

8 (iv) a threat to public health or safety; or

9 (v) damage affecting a computer system used by
10 or for a government entity in furtherance of the admin-
11 istration of justice, national defense, or national secu-
12 rity;

13 (6) knowingly and with intent to defraud traffics (as
14 defined in section 1029) in any password or similar infor-
15 mation through which a computer may be accessed without
16 authorization, if—

17 (A) such trafficking affects interstate or foreign
18 commerce; or

19 (B) such computer is used by or for the Govern-
20 ment of the United States.

21 (7) with intent to extort from any person any money
22 or other thing of value, transmits in interstate or foreign
23 commerce any communication containing any threat to
24 cause damage to a protected computer;

25 shall be punished as provided in subsection (c) of this section.

26 (b) PUNISHMENT.—The punishment for an offense under
27 subsection (a) or (b) of this section is—

28 (1)(A) a fine under this title or imprisonment for not
29 more than ten years, or both, in the case of an offense
30 under subsection (a)(1) of this section which does not occur
31 after a conviction for another offense under this section, or
32 an attempt to commit an offense punishable under this
33 subparagraph; and

34 (B) a fine under this title or imprisonment for not
35 more than twenty years, or both, in the case of an offense
36 under subsection (a)(1) of this section which occurs after
37 a conviction for another offense under this section, or an

1 attempt to commit an offense punishable under this sub-
2 paragraph;

3 (2)(A) except as provided in subparagraph (B), a fine
4 under this title or imprisonment for not more than one
5 year, or both, in the case of an offense under subsection
6 (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which
7 does not occur after a conviction for another offense under
8 this section, or an attempt to commit an offense punishable
9 under this subparagraph;

10 (B) a fine under this title or imprisonment for not
11 more than 5 years, or both, in the case of an offense under
12 subsection (a)(2) or an attempt to commit an offense pun-
13 ishable under this subparagraph, if—

14 (i) the offense was committed for purposes of com-
15 mercial advantage or private financial gain;

16 (ii) the offense was committed in furtherance of
17 any criminal or tortious act in violation of the Constitu-
18 tion or laws of the United States or of any State; or

19 (iii) the value of the information obtained exceeds
20 \$5,000; and

21 (C) a fine under this title or imprisonment for not
22 more than ten years, or both, in the case of an offense
23 under subsection (a)(2), (a)(3) or (a)(6) of this section
24 which occurs after a conviction for another offense under
25 such subsection, or an attempt to commit an offense pun-
26 ishable under this subparagraph;

27 (3)(A) a fine under this title or imprisonment for not
28 more than five years, or both, in the case of an offense
29 under subsection (a)(4) or (a)(7) of this section which does
30 not occur after a conviction for another offense under this
31 section, or an attempt to commit an offense punishable
32 under this subparagraph; and

33 (B) a fine under this title or imprisonment for not
34 more than ten years, or both, in the case of an offense
35 under subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this sec-
36 tion which occurs after a conviction for another offense

1 under this section, or an attempt to commit an offense
2 punishable under this subparagraph;

3 (4)(A) except as provided in paragraph (5), a fine
4 under this title, imprisonment for not more than 10 years,
5 or both, in the case of an offense under subsection
6 (a)(5)(A)(i), or an attempt to commit an offense punishable
7 under that subsection;

8 (B) a fine under this title, imprisonment for not more
9 than 5 years, or both, in the case of an offense under sub-
10 section (a)(5)(A)(ii), or an attempt to commit an offense
11 punishable under that subsection;

12 (C) except as provided in paragraph (5), a fine under
13 this title, imprisonment for not more than 20 years, or
14 both, in the case of an offense under subsection
15 (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an
16 offense punishable under either subsection, that occurs
17 after a conviction for another offense under this section;
18 and

19 (5)(A) if the offender knowingly or recklessly causes or
20 attempts to cause serious bodily injury from conduct in vio-
21 lation of subsection (a)(5)(A)(i), a fine under this title or
22 imprisonment for not more than 20 years, or both; and

23 (B) if the offender knowingly or recklessly causes or
24 attempts to cause death from conduct in violation of sub-
25 section (a)(5)(A)(i), a fine under this title or imprisonment
26 for any term of years or for life, or both.

27 (c) INVESTIGATIVE AUTHORITY.—

28 (1) UNITED STATES SECRET SERVICE.—The United
29 States Secret Service shall, in addition to any other agency
30 having such authority, have the authority to investigate of-
31 fenses under this section.

32 (2) FEDERAL BUREAU OF INVESTIGATION.—The Federal
33 Bureau of Investigation shall have primary authority to inves-
34 tigate offenses under subsection (a)(1) for any cases involving
35 espionage, foreign counterintelligence, information protected
36 against unauthorized disclosure for reasons of national defense
37 or foreign relations, or Restricted Data (as that term is defined

1 in section 11y of the Atomic Energy Act of 1954 (42 U.S.C.
2 2014(y)), except for offenses affecting the duties of the United
3 States Secret Service pursuant to section 3056(a) of this title.

4 (3) AGREEMENT.—Such authority shall be exercised in ac-
5 cordance with an agreement which shall be entered into by the
6 Secretary of the Treasury and the Attorney General.

7 (d) DEFINITIONS.—As used in this section—

8 (1) the term “computer” means an electronic, mag-
9 netic, optical, electrochemical, or other high speed data
10 processing device performing logical, arithmetic, or storage
11 functions, and includes any data storage facility or commu-
12 nications facility directly related to or operating in conjunc-
13 tion with such device, but such term does not include an
14 automated typewriter or typesetter, a portable hand held
15 calculator, or other similar device;

16 (2) the term “protected computer” means a com-
17 puter—

18 (A) exclusively for the use of a financial institution
19 or the United States Government, or, in the case of a
20 computer not exclusively for such use, used by or for
21 a financial institution or the United States Government
22 and the conduct constituting the offense affects that
23 use by or for the financial institution or the Govern-
24 ment; or

25 (B) which is used in interstate or foreign com-
26 merce or communication, including a computer located
27 outside the United States that is used in a manner that
28 affects interstate or foreign commerce or communica-
29 tion of the United States;

30 (3) The term “financial record” means information de-
31 rived from any record held by a financial institution per-
32 taining to a customer’s relationship with the financial insti-
33 tution.

34 (4) the term “exceeds authorized access” means to ac-
35 cess a computer with authorization and to use such access
36 to obtain or alter information in the computer that the
37 accessor is not entitled so to obtain or alter;

1 (5) the term “department of the United States”
2 means the legislative or judicial branch of the Government
3 or one of the executive departments enumerated in section
4 101 of title 5;

5 (6) the term “damage” means any impairment to the
6 integrity or availability of data, a program, a system, or in-
7 formation;

8 (7) the term “government entity” includes the Govern-
9 ment of the United States, any State or political subdivi-
10 sion of the United States, any foreign country, and any
11 state, province, municipality, or other political subdivision
12 of a foreign country;

13 (8) the term “conviction” shall include a conviction
14 under the law of any State for a crime punishable by im-
15 prisonment for more than 1 year, an element of which is
16 unauthorized access, or exceeding authorized access, to a
17 computer; and

18 (9) the term “loss” means any reasonable cost to any
19 victim, including the cost of responding to an offense, con-
20 ducting a damage assessment, and restoring the data, pro-
21 gram, system, or information to its condition prior to the
22 offense, and any revenue lost, cost incurred, or other con-
23 sequential damages incurred because of interruption of
24 service.

25 (e) EXCLUSION.—This section does not prohibit any law-
26 fully authorized investigative, protective, or intelligence activity
27 of a law enforcement agency of the United States, a State, or
28 a political subdivision of a State, or of an intelligence agency
29 of the United States.

30 (f) CIVIL ACTION.—Whoever suffers damage or loss by
31 reason of a violation of this section may maintain a civil action
32 against the violator to obtain compensatory damages and in-
33 junctive relief or other equitable relief. A civil action for a viola-
34 tion of this section may be brought only if the conduct involves
35 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of
36 subsection (a)(5)(B). Damages for a violation involving only
37 conduct described in subsection (a)(5)(B)(i) are limited to eco-

1 nomic damages.. No action may be brought under this sub-
2 section unless such action is begun within 2 years of the date
3 of the act complained of or the date of the discovery of the
4 damage. No action may be brought under this subsection for
5 the negligent design or manufacture of computer hardware,
6 computer software, or firmware.

7 **§ 788. Major fraud against the United States**

8 (a) OFFENSE.—Whoever knowingly executes, or attempts
9 to execute, any scheme or artifice with the intent—

10 (1) to defraud the United States; or

11 (2) to obtain money or property by means of false or
12 fraudulent pretenses, representations, or promises,

13 in any procurement of property or services as a prime con-
14 tractor with the United States or as a subcontractor or supplier
15 on a contract in which there is a prime contract with the
16 United States, if the value of the contract, subcontract, or any
17 constituent part thereof, for such property or services is
18 \$1,000,000 or more shall, subject to the applicability of sub-
19 section (c) of this section, be imprisoned not more than 10
20 years.

21 (b) INCREASED FINE.—The fine imposed for an offense
22 under this section may exceed the maximum otherwise provided
23 by law, if such fine does not exceed \$5,000,000 and—

24 (1) the gross loss to the Government or the gross gain
25 to a defendant is \$500,000 or greater; or

26 (2) the offense involves a conscious or reckless risk of
27 serious personal injury.

28 (c) INCREASED FINE ON MULTIPLE COUNTS.—The max-
29 imum fine imposed upon a defendant for a prosecution includ-
30 ing a prosecution with multiple counts under this section shall
31 not exceed \$10,000,000.

32 (d) DISCLAIMER.—Nothing in this section shall preclude a
33 court from imposing any other sentences available under this
34 title, including a fine up to twice the amount of the gross loss
35 or gross gain involved in the offense pursuant to section
36 3571(d).

1 (e) LIMITATION.—A prosecution of an offense under this
 2 section may be commenced any time not later than 7 years
 3 after the offense is committed, plus any additional time other-
 4 wise allowed by law.

5 (f) WHISTLEBLOWER.—Any individual who—

6 (1) is discharged, demoted, suspended, threatened,
 7 harassed, or in any other manner discriminated against in
 8 the terms and conditions of employment by an employer be-
 9 cause of lawful acts done by the employee on behalf of the
 10 employee or others in furtherance of a prosecution under
 11 this section (including investigation for, initiation of, testi-
 12 mony for, or assistance in such prosecution), and

13 (2) was not a participant in the unlawful activity that
 14 is the subject of such prosecution;

15 may, in a civil action, obtain all relief necessary to make such
 16 individual whole. Such relief shall include reinstatement with
 17 the same seniority status such individual would have had but
 18 for the discrimination, 2 times the amount of back pay, interest
 19 on the back pay, and compensation for any special damages
 20 sustained as a result of the discrimination, including litigation
 21 costs and reasonable attorney's fees.

22 **§ 789. Concealment of assets from conservator, re-**
 23 **ceiver, or liquidating agent of financial in-**
 24 **stitution**

25 Whoever—

26 (1) knowingly conceals an asset or property from the
 27 Federal Deposit Insurance Corporation, acting as conser-
 28 vator or receiver or in the Corporation's corporate capacity
 29 with respect to any asset acquired or liability assumed by
 30 the Corporation under section 11, 12, or 13 of the Federal
 31 Deposit Insurance Act, the Resolution Trust Corporation,
 32 any conservator appointed by the Comptroller of the Cur-
 33 rency or the Director of the Office of Thrift Supervision,
 34 or the National Credit Union Administration Board, acting
 35 as conservator or liquidating agent;

36 (2) corruptly impedes the functions of such Corpora-
 37 tion, Board, or conservator; or

1 (3) corruptly places an asset or property beyond the
2 reach of such Corporation, Board, or conservator,
3 shall be imprisoned not more than 5 years.

4 **§ 790. Crimes by or affecting persons engaged in**
5 **the business of insurance whose activities**
6 **affect interstate commerce**

7 (a) FALSE STATEMENT OFFENSE.—(1) Whoever is en-
8 gaged in the business of insurance whose activities affect inter-
9 state commerce and knowingly, with the intent to deceive,
10 makes any false material statement or report or knowingly and
11 materially overvalues any land, property or security—

12 (A) in connection with any financial reports or docu-
13 ments presented to any insurance regulatory official or
14 agency or an agent or examiner appointed by such official
15 or agency to examine the affairs of such person, and

16 (B) for the purpose of influencing the actions of such
17 official or agency or such an appointed agent or examiner,
18 shall be punished as provided in paragraph (2).

19 (2) The punishment for an offense under paragraph (1) is
20 a fine as established under this title or imprisonment for not
21 more than 10 years, or both, except that the term of imprison-
22 ment shall be not more than 15 years if the statement or re-
23 port or overvaluing of land, property, or security jeopardized
24 the safety and soundness of an insurer and was a significant
25 cause of such insurer being placed in conservation, rehabilita-
26 tion, or liquidation by an appropriate court.

27 (b) EMBEZZLEMENT AND SIMILAR CONDUCT.—(1) Who-
28 ever—

29 (A) acting as, or being an officer, director, agent, or
30 employee of, any person engaged in the business of insur-
31 ance whose activities affect interstate commerce, or

32 (B) is engaged in the business of insurance whose ac-
33 tivities affect interstate commerce or is involved (other than
34 as an insured or beneficiary under a policy of insurance)
35 in a transaction relating to the conduct of affairs of such
36 a business,

1 knowingly embezzles, abstracts, purloins, or misappropriates
2 any of the moneys, funds, premiums, credits, or other property
3 of such person so engaged shall be punished as provided in
4 paragraph (2).

5 (2) The punishment for an offense under paragraph (1) is
6 a fine as provided under this title or imprisonment for not
7 more than 10 years, or both, except that if such embezzlement,
8 abstraction, purloining, or misappropriation described in para-
9 graph (1) jeopardized the safety and soundness of an insurer
10 and was a significant cause of such insurer being placed in con-
11 servation, rehabilitation, or liquidation by an appropriate court,
12 such imprisonment shall be not more than 15 years. If the
13 amount or value so embezzled, abstracted, purloined, or mis-
14 appropriated does not exceed \$5,000, whoever violates para-
15 graph (1) shall be imprisoned not more than one year.

16 (c) FALSE ENTRIES.—(1) Whoever is engaged in the busi-
17 ness of insurance and whose activities affect interstate com-
18 merce or is involved (other than as an insured or beneficiary
19 under a policy of insurance) in a transaction relating to the
20 conduct of affairs of such a business, knowingly makes any
21 false entry of material fact in any book, report, or statement
22 of such person engaged in the business of insurance with intent
23 to deceive any person, including any officer, employee, or agent
24 of such person engaged in the business of insurance, any insur-
25 ance regulatory official or agency, or any agent or examiner ap-
26 pointed by such official or agency to examine the affairs of
27 such person, about the financial condition or solvency of such
28 business shall be punished as provided in paragraph (2).

29 (2) The punishment for an offense under paragraph (1) is
30 a fine as provided under this title or imprisonment for not
31 more than 10 years, or both, except that if the false entry in
32 any book, report, or statement of such person jeopardized the
33 safety and soundness of an insurer and was a significant cause
34 of such insurer being placed in conservation, rehabilitation, or
35 liquidation by an appropriate court, such imprisonment shall be
36 not more than 15 years.

1 (d) OBSTRUCTION.—Whoever, by threats or force or by
2 any threatening letter or communication, corruptly influences,
3 obstructs, or impedes or endeavors corruptly to influence, ob-
4 struct, or impede the due and proper administration of the law
5 under which any proceeding involving the business of insurance
6 whose activities affect interstate commerce is pending before
7 any insurance regulatory official or agency or any agent or ex-
8 aminer appointed by such official or agency to examine the af-
9 fairs of a person engaged in the business of insurance whose
10 activities affect interstate commerce, shall be imprisoned not
11 more than 10 years.

12 (e) DISQUALIFICATION FOR INSURANCE BUSINESS.—
13 (1)(A) Any individual who has been convicted of any criminal
14 felony involving dishonesty or a breach of trust, or who has
15 been convicted of an offense under this section, and who know-
16 ingly engages in the business of insurance whose activities af-
17 fect interstate commerce or participates in such business, shall
18 be imprisoned not more than 5 years.

19 (B) Any individual who is engaged in the business of in-
20 surance whose activities affect interstate commerce and who
21 knowingly permits the participation described in subparagraph
22 (A) shall be imprisoned not more than 5 years.

23 (2) A person described in paragraph (1)(A) may engage
24 in the business of insurance or participate in such business if
25 such person has the written consent of any insurance regu-
26 latory official authorized to regulate the insurer, which consent
27 specifically refers to this subsection.

28 (f) DEFINITIONS.—As used in this section—

29 (1) the term “business of insurance” means—

30 (A) the writing of insurance, or

31 (B) the reinsuring of risks,

32 by an insurer, including all acts necessary or incidental to
33 such writing or reinsuring and the activities of persons who
34 act as, or are, officers, directors, agents, or employees of
35 insurers or who are other persons authorized to act on be-
36 half of such persons;

1 (2) the term “insurer” means any entity the business
2 activity of which is the writing of insurance or the rein-
3 suring of risks, and includes any person who acts as, or is,
4 an officer, director, agent, or employee of that business;

5 **§ 791. Civil penalties and injunctions for viola-**
6 **tions of section 790**

7 (a) CIVIL PENALTY.—The Attorney General may bring a
8 civil action in the appropriate United States district court
9 against any person who engages in conduct constituting an of-
10 fense under section 790 and, upon proof of such conduct by a
11 preponderance of the evidence, such person shall be subject to
12 a civil penalty of not more than \$50,000 for each violation or
13 the amount of compensation which the person received or of-
14 fered for the prohibited conduct, whichever amount is greater.
15 If the offense has contributed to the decision of a court of ap-
16 propriate jurisdiction to issue an order directing the conserva-
17 tion, rehabilitation, or liquidation of an insurer, such penalty
18 shall be remitted to the appropriate regulatory official for the
19 benefit of the policyholders, claimants, and creditors of such in-
20 surer. The imposition of a civil penalty under this subsection
21 does not preclude any other criminal or civil statutory, common
22 law, or administrative remedy, which is available by law to the
23 United States or any other person.

24 (b) ORDER PROHIBITING.—If the Attorney General has
25 reason to believe that a person is engaged in conduct consti-
26 tuting an offense under section 790, the Attorney General may
27 petition an appropriate United States district court for an
28 order prohibiting that person from engaging in such conduct.
29 The court may issue an order prohibiting that person from en-
30 gaging in such conduct if the court finds that the conduct con-
31 stitutes such an offense. The filing of a petition under this sec-
32 tion does not preclude any other remedy which is available by
33 law to the United States or any other person.

34 **§ 792. False statements relating to health care**
35 **matters**

36 Whoever, in any matter involving a health care benefit
37 program, knowingly—

1 (1) falsifies, conceals, or covers up by any trick,
2 scheme, or device a material fact; or

3 (2) makes any materially false, fictitious, or fraudulent
4 statements or representations, or makes or uses any mate-
5 rially false writing or document knowing the same to con-
6 tain any materially false, fictitious, or fraudulent statement
7 or entry, in connection with the delivery of or payment for
8 health care benefits, items, or services, shall be imprisoned
9 not more than 5 years.

10 **§ 793. Entry by false pretenses to any real prop-**
11 **erty, vessel, or aircraft of the United**
12 **States or secure area of any airport**

13 (a) OFFENSE.—Whoever, by any fraud or false pretense,
14 enters or attempts to enter—

15 (1) any real property belonging in whole or in part to,
16 or leased by, the United States;

17 (2) any vessel or aircraft belonging in whole or in part
18 to, or leased by, the United States; or

19 (3) any secure area of any airport, shall be punished
20 as provided in subsection (b) of this section.

21 (b) PUNISHMENT.—The punishment for an offense under
22 subsection (a) of this section is—

23 (1) a fine under this title or imprisonment for not
24 more than 5 years, or both, if the offense is committed with
25 the intent to commit a felony; or

26 (2) a fine under this title or imprisonment for not
27 more than 6 months, or both, in any other case.

28 (c) DEFINITIONS.—As used in this section—

29 (1) the term “secure area” means an area access to
30 which is restricted by the airport authority or a public
31 agency; and

32 (2) the term “airport” has the meaning given such
33 term in section 47102 of title 49.

34 **§ 794. Fraud and related activity in connection**
35 **with electronic mail**

36 (a) IN GENERAL.—Whoever, in or affecting interstate or
37 foreign commerce, knowingly—

1 (1) accesses a protected computer without authoriza-
2 tion, and intentionally initiates the transmission of multiple
3 commercial electronic mail messages from or through such
4 computer,

5 (2) uses a protected computer to relay or retransmit
6 multiple commercial electronic mail messages, with the in-
7 tent to deceive or mislead recipients, or any Internet access
8 service, as to the origin of such messages,

9 (3) materially falsifies header information in multiple
10 commercial electronic mail messages and intentionally initi-
11 ates the transmission of such messages,

12 (4) registers, using information that materially fal-
13 sifies the identity of the actual registrant, for five or more
14 electronic mail accounts or online user accounts or two or
15 more domain names, and intentionally initiates the trans-
16 mission of multiple commercial electronic mail messages
17 from any combination of such accounts or domain names,
18 or

19 (5) falsely represents oneself to be the registrant or
20 the legitimate successor in interest to the registrant of 5
21 or more Internet Protocol addresses, and intentionally initi-
22 ates the transmission of multiple commercial electronic mail
23 messages from such addresses, or conspires to do so, shall
24 be punished as provided in subsection (b).

25 (b) PENALTIES.—The punishment for an offense under
26 subsection (a) is—

27 (1) a fine under this title, imprisonment for not more
28 than 5 years, or both, if—

29 (A) the offense is committed in furtherance of any
30 felony under the laws of the United States or of any
31 State; or

32 (B) the defendant has previously been convicted
33 under this section or section 1030, or under the law of
34 any State for conduct involving the transmission of
35 multiple commercial electronic mail messages or unau-
36 thorized access to a computer system;

1 (2) a fine under this title, imprisonment for not more
2 than 3 years, or both, if—

3 (A) the offense is an offense under subsection
4 (a)(1);

5 (B) the offense is an offense under subsection
6 (a)(4) and involved 20 or more falsified electronic mail
7 or online user account registrations, or 10 or more fal-
8 sified domain name registrations;

9 (C) the volume of electronic mail messages trans-
10 mitted in furtherance of the offense exceeded 2,500
11 during any 24-hour period, 25,000 during any 30-day
12 period, or 250,000 during any 1-year period;

13 (D) the offense caused loss to one or more persons
14 aggregating \$5,000 or more in value during any 1-year
15 period;

16 (E) as a result of the offense any individual com-
17 mitting the offense obtained anything of value aggre-
18 gating \$5,000 or more during any 1-year period; or

19 (F) the offense was undertaken by the defendant
20 in concert with three or more other persons with re-
21 spect to whom the defendant occupied a position of or-
22 ganizer or leader; and

23 (3) a fine under this title or imprisonment for not
24 more than 1 year, or both, in any other case.

25 (c) DEFINITIONS.—For the purposes of this section—

26 (1) the term “loss” has the meaning given that term
27 in section 787;

28 (2) for purposes of paragraphs (3) and (4) of sub-
29 section (a), header information or registration information
30 is materially falsified if it is altered or concealed in a man-
31 ner that would impair the ability of a recipient of the mes-
32 sage, an Internet access service processing the message on
33 behalf of a recipient, a person alleging a violation of this
34 section, or a law enforcement agency to identify, locate, or
35 respond to a person who initiated the electronic mail mes-
36 sage or to investigate the alleged violation;

1 (3) the term “multiple” means more than 100 elec-
2 tronic mail messages during a 24-hour period, more than
3 1,000 electronic mail messages during a 30-day period, or
4 more than 10,000 electronic mail messages during a 1-year
5 period; and

6 (4) any other term has the meaning given that term
7 by section 3 of the CAN-SPAM Act of 2003.

8 **§ 795. False information and hoaxes**

9 (a) CRIMINAL VIOLATION.—

10 (1) IN GENERAL.—Whoever engages in any conduct
11 with intent to convey false or misleading information under
12 circumstances where such information may reasonably be
13 believed and where such information indicates that an ac-
14 tivity has taken, is taking, or will take place that would
15 constitute a violation of subchapter A of chapter 33 and
16 subchapters B, D, E, and F of chapter 21, section 236 of
17 the Atomic Energy Act of 1954 (42 U.S.C. 2284), or sec-
18 tion 46502, the second sentence of section 46504, section
19 46505(b)(3) or (c), section 46506 if homicide or attempted
20 homicide is involved, or section 60123(b) of title 49,
21 shall—

22 (A) be imprisoned not more than 5 years;

23 (B) if serious bodily injury results, be imprisoned
24 not more than 20 years; and

25 (C) if death results, be imprisoned for any number
26 of years up to life.

27 (2) ARMED FORCES.—Any person who makes a false
28 statement, with intent to convey false or misleading infor-
29 mation, about the death, injury, capture, or disappearance
30 of a member of the Armed Forces of the United States
31 during a war or armed conflict in which the United States
32 is engaged—

33 (A) shall be imprisoned not more than 5 years;

34 (B) if serious bodily injury results, shall be impris-
35 oned not more than 20 years; and

36 (C) if death results, shall be imprisoned for any
37 number of years or for life.

1 (b) CIVIL ACTION.—Whoever engages in any conduct with
2 intent to convey false or misleading information under cir-
3 cumstances where such information may reasonably be believed
4 and where such information indicates that an activity has
5 taken, is taking, or will take place that would constitute a vio-
6 lation of subchapter A of chapter 33 and subchapters B, D, E,
7 and F of chapter 21, section 236 of the Atomic Energy Act of
8 1954 (42 U.S.C. 2284), or section 46502, the second sentence
9 of section 46504, section 46505 (b)(3) or (c), section 46506 if
10 homicide or attempted homicide is involved, or section
11 60123(b) of title 49 is liable in a civil action to any party in-
12 ccurring expenses incident to any emergency or investigative re-
13 sponse to that conduct, for those expenses.

14 (c) REIMBURSEMENT.—

15 (1) IN GENERAL.—The court, in imposing a sentence
16 on a defendant who has been convicted of an offense under
17 subsection (a), shall order the defendant to reimburse any
18 state or local government, or private not-for-profit organi-
19 zation that provides fire or rescue service incurring ex-
20 penses incident to any emergency or investigative response
21 to that conduct, for those expenses.

22 (2) LIABILITY.—A person ordered to make reimburse-
23 ment under this subsection shall be jointly and severally
24 liable for such expenses with each other person, if any, who
25 is ordered to make reimbursement under this subsection for
26 the same expenses.

27 (3) CIVIL JUDGMENT.—An order of reimbursement
28 under this subsection shall, for the purposes of enforce-
29 ment, be treated as a civil judgment.

30 (d) ACTIVITIES OF LAW ENFORCEMENT.—This section
31 does not prohibit any lawfully authorized investigative, protec-
32 tive, or intelligence activity of a law enforcement agency of the
33 United States, a State, or political subdivision of a State, or
34 of an intelligence agency of the United States.

35 SUBCHAPTER B—MAIL FRAUD

Sec.
801. Frauds and swindles.

- 802. Fictitious name or address.
- 803. Fraud by wire, radio, or television.
- 804. Bank fraud.
- 805. Definition of “scheme or artifice to defraud”.
- 806. Health care fraud.
- 807. Securities fraud.
- 808. Failure of corporate officers to certify financial reports.

1 **§ 801. Frauds and swindles**

2 Whoever, having devised or intending to devise any scheme
3 or artifice to defraud, or for obtaining money or property by
4 means of false or fraudulent pretenses, representations, or
5 promises, or to sell, dispose of, loan, exchange, alter, give away,
6 distribute, supply, or furnish or procure for unlawful use any
7 counterfeit or spurious coin, obligation, security, or other arti-
8 cle, or anything represented to be or intimated or held out to
9 be such counterfeit or spurious article, for the purpose of exe-
10 cuting such scheme or artifice or attempting so to do, places
11 in any post office or authorized depository for mail matter, any
12 matter or thing whatever to be sent or delivered by the Postal
13 Service, or deposits or causes to be deposited any matter or
14 thing whatever to be sent or delivered by any private or com-
15 mercial interstate carrier, or takes or receives therefrom, any
16 such matter or thing, or knowingly causes to be delivered by
17 mail or such carrier according to the direction thereon, or at
18 the place at which it is directed to be delivered by the person
19 to whom it is addressed, any such matter or thing, shall be im-
20 prisoned not more than 20 years. If the violation affects a fi-
21 nancial institution, such person shall be imprisoned not more
22 than 30 years.

23 **§ 802. Fictitious name or address**

24 Whoever, for the purpose of conducting, promoting, or ear-
25 rying on by means of the Postal Service, any scheme or device
26 mentioned in section 801 or any other unlawful business, uses
27 or assumes, or requests to be addressed by, any fictitious, false,
28 or assumed title, name, or address or name other than his own
29 proper name, or takes or receives from any post office or au-
30 thorized depository of mail matter, any letter, postal card,
31 package, or other mail matter addressed to any such fictitious,
32 false, or assumed title, name, or address, or name other than

1 his or her own proper name, shall be imprisoned not more than
2 five years.

3 **§ 803. Fraud by wire, radio, or television**

4 Whoever, having devised or intending to devise any scheme
5 or artifice to defraud, or for obtaining money or property by
6 means of false or fraudulent pretenses, representations, or
7 promises, transmits or causes to be transmitted by means of
8 wire, radio, or television communication in interstate or foreign
9 commerce, any writings, signs, signals, pictures, or sounds for
10 the purpose of executing such scheme or artifice, shall be im-
11 prisoned not more than 20 years. If the violation affects a fi-
12 nancial institution, such person shall be imprisoned not more
13 than 30 years.

14 **§ 804. Bank fraud**

15 Whoever knowingly executes, a scheme or artifice—

16 (1) to defraud a financial institution; or

17 (2) to obtain any of the moneys, funds, credits, assets,
18 securities, or other property owned by, or under the cus-
19 tody or control of, a financial institution, by means of false
20 or fraudulent pretenses, representations, or promises;

21 shall be imprisoned not more than 30 years.

22 **§ 805. Definition of “scheme or artifice to defraud”**

23 For the purposes of this subchapter, the term “scheme or
24 artifice to defraud” includes a scheme or artifice to deprive an-
25 other of the intangible right of honest services.

26 **§ 806. Health care fraud**

27 Whoever knowingly executes a scheme or artifice—

28 (1) to defraud any health care benefit program; or

29 (2) to obtain, by means of false or fraudulent pre-
30 tenses, representations, or promises, any of the money or
31 property owned by, or under the custody or control of, any
32 health care benefit program;

33 in connection with the delivery of or payment for health care
34 benefits, items, or services, shall be imprisoned not more than
35 10 years. If the violation results in serious bodily injury (as de-
36 fined in section 1204 of this title), such person shall be impris-
37 oned not more than 20 years; and if the violation results in

1 death, such person shall be imprisoned for any term of years
2 or for life.

3 **§ 807. Securities fraud**

4 Whoever knowingly executes a scheme or artifice—

5 (1) to defraud any person in connection with any secu-
6 rity of an issuer with a class of securities registered under
7 section 12 of the Securities Exchange Act of 1934 or that
8 is required to file reports under section 15(d) of the Securi-
9 ties Exchange Act of 1934; or

10 (2) to obtain, by means of false or fraudulent pre-
11 tentenses, representations, or promises, any money or property
12 in connection with the purchase or sale of any security of
13 an issuer with a class of securities registered under section
14 12 of the Securities Exchange Act of 1934 or that is re-
15 quired to file reports under section 15(d) of the Securities
16 Exchange Act of 1934;

17 shall be imprisoned not more than 25 years.

18 **§ 808. Failure of corporate officers to certify fi-**
19 **nancial reports**

20 (a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—

21 Each periodic report containing financial statements filed by an
22 issuer with the Securities Exchange Commission pursuant to
23 section 13(a) or 15(d) of the Securities Exchange Act of 1934
24 shall be accompanied by a written statement by the chief execu-
25 tive officer and chief financial officer (or equivalent thereof) of
26 the issuer.

27 (b) CONTENT.—The statement required under subsection

28 (a) shall certify that the periodic report containing the financial
29 statements fully complies with the requirements of section
30 13(a) or 15(d) of the Securities Exchange Act of 1934 and
31 that information contained in the periodic report fairly pre-
32 sents, in all material respects, the financial condition and re-
33 sults of operations of the issuer.

34 (c) CRIMINAL PENALTIES.—Whoever knowingly—

35 (1) certifies any statement as set forth in subsections
36 (a) and (b) knowing that the periodic report accompanying
37 the statement does not comport with all the requirements

1 set forth in this section shall be imprisoned not more than
 2 10 years; or

3 (2) certifies any statement as set forth in subsections
 4 (a) and (b) knowing that the periodic report accompanying
 5 the statement does not comport with all the requirements
 6 set forth in this section

7 shall be imprisoned not more than 20 years.

8 **CHAPTER 27—CRIMES RELATED TO FEDERAL**
 9 **GOVERNMENT RESPONSIBILITIES**

Subchapter	Sec.
A. Coins and currency	851
B. Customs	861
C. Indians	871
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10 **SUBTITLE A—COINS AND CURRENCY**

Sec.

851. Mutilation, diminution, and falsification of coins.

852. Mutilation of national bank obligations.

11 **§ 851. Mutilation, diminution, and falsification of**
 12 **coins**

13 Whoever—

14 (1) fraudulently alters, defaces, mutilates, impairs, di-
 15 minishes, falsifies, scales, or lightens any of the coins
 16 coined at the mints of the United States, or any foreign
 17 coins which are by law made current or are in actual use
 18 or circulation as money within the United States; or

19 (2) fraudulently possesses, passes, utters, publishes, or
 20 sells, or attempts to pass, utter, publish, or sell, or brings
 21 into the United States, any such coin, knowing the same
 22 to be altered, defaced, mutilated, impaired, diminished, fal-
 23 sified, scaled, or lightened;

24 shall be imprisoned not more than five years.

25 **§ 852. Mutilation of national bank obligations**

26 Whoever mutilates, cuts, defaces, disfigures, or perforates,
 27 or unites or cements together, or does any other thing to any

1 bank bill, draft, note, or other evidence of debt issued by any
 2 national banking association, or Federal Reserve bank, or the
 3 Federal Reserve System, with intent to render such bank bill,
 4 draft, note, or other evidence of debt unfit to be reissued, shall
 5 be imprisoned not more than six months.

6 SUBCHAPTER B—CUSTOMS

Sec.

861. Entry of goods falsely classified.
 862. Entry of goods by means of false statements.
 863. Smuggling goods into the United States.
 864. Smuggling goods into foreign countries.
 865. Removing goods from customs custody; breaking seals.
 866. Importation or exportation of stolen motor vehicles, off-highway
 mobile equipment, vessels, or aircraft.

7 **§ 861. Entry of goods falsely classified**

8 Whoever knowingly effects any entry of goods, wares, or
 9 merchandise, at less than the true weight or measure thereof,
 10 or upon a false classification as to quality or value, or by the
 11 payment of less than the amount of duty legally due, shall be
 12 imprisoned not more than two years.

13 **§ 862. Entry of goods by means of false statements**

14 (a) OFFENSE.—Whoever—

15 (1) enters or introduces, or attempts to enter or intro-
 16 duce, into the commerce of the United States any imported
 17 merchandise by means of any fraudulent or false invoice,
 18 declaration, affidavit, letter, paper, or by means of any
 19 false statement, written or verbal, or by means of any false
 20 or fraudulent practice or appliance, or makes any false
 21 statement in any declaration without reasonable cause to
 22 believe the truth of such statement, or procures the making
 23 of any such false statement as to any matter material
 24 thereto without reasonable cause to believe the truth of
 25 such statement, whether or not the United States shall or
 26 may be deprived of any lawful duties; or

27 (2) knowingly engages in an act or omission whereby
 28 the United States is or may be deprived of any lawful du-
 29 ties accruing upon merchandise embraced or referred to in
 30 such invoice, declaration, affidavit, letter, paper, or state-
 31 ment, or affected by such act or omission;

1 shall be imprisoned not more than two years.

2 (b) DEFINITION.—As used in this section, the term “com-
3 merce of the United States” does not include commerce with
4 Virgin Islands, American Samoa, Wake Island, Midway Islands,
5 Kingman Reef, Johnston Island, or Guam.

6 **§ 863. Smuggling goods into the United States**

7 (a) OFFENSE.—Whoever—

8 (1) knowingly and with intent to defraud the United
9 States, smuggles, or clandestinely introduces or attempts to
10 smuggle or clandestinely introduce into the United States
11 any merchandise which should have been invoiced, or
12 makes out or passes, or attempts to pass, through the cus-
13 tomhouse any false, forged, or fraudulent invoice, or other
14 document or paper; or

15 (2) fraudulently or knowingly imports or brings into
16 the United States, any merchandise contrary to law, or re-
17 ceives, conceals, buys, sells, or in any manner facilitates the
18 transportation, concealment, or sale of such merchandise
19 after importation, knowing the same to have been imported
20 or brought into the United States contrary to law;

21 shall be imprisoned not more than five years.

22 (b) DEFINITION.—The term “United States”, as used in
23 this section, does not include Virgin Islands, American Samoa,
24 Wake Island, Midway Islands, Kingman Reef, Johnston Island,
25 or Guam.

26 **§ 864. Smuggling goods into foreign countries**

27 (a) OFFENSE.—Whoever, owning in whole or in part any
28 vessel of the United States, employs, or participates in, or al-
29 lows the employment of, such vessel for the purpose of smug-
30 gling, or attempting to smuggle, or assisting in smuggling, any
31 merchandise into the territory of any foreign government in
32 violation of the laws there in force, if under the laws of such
33 foreign government any penalty or forfeiture is provided for
34 violation of the laws of the United States respecting the cus-
35 toms revenue, and any citizen of, or person domiciled in, or any
36 corporation incorporated in, the United States, controlling or
37 substantially participating in the control of any such vessel, di-

1 rectly or indirectly, whether through ownership of corporate
 2 shares or otherwise, and allowing the employment of said vessel
 3 for any such purpose, and any person found, or discovered to
 4 have been, on board of any such vessel so employed and partici-
 5 pating or assisting in any such purpose, shall be imprisoned not
 6 more than two years.

7 (b) HIRING OR CHARTERING OF VESSELS.—It shall con-
 8 stitute an offense under this section to hire out or charter a
 9 vessel if the lessor or charterer has knowledge or reasonable
 10 grounds for belief that the lessee or person chartering the ves-
 11 sel intends to employ such vessel for any of the purposes de-
 12 scribed in this section and if such vessel is, during the time
 13 such lease or charter is in effect, employed for any such pur-
 14 pose.

15 **§ 865. Removing goods from customs custody;**
 16 **breaking seals**

17 Whoever knowingly—

18 (1) without authority, affixes or attaches a customs
 19 seal, fastening, or mark, or any seal, fastening, or mark
 20 purporting to be a customs seal, fastening, or mark to any
 21 vessel, vehicle, warehouse, or package;

22 (2) without authority, removes, breaks, injures, or de-
 23 faces any customs seal or other fastening or mark placed
 24 upon any vessel, vehicle, warehouse, or package containing
 25 merchandise or baggage in bond or in customs custody;

26 (3) enters any bonded warehouse or any vessel or vehi-
 27 cle laden with or containing bonded merchandise with in-
 28 tent unlawfully to remove therefrom any merchandise or
 29 baggage therein, or unlawfully removes any merchandise or
 30 baggage in such vessel, vehicle, or bonded warehouse or
 31 otherwise in customs custody or control; or

32 (4) receives or transports any merchandise or baggage
 33 unlawfully removed from any such vessel, vehicle, or ware-
 34 house, knowing the same to have been unlawfully removed;
 35 shall be imprisoned not more than two years.

1 **§ 866. Importation or exportation of stolen motor**
2 **vehicles, off-highway mobile equipment,**
3 **vessels, or aircraft**

4 (a) OFFENSE.—Whoever knowingly imports, exports, or
5 attempts to import or export—

6 (1) any motor vehicle, off-highway mobile equipment,
7 vessel, aircraft, or part of any motor vehicle, off-highway
8 mobile equipment, vessel, or aircraft, knowing the same to
9 have been stolen; or

10 (2) any motor vehicle or off-highway mobile equipment
11 or part of any motor vehicle or off-highway mobile equip-
12 ment, knowing that the identification number of such
13 motor vehicle, equipment, or part has been removed, oblit-
14 erated, tampered with, or altered;
15 shall be imprisoned not more than 10 years.

16 (b) EXCLUSION.—Subsection (a)(2) does not apply if the
17 removal, obliteration, tampering, or alteration—

18 (1) is caused by collision or fire; or

19 (2)(A) in the case of a motor vehicle, is not a violation
20 of section 718 of this title (relating to altering or removing
21 motor vehicle identification numbers); or

22 (B) in the case of off-highway mobile equipment,
23 would not be a violation of section 718 of this title if such
24 equipment were a motor vehicle.

25 (c) As used in this section—

26 (1) the term “motor vehicle” has the meaning given
27 that term in section 32101 of title 49;

28 (2) the term “off-highway mobile equipment” means
29 any self-propelled agricultural equipment, self-propelled
30 construction equipment, and self-propelled special use
31 equipment, used or designed for running on land but not
32 on rail or highway;

33 (3) the term “vessel” has the meaning given that term
34 in section 401 of the Tariff Act of 1930;

35 (4) the term “aircraft” has the meaning given that
36 term in section 40102(a) of title 49; and

37 (5) the term “identification number”—

1 (A) in the case of a motor vehicle, has the mean-
2 ing given that term in section 718 of this title; and

3 (B) in the case of any other vehicle or equipment
4 covered by this section, means a number or symbol as-
5 signed to the vehicle or equipment, or part thereof, by
6 the manufacturer primarily for the purpose of identi-
7 fying such vehicle, equipment, or part.

8 SUBCHAPTER C—INDIANS

Sec.

871. Indian country defined.

872. Laws governing.

873. Offenses committed within Indian country.

874. State jurisdiction over offenses committed by or against Indians in
the Indian country.

875. Embezzlement and theft from Indian tribal organizations.

876. Theft from gaming establishments on Indian lands.

877. Theft by officers or employees of gaming establishments on Indian
lands.

878. Reporting of child abuse.

879. Illegal trafficking in Native American human remains and cultural
items.

9 § 871. Indian country defined

10 The term “Indian country”, as used in this subchapter,
11 means—

12 (1) all land within the limits of any Indian reservation
13 under the jurisdiction of the United States Government,
14 notwithstanding the issuance of any patent, and, including
15 rights-of-way running through the reservation;

16 (2) all dependent Indian communities within the bor-
17 ders of the United States whether within the original or
18 subsequently acquired territory thereof, and whether within
19 or without the limits of a state; and

20 (3) all Indian allotments, the Indian titles to which
21 have not been extinguished, including rights-of-way running
22 through the same.

23 § 872. Laws governing

24 (a) GENERALLY.—Except as otherwise expressly provided
25 by law, the general laws of the United States as to the punish-
26 ment of offenses committed in any place within the sole and
27 exclusive jurisdiction of the United States, except the District
28 of Columbia, shall extend to the Indian country.

1 (b) LIMITATION.—This section does not extend to offenses
 2 committed by one Indian against the person or property of an-
 3 other Indian, nor to any Indian committing any offense in the
 4 Indian country who has been punished by the local law of the
 5 tribe, or to any case where, by treaty stipulations, the exclusive
 6 jurisdiction over such offenses is or may be secured to the In-
 7 dian tribes respectively.

8 **§ 873. Offenses committed within Indian country**

9 (a) MAJOR CRIMES.—Any Indian who commits against the
 10 person or property of another Indian or other person any of the
 11 following offenses, namely, murder, manslaughter, kidnapping,
 12 maiming, a felony under subchapter A of chapter 13, incest, as-
 13 sault with intent to commit murder, assault with a dangerous
 14 weapon, assault resulting in serious bodily injury (as defined in
 15 section 1365 of this title), an assault against an individual who
 16 has not attained the age of 16 years, arson, burglary, robbery,
 17 and a felony under section 661 of this title within the Indian
 18 country, shall be subject to the same law and penalties as all
 19 other persons committing any of the above offenses, within the
 20 exclusive jurisdiction of the United States.

21 (b) DEFINITION OF CERTAIN OFFENSES.—Any offense re-
 22 ferred to in subsection (a) of this section that is not defined
 23 and punished by Federal law in force within the exclusive juris-
 24 diction of the United States shall be defined and punished in
 25 accordance with the laws of the State in which such offense
 26 was committed as are in force at the time of such offense.

27 **§ 874. State jurisdiction over offenses committed**
 28 **by or against Indians in the Indian coun-**
 29 **try**

30 (a) IN GENERAL.—Each State listed in the following table
 31 shall have jurisdiction over offenses committed by or against
 32 Indians in the areas of Indian country listed opposite the name
 33 of the State to the same extent that such State has jurisdiction
 34 over offenses committed elsewhere within the State, and the
 35 criminal laws of such State shall have the same force and effect
 36 within such Indian country as they have elsewhere within the
 37 State:

State or Territory of	Indian country affected
Alaska	All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

1 (b) NON-CRIMINAL MATTERS NOT AFFECTED.—Nothing
2 in this section—

3 (1) authorizes the alienation, encumbrance, or taxation
4 of any real or personal property, including water rights, be-
5 longing to any Indian or any Indian tribe, band, or commu-
6 nity that is held in trust by the United States or is subject
7 to a restriction against alienation imposed by the United
8 States; or

9 (2) authorizes regulation of the use of such property
10 in a manner inconsistent with any Federal treaty, agree-
11 ment, or statute or with any regulation made pursuant
12 thereto; or

13 (3) deprives any Indian or any Indian tribe, band, or
14 community of any right, privilege, or immunity afforded
15 under Federal treaty, agreement, or statute with respect to
16 hunting, trapping, or fishing or the control, licensing, or
17 regulation thereof.

18 (c) Sections 872 and 873 do not apply within the areas
19 of Indian country listed in subsection (a) as areas over which
20 a State has exclusive jurisdiction.

1 **§ 875. Embezzlement and theft from Indian tribal**
2 **organizations**

3 (a) OFFENSE.—Whoever embezzles, steals, unlawfully con-
4 verts, knowingly misapplies, or knowingly permits to be mis-
5 applied, any of the property belonging to any Indian tribal or-
6 ganization or entrusted to the custody or care of any officer,
7 employee, or agent of an Indian tribal organization shall be im-
8 prisoned not more than five years; but if the value of such
9 property does not exceed the sum of \$1,000, shall be impris-
10 oned not more than one year.

11 (b) DEFINITION.—As used in this section, the term “In-
12 dian tribal organization” means any tribe, band, or community
13 of Indians which is subject to the laws of the United States re-
14 lating to Indian affairs or any corporation, association, or
15 group which is organized under any of such laws.

16 **§ 876. Theft from gaming establishments on In-**
17 **dian lands**

18 Whoever abstracts, purloins, knowingly misapplies, or
19 takes and carries away with intent to steal, any money, funds,
20 or other property belonging to a gaming establishment operated
21 by or for or licensed by an Indian tribe pursuant to an ordi-
22 nance or resolution approved by the National Indian Gaming
23 Commission shall be imprisoned for not more than ten years,
24 but if the value of such property does not exceed \$1,000, shall
25 be imprisoned not more than one year.

26 **§ 877. Theft by officers or employees of gaming es-**
27 **tablishments on Indian lands**

28 Whoever, being an officer, employee, or individual licensee
29 of a gaming establishment operated by or for or licensed by an
30 Indian tribe pursuant to an ordinance or resolution approved
31 by the National Indian Gaming Commission, embezzles, ab-
32 stracts, purloins, willfully misapplies, or takes and carries away
33 with intent to steal, any moneys, funds, assets, or other prop-
34 erty of such establishment shall be imprisoned for not more
35 than 20 years, but if the value of such property is \$1,000 or
36 less shall be imprisoned not more than five years.

1 **§ 878. Reporting of child abuse**

2 (a) BASIC REPORTING OFFENSE.—Whoever—

3 (1) is a—

4 (A) physician, surgeon, dentist, podiatrist, chiro-
5 practor, nurse, dental hygienist, optometrist, medical
6 examiner, emergency medical technician, paramedic, or
7 health care provider,

8 (B) teacher, school counselor, instructional aide,
9 teacher's aide, teacher's assistant, or bus driver em-
10 ployed by any tribal, Federal, public or private school,

11 (C) administrative officer, supervisor of child wel-
12 fare and attendance, or truancy officer of any tribal,
13 Federal, public or private school,

14 (D) child day care worker, headstart teacher, pub-
15 lic assistance worker, worker in a group home or resi-
16 dential or day care facility, or social worker,

17 (E) psychiatrist, psychologist, or psychological as-
18 sistant,

19 (F) licensed or unlicensed marriage, family, or
20 child counselor,

21 (G) person employed in the mental health profes-
22 sion, or

23 (H) law enforcement officer, probation officer,
24 worker in a juvenile rehabilitation or detention facility,
25 or person employed in a public agency who is respon-
26 sible for enforcing statutes and judicial orders;

27 (2) knows, or has reasonable suspicion, that—

28 (A) a child was abused in Indian country, or

29 (B) actions are being taken, or are going to be
30 taken, that would reasonably be expected to result in
31 abuse of a child in Indian country; and

32 (3) fails to immediately report such abuse or actions
33 described in paragraph (2) to the local child protective
34 services agency or local law enforcement agency,
35 shall be imprisoned for not more than 6 months.

36 (b) OFFENSE BY SUPERVISORS.—Any person who—

1 (1) supervises, or has authority over, a person de-
2 scribed in subsection (a)(1), and

3 (2) inhibits or prevents that person from making the
4 report described in subsection (a),

5 shall be imprisoned for not more than 6 months.

6 (c) DEFINITIONS.—As used in this section—

7 (1) the term “abuse” includes—

8 (A) any case in which—

9 (i) a child is dead or exhibits evidence of skin
10 bruising, bleeding, malnutrition, failure to thrive,
11 burns, fracture of any bone, subdural hematoma,
12 soft tissue swelling, and

13 (ii) such condition is not justifiably explained
14 or may not be the product of an accidental occur-
15 rence; and

16 (B) any case in which a child is subjected to sex-
17 ual assault, sexual molestation, sexual exploitation, sex-
18 ual contact, or prostitution;

19 (2) the term “child” means an individual who—

20 (A) is not married, and

21 (B) has not attained 18 years of age;

22 (3) the term “local child protective services agency”
23 means that agency of the Federal Government, of a State,
24 or of an Indian tribe that has the primary responsibility for
25 child protection on any Indian reservation or within any
26 community in Indian country; and

27 (4) the term “local law enforcement agency” means
28 that Federal, tribal, or State law enforcement agency that
29 has the primary responsibility for the investigation of an
30 instance of alleged child abuse within the portion of Indian
31 country involved.

32 (d) IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR
33 REPORTING.—Any person making a report described in sub-
34 section (a) which is based upon their reasonable belief and
35 which is made in good faith shall be immune from civil or
36 criminal liability for making that report.

1 **§ 879. Illegal trafficking in Native American**
 2 **human remains and cultural items**

3 (a) HUMAN REMAINS.—Whoever knowingly sells, pur-
 4 chases, uses for profit, or transports for sale or profit, the
 5 human remains of a Native American without the right of pos-
 6 session to those remains as provided in the Native American
 7 Graves Protection and Repatriation Act shall be imprisoned not
 8 more than 12 months, and in the case of a second or subse-
 9 quent violation, be imprisoned not more than 5 years.

10 (b) CULTURAL ITEMS.—Whoever knowingly sells, pur-
 11 chases, uses for profit, or transports for sale or profit any Na-
 12 tive American cultural items obtained in violation of the Native
 13 American Grave Protection and Repatriation Act shall be im-
 14 prisoned not more than one year, and in the case of a second
 15 or subsequent violation, be imprisoned not more than 5 years.

16 SUBCHAPTER D—BANKRUPTCY

Sec.

- 881. Concealment of assets; false oaths and claims; bribery.
- 882. Embezzlement against estate.
- 883. Adverse interest and conduct of officers.
- 884. Fee agreements in cases under title 11 and receiverships.
- 885. Bankruptcy fraud.
- 886. Designation of United States attorneys and agents of the Federal
Bureau of Investigation to address abusive reaffirmations of debt
and materially fraudulent Statements in bankruptcy schedules.
- 887. Definition.

17 **§ 881. Concealment of assets; false oaths and**
 18 **claims; bribery**

19 Whoever—

20 (1) knowingly conceals from a custodian, trustee, mar-
 21 shal, or other officer of the court charged with the control
 22 or custody of property, or, in connection with a case under
 23 title 11, from creditors or the United States Trustee, any
 24 property belonging to the estate of a debtor;

25 (2) knowingly makes a false oath or account in or in
 26 relation to any case under title 11;

27 (3) knowingly makes a false declaration, certificate,
 28 verification, or statement under penalty of perjury as per-
 29 mitted under section 1746 of title 28, in or in relation to
 30 any case under title 11;

1 (4) knowingly presents any false claim for proof
 2 against the estate of a debtor, or uses any such claim in
 3 any case under title 11, in a personal capacity or as or
 4 through an agent, proxy, or attorney;

5 (5) knowingly receives any material amount of prop-
 6 erty from a debtor after the filing of a case under title 11,
 7 with intent to defeat the provisions of title 11;

8 (6) knowingly and corruptly gives, offers, receives, or
 9 attempts to obtain any money or property, remuneration,
 10 compensation, reward, advantage, or promise thereof for
 11 acting or forbearing to act in any case under title 11;

12 (7) in a personal capacity or as an agent or officer of
 13 any person or corporation, in contemplation of a case under
 14 title 11 by or against the person or any other person or
 15 corporation, or with intent to defeat the provisions of title
 16 11, knowingly transfers or conceals any of his property or
 17 the property of such other person or corporation;

18 (8) after the filing of a case under title 11 or in con-
 19 templation thereof, knowingly conceals, destroys, mutilates,
 20 falsifies, or makes a false entry in any recorded information
 21 (including books, documents, records, and papers) relating
 22 to the property or financial affairs of a debtor; or

23 (9) after the filing of a case under title 11, knowingly
 24 withholds from a custodian, trustee, marshal, or other offi-
 25 cer of the court or a United States Trustee entitled to its
 26 possession, any recorded information (including books, doc-
 27 uments, records, and papers) relating to the property or fi-
 28 nancial affairs of a debtor,

29 shall be imprisoned not more than 5 years.

30 **§ 882. Embezzlement against estate**

31 (a) OFFENSE.—Whoever, being described in subsection
 32 (b), knowingly and unlawfully appropriates to the person's own
 33 use, embezzles, spends, or transfers any property or secretes or
 34 destroys any document belonging to the estate of a debtor shall
 35 be imprisoned not more than 5 years.

36 (b) PERSON TO WHOM SECTION APPLIES.—A person de-
 37 scribed in this subsection is one who has access to property or

1 documents belonging to an estate by virtue of the person's par-
 2 ticipation in the administration of the estate as a trustee, cus-
 3 todian, marshal, attorney, or other officer of the court or as an
 4 agent, employee, or other person engaged by such an officer to
 5 perform a service with respect to the estate.

6 **§ 883. Adverse interest and conduct of officers**

7 Whoever, being a custodian, trustee, marshal, or other of-
 8 ficer of the court—

9 (1) knowingly purchases any property of the estate of
 10 which the person is such an officer in a case under title 11;

11 (2) knowingly refuses to permit a reasonable oppor-
 12 tunity for the inspection by parties in interest of the docu-
 13 ments and accounts relating to the affairs of estates in the
 14 person's charge by parties when directed by the court to do
 15 so; or

16 (3) knowingly refuses to permit a reasonable oppor-
 17 tunity for the inspection by the United States Trustee of
 18 the documents and accounts relating to the affairs of an
 19 estate in the person's charge,

20 shall be fined under this title and shall forfeit the person's of-
 21 fice, which shall thereupon become vacant.

22 **§ 884. Fee agreements in cases under title 11 and**
 23 **receiverships**

24 Whoever, being a party in interest, whether as a debtor,
 25 creditor, receiver, trustee or representative of any of them, or
 26 attorney for any such party in interest, in any receivership or
 27 case under title 11 in any United States court or under its su-
 28 pervision, knowingly and corruptly enters into any agreement,
 29 express or implied, with another such party in interest or attor-
 30 ney for another such party in interest, for the purpose of fixing
 31 the fees or other compensation to be paid to any party in inter-
 32 est or to any attorney for any party in interest for services ren-
 33 dered in connection therewith, from the assets of the estate,
 34 shall be imprisoned not more than one year.

35 **§ 885. Bankruptcy fraud**

36 Whoever for the purpose of executing or concealing a
 37 scheme or artifice to defraud—

1 (1) files a petition under title 11, including a fraudu-
2 lent involuntary bankruptcy petition under section 303 of
3 such title;

4 (2) files a document in a proceeding under title 11; or

5 (3) makes a false or fraudulent representation, claim,
6 or promise concerning or in relation to a proceeding under
7 title 11, at any time before or after the filing of the peti-
8 tion, or in relation to a proceeding falsely asserted to be
9 pending under such title,

10 shall be imprisoned not more than 5 years.

11 **§ 886. Designation of United States attorneys and**
12 **agents of the Federal Bureau of Investiga-**
13 **tion to address abusive reaffirmations of**
14 **debt and materially fraudulent statements**
15 **in bankruptcy schedules**

16 (a) IN GENERAL.—The Attorney General of the United
17 States shall designate the individuals described in subsection
18 (b) to have primary responsibility in carrying out enforcement
19 activities in addressing violations of section 871 or 875 relating
20 to abusive reaffirmations of debt. In addition to addressing the
21 violations referred to in the preceding sentence, the individuals
22 described under subsection (b) shall address violations of sec-
23 tion 871 or 875 relating to materially fraudulent statements in
24 bankruptcy schedules that are intentionally false or inten-
25 tionally misleading.

26 (b) UNITED STATES ATTORNEYS AND AGENTS OF THE
27 FEDERAL BUREAU OF INVESTIGATION.—The individuals re-
28 ferred to in subsection (a) are—

29 (1) the United States attorney for each judicial dis-
30 trict of the United States; and

31 (2) an agent of the Federal Bureau of Investigation
32 for each field office of the Federal Bureau of Investigation.

33 (c) BANKRUPTCY INVESTIGATIONS.—Each United States
34 attorney designated under this section shall, in addition to any
35 other responsibilities, have primary responsibility for carrying
36 out the duties of a United States attorney under section 3057.

1 (d) BANKRUPTCY PROCEDURES.—The bankruptcy courts
 2 shall establish procedures for referring any case that may con-
 3 tain a materially fraudulent statement in a bankruptcy sched-
 4 ule to the individuals designated under this section.

5 **§ 887. Definition**

6 As used in this subchapter, the term “debtor” means a
 7 debtor concerning whom a petition has been filed under title
 8 11.

9 SUBCHAPTER E—CIVIL RIGHTS

Sec.

- 891. Conspiracy against rights.
- 892. Deprivation of rights under color of law.
- 893. Exclusion of jurors on account of race or color.
- 894. Discrimination against person wearing uniform of armed forces.
- 895. Federally protected activities.
- 896. Deprivation of relief benefits.
- 897. Damage to religious property; obstruction of persons in the free exercise of religious beliefs.
- 898. Freedom of access to clinic entrances.
- 899. Voting Rights Act violations.
- 900. Prevention of intimidation in fair housing cases.

10 **§ 891. Conspiracy against rights**

11 If two or more persons—

12 (1) conspire to injure, oppress, threaten, or intimidate
 13 any person in any State in the free exercise or enjoyment
 14 of any right or privilege secured to that person by the Con-
 15 stitution or laws of the United States, or because of that
 16 person’s having so exercised the same; or

17 (2) go in disguise on the highway, or on the premises
 18 of another, with intent to prevent or hinder that other’s
 19 free exercise or enjoyment of any right or privilege so se-
 20 cured;

21 each shall be imprisoned not more than ten years; and if death
 22 results from the acts committed in violation of this section or
 23 if such acts include kidnapping or an attempt to kidnap, aggra-
 24 vated sexual abuse or an attempt to commit aggravated sexual
 25 abuse, or an attempt to kill, each shall be imprisoned for any
 26 term of years or for life, or may be sentenced to death.

1 **§ 892. Deprivation of rights under color of law**

2 Whoever, under color of any law, statute, ordinance, regu-
3 lation, or custom, knowingly subjects any person in any State
4 to the deprivation of any rights, privileges, or immunities se-
5 cured or protected by the Constitution or laws of the United
6 States, or to different punishments, pains, or penalties, on ac-
7 count of such person being an alien, or by reason of his color,
8 or race, than are prescribed for the punishment of citizens,
9 shall be imprisoned not more than one year; and if bodily in-
10 jury results from the acts committed in violation of this section
11 or if such acts include the use, attempted use, or threatened
12 use of a dangerous weapon, explosives, or fire, shall be impris-
13 oned not more than ten years; and if death results from the
14 acts committed in violation of this section or if such acts in-
15 clude kidnapping or an attempt to kidnap, aggravated sexual
16 abuse, or an attempt to commit aggravated sexual abuse, or an
17 attempt to kill, shall be imprisoned for any term of years or
18 for life, or may be sentenced to death.

19 **§ 893. Exclusion of jurors on account of race or**
20 **color**

21 No citizen possessing all other qualifications which are or
22 may be prescribed by law shall be disqualified for service as
23 grand or petit juror in any court of the United States, or of
24 any State on account of race, color, or previous condition of
25 servitude; and whoever, being an officer or other person
26 charged with any duty in the selection or summoning of jurors,
27 excludes or fails to summon any citizen for such cause, shall
28 be fined not more than \$5,000.

29 **§ 894. Discrimination against person wearing uni-**
30 **form of armed forces**

31 Whoever, being a proprietor, manager, or employee of a
32 theater or other public place of entertainment or amusement in
33 the District of Columbia, or in any territory, or possession of
34 the United States, causes any person wearing the uniform of
35 any of the armed forces of the United States to be discrimi-
36 nated against because of that uniform, shall be fined under this
37 title.

1 **§ 895. Federally protected activities**

2 (a) CONSTRUCTION.—

3 (1) Nothing in this section shall be construed as indi-
4 cating an intent on the part of Congress to prevent any
5 State, any possession or Commonwealth of the United
6 States, or the District of Columbia, from exercising juris-
7 diction over any offense over which it would have jurisdic-
8 tion in the absence of this section, nor shall anything in
9 this section be construed as depriving State and local law
10 enforcement authorities of responsibility for prosecuting
11 acts that may be violations of this section and that are vio-
12 lations of State and local law. No prosecution of any of-
13 fense described in this section shall be undertaken by the
14 United States except upon the certification in writing of
15 the Attorney General, the Deputy Attorney General, the
16 Associate Attorney General, or any Assistant Attorney Gen-
17 eral specially designated by the Attorney General that in
18 his judgment a prosecution by the United States is in the
19 public interest and necessary to secure substantial justice,
20 which function of certification may not be delegated.

21 (2) Nothing in this subsection shall be construed to
22 limit the authority of Federal officers, or a Federal grand
23 jury, to investigate possible violations of this section.

24 (b) OFFENSE.—Whoever, whether or not acting under
25 color of law, by force or threat of force willfully injures, intimi-
26 dates or interferes with, or attempts to injure, intimidate or
27 interfere with—

28 (1) any person because he is or has been, or in order
29 to intimidate such person or any other person or any class
30 of persons from—

31 (A) voting or qualifying to vote, qualifying or cam-
32 paigning as a candidate for elective office, or qualifying
33 or acting as a poll watcher, or any legally authorized
34 election official, in any primary, special, or general elec-
35 tion;

1 (B) participating in or enjoying any benefit, serv-
2 ice, privilege, program, facility, or activity provided or
3 administered by the United States;

4 (C) applying for or enjoying employment, or any
5 perquisite thereof, by any agency of the United States;

6 (D) serving, or attending upon any court in con-
7 nection with possible service, as a grand or petit juror
8 in any court of the United States;

9 (E) participating in or enjoying the benefits of any
10 program or activity receiving Federal financial assist-
11 ance; or

12 (2) any person because of his race, color, religion or
13 national origin and because he is or has been—

14 (A) enrolling in or attending any public school or
15 public college;

16 (B) participating in or enjoying any benefit serv-
17 ice, privilege, program, facility or activity provided or
18 administered by any State or subdivision thereof;

19 (C) applying for or enjoying employment, or any
20 perquisite thereof, by any private employer or any
21 agency of any State or subdivision thereof, or joining
22 or using the services or advantages of any labor organi-
23 zation, hiring hall, or employment agency;

24 (D) serving, or attending upon any court of any
25 State in connection with possible service, as a grand or
26 petit juror;

27 (E) traveling in or using any facility of interstate
28 commerce, or using any vehicle, terminal, or facility of
29 any common carrier by motor, rail, water, or air;

30 (F) enjoying the goods, services, facilities, privi-
31 leges, advantages, or accommodations of any inn, hotel,
32 motel, or other establishment which provides lodging to
33 transient guests, or of any restaurant, cafeteria, lunch-
34 room, lunch counter, soda fountain, or other facility
35 which serves the public and which is principally en-
36 gaged in selling food or beverages for consumption on
37 the premises, or of any gasoline station, or of any mo-

1 tion picture house, theater, concert hall, sports arena,
2 stadium, or any other place of exhibition or entertain-
3 ment which serves the public, or of any other establish-
4 ment which serves the public and (i) which is located
5 within the premises of any of the aforesaid establish-
6 ments or within the premises of which is physically lo-
7 cated any of the aforesaid establishments, and (ii)
8 which holds itself out as serving patrons of such estab-
9 lishments; or

10 (3) during or incident to a riot or civil disorder, any
11 person engaged in a business in commerce or affecting
12 commerce, including, but not limited to, any person en-
13 gaged in a business which sells or offers for sale to inter-
14 state travelers a substantial portion of the articles, com-
15 modities, or services which it sells or where a substantial
16 portion of the articles or commodities which it sells or of-
17 fers for sale have moved in commerce; or

18 (4) any person because that person is or has been, or
19 in order to intimidate such person or any other person or
20 any class of persons from—

21 (A) participating, without discrimination on ac-
22 count of race, color, religion or national origin, in any
23 of the benefits or activities described in subparagraphs
24 (1)(A) through (1)(E) or subparagraphs (2)(A)
25 through (2)(F); or

26 (B) affording another person or class of persons
27 opportunity or protection to so participate; or

28 (5) any citizen because that person is or has been, or
29 in order to intimidate such citizen or any other citizen from
30 lawfully aiding or encouraging other persons to participate,
31 without discrimination on account of race, color, religion or
32 national origin, in any of the benefits or activities described
33 in subparagraphs (1)(A) through (1)(E) or subparagraphs
34 (2)(A) through (2)(F), or participating lawfully in speech
35 or peaceful assembly opposing any denial of the opportunity
36 to so participate—

1 shall be imprisoned not more than one year; and if bodily in-
2 jury results from the acts committed in violation of this section
3 or if such acts include the use, attempted use, or threatened
4 use of a dangerous weapon, explosives, or fire, shall be impris-
5 oned not more than ten years; and if death results from the
6 acts committed in violation of this section or if such acts in-
7 clude kidnapping or an attempt to kidnap, aggravated sexual
8 abuse or an attempt to commit aggravated sexual abuse, or an
9 attempt to kill, shall be imprisoned for any term of years or
10 for life or may be sentenced to death.

11 (c) DEFINITION.— As used in this section, the term “par-
12 ticipating lawfully in speech or peaceful assembly” shall not
13 mean the aiding, abetting, or inciting of other persons to riot
14 or to commit any act of physical violence upon any individual
15 or against any real or personal property in furtherance of a
16 riot. Nothing in subparagraph (2)(F) or (4)(A) of this sub-
17 section shall apply to the proprietor of any establishment which
18 provides lodging to transient guests, or to any employee acting
19 on behalf of such proprietor, with respect to the enjoyment of
20 the goods, services, facilities, privileges, advantages, or accom-
21 modations of such establishment if such establishment is lo-
22 cated within a building which contains not more than five
23 rooms for rent or hire and which is actually occupied by the
24 proprietor as the proprietor’s residence.

25 (d) LAW ENFORCEMENT DUTIES NOT AFFECTED.—Noth-
26 ing in this section shall be construed so as to deter any law
27 enforcement officer from lawfully carrying out the duties of his
28 office; and no law enforcement officer shall be considered to be
29 in violation of this section for lawfully carrying out the duties
30 of his office or lawfully enforcing ordinances and laws of the
31 United States, the District of Columbia, any of the several
32 States, or any political subdivision of a State. For purposes of
33 the preceding sentence, the term “law enforcement officer”
34 means any officer of the United States, the District of Colum-
35 bia, a State, or political subdivision of a State, who is empow-
36 ered by law to conduct investigations of, or make arrests be-

1 cause of, offenses against the United States, the District of Co-
2 lumbia, a State, or a political subdivision of a State.

3 **§ 896. Deprivation of relief benefits**

4 Whoever directly or indirectly deprives, attempts to de-
5 prive, or threatens to deprive any person of any employment,
6 position, work, compensation, or other benefit provided for or
7 made possible in whole or in part by any Act of Congress ap-
8 propriating funds for work relief or relief purposes, on account
9 of political affiliation, race, color, sex, religion, or national ori-
10 gin, shall be imprisoned not more than one year.

11 **§ 897. Damage to religious property; obstruction**
12 **of persons in the free exercise of religious**
13 **beliefs**

14 (a) RELIGIOUS PROPERTY OFFENSE RELATING TO RELI-
15 GIOUS CHARACTER.—Whoever, in or affecting interstate or for-
16 eign commerce—

17 (1) knowingly defaces, damages, or destroys any reli-
18 gious real property, because of the religious character of
19 that property; or

20 (2) knowingly obstructs, by force or threat of force,
21 any person in the enjoyment of that person’s free exercise
22 of religious beliefs;

23 shall be punished as provided in subsection (c) .

24 (b) PROPERTY OFFENSE MOTIVATED BY RACIAL AND
25 OTHER CHARACTERISTICS.—Whoever knowingly defaces, dam-
26 ages, or destroys any religious real property because of the
27 race, color, or ethnic characteristics of any individual associated
28 with that religious property, shall be punished as provided in
29 subsection (c).

30 (c) PUNISHMENT.—The punishment for a violation of sub-
31 section (a) is—

32 (1) if death results from acts committed in violation
33 of this section or if such acts include kidnapping or an at-
34 tempt to kidnap, aggravated sexual abuse or an attempt to
35 commit aggravated sexual abuse, or an attempt to kill, im-
36 prisonment for any term of years or for life, or death;

1 (2) if bodily injury results to any person, including any
2 public safety officer performing duties as a direct or proxi-
3 mate result of conduct prohibited by this section, and the
4 violation is by means of fire or an explosive, or imprison-
5 ment for more than 40 years;

6 (3) if bodily injury to any person, including any public
7 safety officer performing duties as a direct or proximate re-
8 sult of conduct prohibited by this section, results from the
9 acts committed in violation of this section or if such acts
10 include the use, attempted use, or threatened use of a dan-
11 gerous weapon, explosives, or fire, imprisonment for not
12 more than 20 years; and

13 (4) in any other case, imprisonment for not more than
14 one year.

15 (d) CERTIFICATION.—No prosecution of any offense de-
16 scribed in this section shall be undertaken by the United States
17 except upon the certification in writing of the Attorney General
18 or his designee that in his judgment a prosecution by the
19 United States is in the public interest and necessary to secure
20 substantial justice.

21 (e) DEFINITION.—As used in this section, the term “reli-
22 gious real property” means any church, synagogue, mosque, re-
23 ligious cemetery, or other religious real property, including fix-
24 tures or religious objects contained within a place of religious
25 worship.

26 (f) LIMITATION.—No person shall be prosecuted, tried, or
27 punished for any noncapital offense under this section unless
28 the indictment is found or the information is instituted not
29 later than 7 years after the date on which the offense was com-
30 mitted.

31 **§ 898. Freedom of access to clinic entrances**

32 (a) PROHIBITED ACTIVITIES.—Whoever—

33 (1) by force or threat of force or by physical obstruc-
34 tion, knowingly injures, intimidates or interferes with any
35 person because that person is or has been, or in order to
36 intimidate such person or any other person or any class of

1 persons from, obtaining or providing reproductive health
2 services;

3 (2) by force or threat of force or by physical obstruc-
4 tion, knowingly injures, intimidates or interferes with any
5 person lawfully exercising or seeking to exercise the First
6 Amendment right of religious freedom at a place of reli-
7 gious worship; or

8 (3) knowingly damages or destroys the property of a
9 facility, or attempts to do so, because such facility provides
10 reproductive health services, or knowingly damages or de-
11 stroy the property of a place of religious worship,

12 shall be subject to the penalties provided in subsection (b) and
13 the civil remedies provided in subsection (c), except that a par-
14 ent or legal guardian of a minor shall not be subject to any
15 penalties or civil remedies under this section for such activities
16 insofar as they are directed exclusively at that minor.

17 (b) PENALTIES.—Whoever violates this section shall—

18 (1) in the case of a first offense, be imprisoned not
19 more than one year; and

20 (2) in the case of a second or subsequent offense after
21 a prior conviction under this section, be imprisoned not
22 more than 3 years;

23 except that for an offense involving exclusively a nonviolent
24 physical obstruction, the fine shall, notwithstanding section
25 3571, not be more than \$10,000 and the length of imprison-
26 ment shall be not more than six months, or both, for the first
27 offense; and the fine shall, notwithstanding section 3571, be
28 not more than \$25,000 and the length of imprisonment shall
29 be not more than 18 months, or both, for a subsequent offense;
30 and except that if bodily injury results, the length of imprison-
31 ment shall be not more than 10 years, and if death results, it
32 shall be for any term of years or for life.

33 (c) CIVIL REMEDIES.—

34 (1) RIGHT OF ACTION.—

35 (A) IN GENERAL.—Any person aggrieved by rea-
36 son of the conduct prohibited by subsection (a) may
37 commence a civil action for the relief set forth in sub-

1 paragraph (B), except that such an action may be
2 brought under subsection (a)(1) only by a person in-
3 volved in providing or seeking to provide, or obtaining
4 or seeking to obtain, services in a facility that provides
5 reproductive health services, and such an action may be
6 brought under subsection (a)(2) only by a person law-
7 fully exercising or seeking to exercise the First Amend-
8 ment right of religious freedom at a place of religious
9 worship or by the entity that owns or operates such
10 place of religious worship.

11 (B) RELIEF.—In any action under subparagraph
12 (A), the court may award appropriate relief, including
13 temporary, preliminary or permanent injunctive relief
14 and compensatory and punitive damages, as well as the
15 costs of suit and reasonable fees for attorneys and ex-
16 pert witnesses. With respect to compensatory damages,
17 the plaintiff may elect, at any time prior to the ren-
18 dering of final judgment, to recover, in lieu of actual
19 damages, an award of statutory damages in the
20 amount of \$5,000 per violation.

21 (2) ACTION BY ATTORNEY GENERAL OF THE UNITED
22 STATES.—

23 (A) IN GENERAL.—If the Attorney General of the
24 United States has reasonable cause to believe that any
25 person or group of persons is being, has been, or may
26 be injured by conduct constituting a violation of this
27 section, the Attorney General may commence a civil ac-
28 tion in any appropriate United States District Court.

29 (B) RELIEF.—In any action under subparagraph
30 (A), the court may award appropriate relief, including
31 temporary, preliminary or permanent injunctive relief,
32 and compensatory damages to persons aggrieved as de-
33 scribed in paragraph (1)(B). The court, to vindicate the
34 public interest, may also assess a civil penalty against
35 each respondent—

1 (i) in an amount not exceeding \$10,000 for a
2 nonviolent physical obstruction and \$15,000 for
3 other first violations; and

4 (ii) in an amount not exceeding \$15,000 for a
5 nonviolent physical obstruction and \$25,000 for
6 any other subsequent violation.

7 (3) ACTIONS BY STATE ATTORNEYS GENERAL.—

8 (A) IN GENERAL.—If the Attorney General of a
9 State has reasonable cause to believe that any person
10 or group of persons is being, has been, or may be in-
11 jured by conduct constituting a violation of this section,
12 such Attorney General may commence a civil action in
13 the name of such State, as *parens patriae* on behalf of
14 natural persons residing in such State, in any appro-
15 priate United States District Court.

16 (B) RELIEF.—In any action under subparagraph
17 (A), the court may award appropriate relief, including
18 temporary, preliminary or permanent injunctive relief,
19 compensatory damages, and civil penalties as described
20 in paragraph (2)(B).

21 (d) RULES OF CONSTRUCTION.—Nothing in this section
22 shall be construed—

23 (1) to prohibit any expressive conduct (including
24 peaceful picketing or other peaceful demonstration) pro-
25 tected from legal prohibition by the First Amendment to
26 the Constitution;

27 (2) to create new remedies for interference with activi-
28 ties protected by the free speech or free exercise clauses of
29 the First Amendment to the Constitution, occurring outside
30 a facility, regardless of the point of view expressed, or to
31 limit any existing legal remedies for such interference;

32 (3) to provide exclusive criminal penalties or civil reme-
33 dies with respect to the conduct prohibited by this section,
34 or to preempt State or local laws that may provide such
35 penalties or remedies; or

1 (4) to interfere with the enforcement of State or local
2 laws regulating the performance of abortions or other re-
3 productive health services.

4 (e) DEFINITIONS.—As used in this section—

5 (1) the term “facility” includes a hospital, clinic, phy-
6 sician’s office, or other facility that provides reproductive
7 health services, and includes the building or structure in
8 which the facility is located.

9 (2) the term “interfere with” means to restrict a per-
10 son’s freedom of movement.

11 (3) the term “intimidate” means to place a person in
12 reasonable apprehension of bodily harm to him-or herself or
13 to another.

14 (4) the term “physical obstruction” means rendering
15 impassable ingress to or egress from a facility that provides
16 reproductive health services or to or from a place of reli-
17 gious worship, or rendering passage to or from such a facil-
18 ity or place of religious worship unreasonably difficult or
19 hazardous.

20 (5) the term “reproductive health services” means re-
21 productive health services provided in a hospital, clinic,
22 physician’s office, or other facility, and includes medical,
23 surgical, counselling or referral services relating to the
24 human reproductive system, including services relating to
25 pregnancy or the termination of a pregnancy.

26 **§ 899. Voting Rights Act violations**

27 (a) Whoever deprives any person of any right secured by
28 section 2, 3, 4, 5, 7, or 10 of the Voting Rights Act of 1965
29 or violates section 11(a) of such Act, shall be imprisoned not
30 more than five years.

31 (b) Whoever, within a year following an election in a polit-
32 ical subdivision in which an examiner has been appointed under
33 the Voting Rights Act of 1965—

34 (1) destroys, defaces, mutilates, or otherwise alters the
35 marking of a paper ballot which has been cast in such elec-
36 tion; or

1 (2) alters any official record of voting in such election
2 tabulated from a voting machine or otherwise;
3 shall be imprisoned not more than five years.

4 (c) Whoever conspires to violate the provisions of sub-
5 section (a) or (b) of section 12 of the Voting Rights Act of
6 1965, or interferes with any right secured by section 2, 3, 4,
7 5, 7, 10, or 11(a) of such Act shall be imprisoned not more
8 than five years.

9 **§900. Prevention of intimidation in fair housing**
10 **cases**

11 Whoever, whether or not acting under color of law, by
12 force or threat of force willfully injures, intimidates or inter-
13 feres with or attempts to injure, intimidate or interfere with—

14 (1) any person because of that person's race, color, re-
15 ligion, sex, handicap (as such term is defined in section 802
16 of the Fair Housing Act), familial status (as such term is
17 defined in section 802 of that Act), or national origin and
18 because that person is or has been selling, purchasing,
19 renting, financing, occupying, or contracting or negotiating
20 for the sale, purchase, rental, financing or occupation of
21 any dwelling, or applying for or participating in any serv-
22 ice, organization, or facility relating to the business of sell-
23 ing or renting dwellings; or

24 (2) any person because that person is or has been, or
25 in order to intimidate such person or any other person or
26 any class of persons from—

27 (A) participating, without discrimination on ac-
28 count of race, color, religion, sex, handicap (as such
29 term is defined in section 802 of the Fair Housing
30 Act), familial status (as such term is defined in section
31 802 of that Act), or national origin, in any of the ac-
32 tivities, services, organizations or facilities described in
33 section 901(a) of that Act; or

34 (B) affording another person or class of persons
35 opportunity or protection so to participate; or

36 (C) any citizen because that citizen is or has been, or
37 in order to discourage such citizen or any other citizen

1 from lawfully aiding or encouraging other persons to par-
 2 ticipate, without discrimination on account of race, color,
 3 religion, sex, handicap (as such term is defined in section
 4 802 of the Fair Housing Act), familial status (as such term
 5 is defined in section 802 of that Act), or national origin,
 6 in any of the activities, services, organizations or facilities
 7 described in subsection 901(a), or participating lawfully in
 8 speech or peaceful assembly opposing any denial of the op-
 9 portunity to so participate;

10 shall be imprisoned not more than one year; and if bodily in-
 11 jury results from the acts committed in violation of this section
 12 or if such acts include the use, attempted use, or threatened
 13 use of a dangerous weapon, explosives, or fire shall be impris-
 14 oned not more than ten years; and if death results from the
 15 acts committed in violation of this section or if such acts in-
 16 clude kidnapping or an attempt to kidnap, aggravated sexual
 17 abuse or an attempt to commit aggravated sexual abuse, or an
 18 attempt to kill, shall be imprisoned for any term of years or
 19 for life.

20 SUBCHAPTER F—FOREIGN RELATIONS

Sec.

- 921. Agents of foreign governments.
- 922. Diplomatic codes and correspondence.
- 923. False Statements influencing foreign government.
- 924. Conspiracy to kill, kidnap, maim, or injure persons or damage
property in a foreign country.
- 925. Enlistment in foreign service.
- 926. Expedition against friendly nation.
- 927. Detention of armed vessel.
- 928. Protection of property occupied by foreign governments.

21 **§ 921. Agents of foreign governments**

22 (a) OFFENSE.—Whoever, other than a diplomatic or con-
 23 sular officer or attache, acts in the United States as an agent
 24 of a foreign government without prior notification to the Attor-
 25 ney General if required in subsection (b), shall be imprisoned
 26 not more than ten years.

27 (b) RULES AND REGULATIONS.—The Attorney General
 28 shall promulgate rules and regulations establishing require-
 29 ments for notification.

1 (c) TRANSMISSION.—The Attorney General shall, upon re-
2 ceipt, promptly transmit one copy of each notification state-
3 ment filed under this section to the Secretary of State for such
4 comment and use as the Secretary of State may determine to
5 be appropriate from the point of view of the foreign relations
6 of the United States. Failure of the Attorney General to do so
7 shall not be a bar to prosecution under this section.

8 (d) DEFINITION.—As used in this section, the term “agent
9 of a foreign government” means an individual who agrees to
10 operate within the United States subject to the direction or
11 control of a foreign government or official, except that such
12 term does not include—

13 (1) a duly accredited diplomatic or consular officer of
14 a foreign government, who is so recognized by the Depart-
15 ment of State;

16 (2) any officially and publicly acknowledged and spon-
17 sored official or representative of a foreign government;

18 (3) any officially and publicly acknowledged and spon-
19 sored member of the staff of, or employee of, an officer, of-
20 ficial, or representative described in paragraph (1) or (2),
21 who is not a United States citizen; or

22 (4) any person engaged in a legal commercial trans-
23 action.

24 (e) ADDITIONAL BASIS FOR DETERMINING AGENCY.—Not-
25 withstanding subsection (d)(4), any person engaged in a legal
26 commercial transaction shall be considered to be an agent of
27 a foreign government for purposes of this section if—

28 (1) such person agrees to operate within the United
29 States subject to the direction or control of a foreign gov-
30 ernment or official; and

31 (2) such person—

32 (A) is an agent of Cuba or any other country that
33 the President determines (and so reports to the Con-
34 gress) poses a threat to the national security interest
35 of the United States for purposes of this section, unless
36 the Attorney General, after consultation with the Sec-
37 retary of State, determines and so reports to the Con-

1 gress that the national security or foreign policy inter-
2 ests of the United States require that the provisions of
3 this section do not apply in specific circumstances to
4 agents of such country; or

5 (B) has been convicted of, or has entered a plea
6 of nolo contendere with respect to, any offense under
7 section 301 through 303, 601, or 261 of this title or
8 under section 11 of the Export Administration Act of
9 1979, except that the provisions of this subsection shall
10 not apply to a person described in this clause for a pe-
11 riod of more than five years beginning on the date of
12 the conviction or the date of entry of the plea of nolo
13 contendere, as the case may be.

14 **§ 922. Diplomatic codes and correspondence**

15 Whoever, by virtue of his employment by the United
16 States, obtains from another or has or has had custody of or
17 access to, any official diplomatic code or any matter prepared
18 in any such code, or which purports to have been prepared in
19 any such code, and without authorization or competent author-
20 ity, knowingly publishes or furnishes to another any such code
21 or matter, or any matter which was obtained while in the proc-
22 ess of transmission between any foreign government and its
23 diplomatic mission in the United States, shall be or imprisoned
24 not more than ten years.

25 **§ 923. False statements influencing foreign gov-**
26 **ernment**

27 Whoever, in relation to any dispute or controversy between
28 a foreign government and the United States, knowingly makes
29 any untrue statement, either orally or in writing, under oath
30 before any person authorized and empowered to administer
31 oaths, which the affiant has knowledge or reason to believe will,
32 or may be used to influence the measures or conduct of any
33 foreign government, or of any officer or agent of any foreign
34 government, to the injury of the United States, or with a view
35 or intent to influence any measure of or action by the United
36 States or any department or agency thereof, to the injury of
37 the United States, shall be imprisoned not more than ten years.

1 **§ 924. Conspiracy to kill, kidnap, maim, or injure**
2 **persons or damage property in a foreign**
3 **country**

4 (a) OFFENSE AGAINST PERSONS.—

5 (1) ELEMENTS.—Whoever, within the jurisdiction of
6 the United States, conspires with one or more other per-
7 sons, regardless of where such other person or persons are
8 located, to commit at any place outside the United States
9 an act that would constitute the offense of murder, kidnap-
10 ping, or maiming if committed in the special maritime and
11 territorial jurisdiction of the United States shall, if any of
12 the conspirators commits an act within the jurisdiction of
13 the United States to effect any object of the conspiracy, be
14 punished as provided in paragraph (2).

15 (2) PUNISHMENT.— The punishment for an offense under
16 paragraph (1) is—

17 (A) imprisonment for any term of years or for life if
18 the offense is conspiracy to murder or kidnap; and

19 (B) imprisonment for not more than 35 years if the
20 offense is conspiracy to maim.

21 (b) OFFENSE AGAINST PROPERTY.—Whoever, within the
22 jurisdiction of the United States, conspires with one or more
23 persons, regardless of where such other person or persons are
24 located, to damage or destroy specific property situated within
25 a foreign country and belonging to a foreign government or to
26 any political subdivision thereof with which the United States
27 is at peace, or any railroad, canal, bridge, airport, airfield, or
28 other public utility, public conveyance, or public structure, or
29 any religious, educational, or cultural property so situated,
30 shall, if any of the conspirators commits an act within the ju-
31 risdiction of the United States to effect any object of the con-
32 spiracy, be imprisoned not more than 25 years.

33 **§ 925. Enlistment in foreign service**

34 (a) OFFENSE.—Whoever, within the United States, enlists
35 or enters himself, or hires or retains another to enlist or enter
36 himself, or to go beyond the jurisdiction of the United States
37 with intent to be enlisted or entered in the service of any for-

1 eign prince, state, colony, district, or people as a soldier or as
2 a marine or seaman on board any vessel of war, letter of
3 marque, or privateer, shall be imprisoned not more than three
4 years.

5 (b) EXCLUSIONS.—

6 (1) This section does not apply to citizens or subjects
7 of any country engaged in war with a country with which
8 the United States is at war, unless such citizen or subject
9 of such foreign country shall hire or solicit a citizen of the
10 United States to enlist or go beyond the jurisdiction of the
11 United States with intent to enlist or enter the service of
12 a foreign country. Enlistments under this subsection shall
13 be under regulations prescribed by the Secretary of the
14 Army.

15 (2) This section and sections 957 and 958 do not
16 apply to any subject or citizen of any foreign prince, state,
17 colony, district, or people who is transiently within the
18 United States and enlists or enters himself on board any
19 vessel of war, letter of marque, or privateer, which at the
20 time of its arrival within the United States was fitted and
21 equipped as such, or hires or retains another subject or cit-
22 izen of the same foreign prince, state, colony, district, or
23 people who is transiently within the United States to enlist
24 or enter himself to serve such foreign prince, state, colony,
25 district, or people on board such vessel of war, letter of
26 marque, or privateer, if the United States shall then be at
27 peace with such foreign prince, state, colony, district, or
28 people.

29 **§ 926. Expedition against friendly nation**

30 Whoever, within the United States, knowingly begins or
31 sets on foot or provides or prepares a means for or furnishes
32 the money for, or takes part in, any military or naval expedi-
33 tion or enterprise to be carried on from thence against the ter-
34 ritory or dominion of any foreign prince or state, or of any col-
35 ony, district, or people with whom the United States is at
36 peace, shall be imprisoned not more than three years.

1 **§ 927. Detention of armed vessel**

2 (a) **AUTHORITY OF PRESIDENT.**—During a war in which
 3 the United States is a neutral nation, the President, or any
 4 person authorized by him, may detain any armed vessel owned
 5 wholly or in part by citizens of the United States, or any vessel,
 6 domestic or foreign (other than one which has entered the ports
 7 of the United States as a public vessel), which is manifestly
 8 built for warlike purposes or has been converted or adapted
 9 from a private vessel to one suitable for warlike use, until the
 10 owner or master, or person having charge of such vessel, shall
 11 furnish proof satisfactory to the President, or to the person
 12 duly authorized by him, that the vessel will not be employed to
 13 cruise against or commit or attempt to commit hostilities upon
 14 the subjects, citizens, or property of any foreign prince or state,
 15 or of any colony, district, or people with which the United
 16 States is at peace, and that the said vessel will not be sold or
 17 delivered to any belligerent nation, or to an agent, officer, or
 18 citizen of such nation, by them or any of them, within the juris-
 19 diction of the United States, or upon the high seas.

20 (b) **OFFENSE.**—Whoever, in violation of this section takes,
 21 or attempts to take, or authorizes the taking of any such ves-
 22 sel, out of port or from the United States, shall be imprisoned
 23 not more than ten years.

24 (c) **FORFEITURE.**—In addition, such vessel, her tackle, ap-
 25 parel, furniture, equipment, and her cargo shall be forfeited to
 26 the United States.

27 **§ 928. Protection of property occupied by foreign**
 28 **governments**

29 (a) **PROPERTY OFFENSE.**—Whoever knowingly injures,
 30 damages, or destroys, or attempts to injure, damage, or de-
 31 stroy, any property, real or personal, located within the United
 32 States and belonging to or utilized or occupied by any foreign
 33 government or international organization, by a foreign official
 34 or official guest, shall be imprisoned not more than five years.

35 (b) **THREAT AND HARASSMENT OFFENSE.**—Whoever,
 36 knowingly with intent to intimidate, coerce, threaten, or har-
 37 ass—

948. Theft of mail matter by officer or employee.
 949. Misappropriation of postal funds.
 950. Injurious articles as nonmailable.
 951. Franking privilege.

1 **§ 941. Obstruction of mails generally**

2 Whoever knowingly obstructs the passage of the mail, or
 3 any carrier or conveyance carrying the mail, shall be impris-
 4 oned not more than six months.

5 **§ 942. Obstruction of correspondence**

6 Whoever takes any letter, postal card, or package out of
 7 any post office or any authorized depository for mail matter,
 8 or from any letter or mail carrier, or which has been in any
 9 post office or authorized depository, or in the custody of any
 10 letter or mail carrier, before it has been delivered to the person
 11 to whom it was directed, with intent to obstruct the cor-
 12 respondence, or to pry into the business or secrets of another,
 13 or opens, secretes, embezzles, or destroys the same, shall be im-
 14 prisoned not more than five years.

15 **§ 943. Delay or destruction of mail or newspapers**

16 (a) MAIL MATTER.—Whoever, being a Postal Service offi-
 17 cer or employee, unlawfully secretes, destroys, detains, delays,
 18 or opens any letter, postal card, package, bag, or mail en-
 19 trusted to that officer or employee or which shall come into his
 20 or her possession, and which was intended to be conveyed by
 21 mail, or carried or delivered by any carrier or other employee
 22 of the Postal Service, or forwarded through or delivered from
 23 any post office or station thereof established by authority of the
 24 Postmaster General or the Postal Service, shall be imprisoned
 25 not more than five years.

26 (b) NEWSPAPER.—Whoever, being a Postal Service officer
 27 or employee, improperly detains, delays, or destroys any news-
 28 paper, or permits any other person to detain, delay, or destroy
 29 the same, or opens, or permits any other person to open, any
 30 mail or package of newspapers not directed to the office where
 31 he is employed; or Whoever, without authority, opens, or de-
 32 stroyes any mail or package of newspapers not directed to him,
 33 shall be imprisoned not more than one year.

§ 944. Keys or locks stolen or reproduced

Whoever—

(1) steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter;

(2) knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

(3) being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer;

shall be imprisoned not more than ten years.

§ 945. Destruction of letter boxes or mail

Whoever knowingly injures, tears down or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or knowingly injures, defaces or destroys any mail deposited therein, shall be imprisoned not more than three years.

§ 946. Theft of property used by Postal Service

Whoever steals, purloins, or embezzles any property used by the Postal Service, or appropriates any such property to any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be imprisoned not more than three years, but if the value of such

1 property does not exceed \$1,000, the offender shall be impris-
2 oned not more than one year.

3 **§ 947. Theft or receipt of stolen mail matter gen-**
4 **erally**

5 Whoever—

6 (1) steals, takes, or abstracts, or by fraud or deception
7 obtains, or attempts so to obtain, from or out of any mail,
8 post office, or station thereof, letter box, mail receptacle, or
9 any mail route or other authorized depository for mail mat-
10 ter, or from a letter or mail carrier, any letter, postal card,
11 package, bag, or mail, or abstracts or removes from any
12 such letter, package, bag, or mail, any article or thing con-
13 tained therein, or secretes, embezzles, or destroys any such
14 letter, postal card, package, bag, or mail, or any article or
15 thing contained therein;

16 (2) steals, takes, or abstracts, or by fraud or deception
17 obtains any letter, postal card, package, bag, or mail, or
18 any article or thing contained therein which has been left
19 for collection upon or adjacent to a collection box or other
20 authorized depository of mail matter; or

21 (3) buys, receives, or conceals, or unlawfully has in his
22 possession, any letter, postal card, package, bag, or mail,
23 or any article or thing contained therein, which has been
24 so stolen, taken, embezzled, or abstracted, as herein de-
25 scribed, knowing the same to have been stolen, taken, em-
26 bezzled, or abstracted;

27 shall be imprisoned not more than five years.

28 **§ 948. Theft of mail matter by officer or employee**

29 Whoever, being a Postal Service officer or employee, em-
30 bezzles any letter, postal card, package, bag, or mail, or any
31 article or thing contained therein entrusted to him or which
32 comes into his possession intended to be conveyed by mail, or
33 carried or delivered by any carrier, messenger, agent, or other
34 person employed in any department of the Postal Service, or
35 forwarded through or delivered from any post office or station
36 thereof established by authority of the Postmaster General or
37 of the Postal Service; or steals, abstracts, or removes from any

1 such letter, package, bag, or mail, any article or thing con-
2 tained therein, shall be imprisoned not more than five years.

3 **§ 949. Misappropriation of postal funds**

4 (a) OFFENSE.—Whoever, being a Postal Service officer or
5 employee, loans, uses, pledges, hypothecates, or converts to his
6 own use, or deposits in any bank, or exchanges for other funds
7 or property, except as authorized by law, any money or prop-
8 erty coming into his hands or under his control in any manner,
9 in the execution or under color of his office, employment, or
10 service, whether or not the same shall be the money or property
11 of the United States; or fails or refuses to remit to or deposit
12 in the Treasury of the United States or in a designated deposi-
13 tory, or to account for or turn over to the proper officer or
14 agent, any such money or property, when required to do so by
15 law or the regulations of the Postal Service, or upon demand
16 or order of the Postal Service, either directly or through a duly
17 authorized officer or agent, is guilty of embezzlement; and
18 every such person, as well as every other person advising or
19 knowingly participating therein, shall be imprisoned not more
20 than ten years; but if the amount or value thereof does not ex-
21 ceed \$1,000, he shall be imprisoned not more than one year.

22 (b) EXCLUSION.—This section does not prohibit any Post-
23 al Service officer or employee from depositing, under the direc-
24 tion of the Postal Service, in a national bank designated by the
25 Secretary of the Treasury for that purpose, to his own credit
26 as Postal Service officer or employee any funds in his charge,
27 nor prevent his negotiating drafts or other evidences of debt
28 through such bank, or through United States disbursing offi-
29 cers, or otherwise, when instructed or required so to do by the
30 Postal Service, for the purpose of remitting surplus funds from
31 one post office to another.

32 **§ 950. Injurious articles as nonmailable**

33 (a) IN GENERAL.—All kinds of poison, and all articles and
34 compositions containing poison, and all poisonous animals, in-
35 sects, reptiles, and all explosives, inflammable materials, infer-
36 nal machines, and mechanical, chemical, or other devices or
37 compositions which may ignite or explode, and all disease

1 germs or scabs, and all other natural or artificial articles, com-
2 positions, or material which may kill or injure another, or in-
3 jure the mails or other property, whether or not sealed as first-
4 class matter, are nonmailable matter and shall not be conveyed
5 in the mails or delivered from any post office or station thereof,
6 nor by any officer or employee of the Postal Service.

7 (b) EXCEPTIONS.—The Postal Service may permit the
8 transmission in the mails, under such rules and regulations as
9 it shall prescribe as to preparation and packing, of any such
10 articles which are not outwardly or of their own force dan-
11 gerous or injurious to life, health, or property.

12 (c) SCORPIONS.—The Postal Service is authorized and di-
13 rected to permit the transmission in the mails, under regula-
14 tions to be prescribed by it, of live scorpions which are to be
15 used for purposes of medical research or for the manufacture
16 of antivenom. Such regulations shall include such provisions
17 with respect to the packaging of such live scorpions for trans-
18 mission in the mails as the Postal Service deems necessary or
19 desirable for the protection of Postal Service personnel and of
20 the public generally and for ease of handling by such personnel
21 and by any individual connected with such research or manu-
22 facture. Nothing contained in this paragraph shall be construed
23 to authorize the transmission in the mails of live scorpions by
24 means of aircraft engaged in the carriage of passengers for
25 compensation or hire.

26 (d) POISONOUS DRUGS AND MEDICINES.—The trans-
27 mission in the mails of poisonous drugs and medicines may be
28 limited by the Postal Service to shipments of such articles from
29 the manufacturer thereof or dealer therein to licensed physi-
30 cians, surgeons, dentists, pharmacists, druggists, cosmetolo-
31 gists, barbers, and veterinarians under such rules and regula-
32 tions as it shall prescribe.

33 (e) POISONS FOR SCIENTIFIC USE.—The transmission in
34 the mails of poisons for scientific use, and which are not out-
35 wardly dangerous or of their own force dangerous or injurious
36 to life, health, or property, may be limited by the Postal Service
37 to shipments of such articles between the manufacturers there-

1 of, dealers therein, bona fide research or experimental scientific
2 laboratories, and such other persons who are employees of the
3 Federal, a State, or local government, whose official duties are
4 comprised, in whole or in part, of the use of such poisons, and
5 who are designated by the head of the agency in which they
6 are employed to receive or send such articles, under such rules
7 and regulations as the Postal Service shall prescribe.

8 (f) INTOXICATING LIQUORS.—All spirituous, vinous, malt-
9 ed, fermented, or other intoxicating liquors of any kind are
10 nonmailable and shall not be deposited in or carried through
11 the mails.

12 (g) KNIVES.—All knives having a blade which opens auto-
13 matically (1) by hand pressure applied to a button or other de-
14 vice in the handle of the knife, or (2) by operation of inertia,
15 gravity, or both, are nonmailable and shall not be deposited in
16 or carried by the mails or delivered by any officer or employee
17 of the Postal Service. Such knives may be conveyed in the
18 mails, under such regulations as the Postal Service shall pre-
19 scribe—

20 (1) to civilian or Armed Forces supply or procurement
21 officers and employees of the Federal Government ordering,
22 procuring, or purchasing such knives in connection with the
23 activities of the Federal Government;

24 (2) to supply or procurement officers of the National
25 Guard, the Air National Guard, or militia of a State order-
26 ing, procuring, or purchasing such knives in connection
27 with the activities of such organizations;

28 (3) to supply or procurement officers or employees of
29 any State, or any political subdivision of a State or Terri-
30 tory, ordering, procuring, or purchasing such knives in con-
31 nection with the activities of such government; and

32 (4) to manufacturers of such knives or bona fide deal-
33 ers therein in connection with any shipment made pursuant
34 to an order from any person designated in paragraphs (1),
35 (2), and (3).

36 The Postal Service may require, as a condition of conveying
37 any such knife in the mails, that any person proposing to mail

1 such knife explain in writing to the satisfaction of the Postal
2 Service that the mailing of such knife will not be in violation
3 of this section.

4 (h) ADVERTISING, PROMOTIONAL, OR SALES MATTER.—
5 Any advertising, promotional, or sales matter which solicits or
6 induces the mailing of anything declared nonmailable by this
7 section is likewise nonmailable unless such matter contains
8 wrapping or packaging instructions which are in accord with
9 regulations promulgated by the Postal Service.

10 (i) BALLISTIC KNIVES.—

11 (1) GENERALLY.—Any ballistic knife shall be subject
12 to the same restrictions and penalties provided under sub-
13 section (g) for knives described in the first sentence of that
14 subsection.

15 (2) DEFINITION.—As used in this subsection, the term
16 “ballistic knife” means a knife with a detachable blade that
17 is propelled by a spring-operated mechanism.

18 (j) OFFENSES.—

19 (1) COMPLIANCE WITH RULES AND REGULATIONS.—
20 Whoever knowingly deposits for mailing or delivery, or
21 knowingly causes to be delivered by mail, according to the
22 direction thereon, or at any place at which it is directed to
23 be delivered by the person to whom it is addressed, any-
24 thing declared nonmailable by this section, unless in ac-
25 cordance with the rules and regulations authorized to be
26 prescribed by the Postal Service, shall be imprisoned not
27 more than one year.

28 (2) WITH INTENT TO KILL OR INJURE ANOTHER OR TO
29 INJURE THE MAILS OR PROPERTY.—Whoever knowingly de-
30 posits for mailing or delivery, or knowingly causes to be deliv-
31 ered by mail, according to the direction thereon or at any place
32 to which it is directed to be delivered by the person to whom
33 it is addressed, anything declared nonmailable by this section,
34 whether or not transmitted in accordance with the rules and
35 regulations authorized to be prescribed by the Postal Service,
36 with intent to kill or injure another, or injure the mails or
37 other property, shall be imprisoned not more than twenty years.

1 (3) DEATH PENALTY.—Whoever is convicted of any crime
2 prohibited by this section, which has resulted in the death of
3 any person, shall be subject also to the death penalty or to im-
4 prisonment for life.

5 **§ 951. Franking privilege**

6 Whoever makes use of any official envelope, label, or
7 indorsement authorized by law, to avoid the payment of postage
8 or registry fee on his private letter, packet, package, or other
9 matter in the mail, shall be fined under this title.

10 SUBCHAPTER H—SPECIAL MARITIME AND TERRI-
11 TORIAL JURISDICTION OF THE UNITED STATES

Sec.

961. Laws of States adopted for areas within Federal jurisdiction.

12 **§ 961. Laws of States adopted for areas within**
13 **Federal jurisdiction**

14 (a) OFFENSE.—Whoever within the reserved or acquired
15 special maritime or territorial jurisdiction of the United States,
16 or on, above, or below any portion of the territorial sea of the
17 United States not within the jurisdiction of any State, is guilty
18 of any act or omission which, although not made punishable by
19 any enactment of Congress, would be punishable if committed
20 or omitted within the jurisdiction of the State in which such
21 place is situated, by the laws thereof in force at the time of
22 such act or omission, shall be guilty of a like offense and sub-
23 ject to a like punishment.

24 (b) OPERATING A MOTOR VEHICLE UNDER THE INFLU-
25 ENCE OF ALCOHOL.—

26 (1) LIMITATION ON RIGHT OR PRIVILEGE TO OPER-
27 ATE A MOTOR VEHICLE.—Subject to paragraph (2) and for
28 purposes of subsection (a) of this section, that which may
29 or shall be imposed through judicial or administrative ac-
30 tion under the law of a State, territory, possession, or dis-
31 trict, for a conviction for operating a motor vehicle under
32 the influence of a drug or alcohol, shall be considered to
33 be a punishment provided by that law. Any limitation on
34 the right or privilege to operate a motor vehicle imposed

1 under this subsection shall apply only to the special mari-
2 time and territorial jurisdiction of the United States.

3 (2) **ADDITIONAL PUNISHMENT.**—In addition to any term
4 of imprisonment provided for operating a motor vehicle under
5 the influence of a drug or alcohol imposed under the law of a
6 State, territory, possession, or district, the punishment for such
7 an offense under this section shall include an additional term
8 of imprisonment of not more than 1 year, or if serious bodily
9 injury of a child is caused, not more than 5 years, or if death
10 of a child is caused, not more than 10 years, and an additional
11 fine under this title, or both, if—

12 (A) a child (other than the offender) was present in
13 the motor vehicle when the offense was committed; and

14 (B) the law of the State, territory, possession, or dis-
15 trict in which the offense occurred does not provide an ad-
16 ditional term of imprisonment under the circumstances de-
17 scribed in subparagraph (A).

18 (c) **TERRITORIAL SEA.**—Whenever any waters of the terri-
19 torial sea of the United States lie outside the territory of any
20 State, such waters (including the airspace above and the seabed
21 and subsoil below, and artificial islands and fixed structures
22 erected thereon) shall be deemed, for purposes of subsection
23 (a), to lie within the area of the State that it would lie within
24 if the boundaries of such State were extended seaward to the
25 outer limit of the territorial sea of the United States.

26 **CHAPTER 29—CRIMES RELATED TO PROTEC-**
27 **TION OF GOVERNMENT FUNCTIONS AND IN-**
28 **TEGRITY**

Subchapter	Sec.
A. Bribery, graft, and conflicts of interest	991
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1 informed that such person will be so nominated or ap-
2 pointed; and

3 (3) the term “official act” means any decision or ac-
4 tion on any question, matter, cause, suit, proceeding or
5 controversy, which may at any time be pending, or which
6 may by law be brought before any public official, in such
7 official’s official capacity, or in such official’s place of trust
8 or profit.

9 (b) BRIBERY.—Whoever—

10 (1) corruptly gives, offers or promises anything of
11 value to any public official or person who has been selected
12 to be a public official, or offers or promises any public offi-
13 cial or any person who has been selected to be a public offi-
14 cial to give anything of value to any other person or entity,
15 with intent—

16 (A) to influence any official act; or

17 (B) to influence such public official or person who
18 has been selected to be a public official to commit or
19 aid in committing, or collude in, or allow, any fraud,
20 or make opportunity for the commission of any fraud,
21 on the United States; or

22 (C) to induce such public official or such person
23 who has been selected to be a public official to do or
24 omit to do any act in violation of the lawful duty of
25 such official or person;

26 (2) being a public official or person selected to be a
27 public official, corruptly demands, seeks, receives, accepts,
28 or agrees to receive or accept anything of value personally
29 or for any other person or entity, in return for:

30 (A) being influenced in the performance of any of-
31 ficial act;

32 (B) being influenced to commit or aid in commit-
33 ting, or to collude in, or allow, any fraud, or make op-
34 portunity for the commission of any fraud on the
35 United States; or

36 (C) being induced to do or omit to do any act in
37 violation of the official duty of such official or person;

1 (3) corruptly gives, offers, or promises anything of
2 value to any person, or offers or promises such person to
3 give anything of value to any other person or entity, with
4 intent to influence the testimony under oath or affirmation
5 of such first-mentioned person as a witness upon a trial,
6 hearing, or other proceeding, before any court, any com-
7 mittee of either House or both Houses of Congress, or any
8 agency, commission, or officer authorized by the laws of the
9 United States to hear evidence or take testimony, or with
10 intent to influence such person to absent himself therefrom;

11 (4) corruptly demands, seeks, receives, accepts, or
12 agrees to receive or accept anything of value personally or
13 for any other person or entity in return for being influ-
14 enced in testimony under oath or affirmation as a witness
15 upon any such trial, hearing, or other proceeding, or in re-
16 turn for absenting himself therefrom;

17 shall be imprisoned for not more than fifteen years
18 and may be disqualified from holding any office of honor,
19 trust, or profit under the United States.

20 (c) UNLAWFUL REWARDS.—Whoever—

21 (1) otherwise than as provided by law for the proper
22 discharge of official duty—

23 (A) gives, offers, or promises anything of value to
24 any public official, former public official, or person se-
25 lected to be a public official, for or because of any offi-
26 cial act performed or to be performed by such public
27 official, former public official, or person selected to be
28 a public official; or

29 (B) being a public official, former public official,
30 or person selected to be a public official, otherwise than
31 as provided by law for the proper discharge of official
32 duty, demands, seeks, receives, accepts, or agrees to re-
33 ceive or accept anything of value personally for or be-
34 cause of any official act performed or to be performed
35 by such official or person;

36 (2) gives, offers, or promises anything of value to any
37 person, for or because of the testimony under oath or affir-

1 mation given or to be given by such person as a witness
2 upon a trial, hearing, or other proceeding, before any court,
3 any committee of either House or both Houses of Congress,
4 or any agency, commission, or officer authorized by the
5 laws of the United States to hear evidence or take testi-
6 mony, or for or because of such person's absence there-
7 from;

8 (3) demands, seeks, receives, accepts, or agrees to re-
9 ceive or accept anything of value personally for or because
10 of the testimony under oath or affirmation given or to be
11 given by such person as a witness upon any such trial,
12 hearing, or other proceeding, or for or because of such per-
13 son's absence therefrom;

14 shall be imprisoned for not more than two years.

15 (d) EXCLUSION.—Paragraphs (3) and (4) of subsection
16 (b) and paragraphs (2) and (3) of subsection (c) shall not be
17 construed to prohibit the payment or receipt of witness fees
18 provided by law, or the payment, by the party upon whose be-
19 half a witness is called and receipt by a witness, of the reason-
20 able cost of travel and subsistence incurred and the reasonable
21 value of time lost in attendance at any such trial, hearing, or
22 proceeding, or in the case of expert witnesses, a reasonable fee
23 for time spent in the preparation of such opinion, and in ap-
24 pearing and testifying.

25 **§ 992. Definitions for certain sections**

26 (a) 993, 995, 997, 998, AND 999.—For the purpose of
27 sections 993, 995, 997, 998, and 999 the term “special Gov-
28 ernment employee” means—

29 (1) an officer or employee of the executive or legisla-
30 tive branch of the United States Government, of any inde-
31 pendent agency of the United States or of the District of
32 Columbia, who is retained, designated, appointed, or em-
33 ployed to perform, with or without compensation, for not
34 to exceed one 130 during any period of 365 consecutive
35 days, temporary duties either on a full-time or intermittent
36 basis, a part-time United States commissioner, a part-time
37 United States magistrate judge, or, regardless of the num-

1 ber of days of appointment, an independent counsel ap-
2 pointed under chapter 40 of title 28 and any person ap-
3 pointed by that independent counsel under section 594(c)
4 of title 28;

5 (2) every person serving as a part-time local represent-
6 ative of a Member of Congress in the Member's home dis-
7 trict or State; and

8 (3) notwithstanding section 29(c) and (d) of the Act
9 of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and
10 (d)), a Reserve officer of the Armed Forces, or an officer
11 of the National Guard of the United States, unless other-
12 wise an officer or employee of the United States, while on
13 active duty solely for training;

14 except that a Reserve officer of the Armed Forces or an officer
15 of the National Guard of the United States who is voluntarily
16 serving a period of extended active duty in excess of 130 days
17 shall be classified as an officer of the United States within the
18 meaning of section 993 and sections 995 through 999 and
19 1005, and a Reserve officer of the Armed Forces or an officer
20 of the National Guard of the United States who is serving in-
21 voluntarily shall be classified as a special Government em-
22 ployee. The terms "officer or employee" and "special Govern-
23 ment employee" as used in sections 993, 995, 997 through
24 999, and 1005, does not include enlisted members of the
25 Armed Forces.

26 (b) 995 AND 997.—For the purposes of sections 995 and
27 997, the term "official responsibility" means the direct admin-
28 istrative or operating authority, whether intermediate or final,
29 and either exercisable alone or with others, and either person-
30 ally or through subordinates, to approve, disapprove, or other-
31 wise direct Government action.

32 (c) EXCLUSION FROM "OFFICER" AND "EMPLOYEE".—
33 Except as otherwise provided in such sections, the terms "offi-
34 cer" and "employee" in sections 993, 995, 997 through 999,
35 and 1005 does not include the President, the Vice President,
36 a Member of Congress, or a Federal judge.

1 (d) “MEMBER OF CONGRESS”.—The term “Member of
2 Congress” in sections 994 and 997 means—

3 (1) a United States Senator; and

4 (2) a Representative in, or a Delegate or Resident
5 Commissioner to, the House of Representatives.

6 (e) ADDITIONAL DEFINITIONS.—As used in this sub-
7 chapter—

8 (1) the term “executive branch” includes each execu-
9 tive agency as defined in title 5, and any other entity or
10 administrative unit in the executive branch;

11 (2) the term “judicial branch” means the Supreme
12 Court of the United States; the United States courts of ap-
13 peals; the United States district courts; the Court of Inter-
14 national Trade; the United States bankruptcy courts; any
15 court created pursuant to article I of the United States
16 Constitution, including the Court of Appeals for the Armed
17 Forces, the United States Court of Federal Claims, and the
18 United States Tax Court, but not including a court of a
19 territory or possession of the United States; the Federal
20 Judicial Center; and any other agency, office, or entity in
21 the judicial branch; and

22 (3) the term “legislative branch” means—

23 (A) the Congress; and

24 (B) the Office of the Architect of the Capitol, the
25 United States Botanic Garden, the Government Ac-
26 countability Office, the Government Printing Office, the
27 Library of Congress, the Office of Technology Assess-
28 ment, the Congressional Budget Office, the United
29 States Capitol Police, and any other agency, entity, of-
30 fice, or commission established in the legislative
31 branch.

32 **§ 993. Compensation to Members of Congress, offi-**
33 **cers, and others in matters affecting the**
34 **Government**

35 (a) FEDERAL MATTERS.—Whoever, otherwise than as pro-
36 vided by law for the proper discharge of official duties—

1 (1) demands, seeks, receives, accepts, or agrees to re-
2 ceive or accept any compensation for any representational
3 services, as agent or attorney or otherwise, rendered or to
4 be rendered either personally or by another—

5 (A) at a time when such person is a Member of
6 Congress, Member of Congress Elect, Delegate, Dele-
7 gate Elect, Resident Commissioner, or Resident Com-
8 missioner Elect; or

9 (B) at a time when such person is an officer or
10 employee or Federal judge of the United States in the
11 executive, legislative, or judicial branch of the Govern-
12 ment, or in any agency of the United States,
13 in relation to any proceeding, application, request for a rul-
14 ing or other determination, contract, claim, controversy,
15 charge, accusation, arrest, or other particular matter in
16 which the United States is a party or has a direct and sub-
17 stantial interest, before any department, agency, court,
18 court-martial, officer, or any civil, military, or naval com-
19 mission; or

20 (2) knowingly gives, promises, or offers any compensa-
21 tion for any such representational services rendered or to
22 be rendered at a time when the person to whom the com-
23 pensation is given, promised, or offered, is or was such a
24 Member, Member Elect, Delegate, Delegate Elect, Commis-
25 sioner, Commissioner Elect, Federal judge, officer, or em-
26 ployee;

27 shall be subject to the penalties set forth in section 216 of this
28 title.

29 (b) DISTRICT OF COLUMBIA.—Whoever, otherwise than as
30 provided by law for the proper discharge of official duties—

31 (1) demands, seeks, receives, accepts, or agrees to re-
32 ceive or accept any compensation for any representational
33 services, as agent or attorney or otherwise, rendered or to
34 be rendered either personally or by another, at a time when
35 such person is an officer or employee of the District of Co-
36 lumbia, in relation to any proceeding, application, request
37 for a ruling or other determination, contract, claim, con-

1 troverly, charge, accusation, arrest, or other particular
2 matter in which the District of Columbia is a party or has
3 a direct and substantial interest, before any department,
4 agency, court, officer, or commission; or

5 (2) knowingly gives, promises, or offers any compensa-
6 tion for any such representational services rendered or to
7 be rendered at a time when the person to whom the com-
8 pensation is given, promised, or offered, is or was an officer
9 or employee of the District of Columbia;

10 shall be subject to the penalties set forth in section 216 of this
11 title.

12 (c) SPECIAL GOVERNMENT EMPLOYEES.—A special Gov-
13 ernment employee shall be subject to subsections (a) and (b)
14 only in relation to a particular matter involving a specific party
15 or parties—

16 (1) in which such employee has at any time partici-
17 pated personally and substantially as a Government em-
18 ployee or as a special Government employee through deci-
19 sion, approval, disapproval, recommendation, the rendering
20 of advice, investigation or otherwise; or

21 (2) which is pending in the department or agency of
22 the Government in which such employee is serving except
23 that paragraph (2) of this subsection shall not apply in the
24 case of a special Government employee who has served in
25 such department or agency no more than sixty days during
26 the immediately preceding period of three hundred and
27 sixty-five consecutive days.

28 (d) EXCLUSION.—Nothing in this section prevents an offi-
29 cer or employee, including a special Government employee,
30 from acting, with or without compensation, as agent or attor-
31 ney for or otherwise representing his parents, spouse, child, or
32 any person for whom, or for any estate for which, he is serving
33 as guardian, executor, administrator, trustee, or other personal
34 fiduciary except—

35 (1) in those matters in which he has participated per-
36 sonally and substantially as a Government employee or as
37 a special Government employee through decision, approval,

1 disapproval, recommendation, the rendering of advice, in-
2 vestigation, or otherwise; or

3 (2) in those matters that are the subject of his official
4 responsibility,

5 subject to approval by the Government official responsible for
6 appointment to his position.

7 (e) CERTIFICATION OF NATIONAL INTEREST.—Nothing in
8 this section prevents a special Government employee from act-
9 ing as agent or attorney for another person in the performance
10 of work under a grant by, or a contract with or for the benefit
11 of, the United States if the head of the department or agency
12 concerned with the grant or contract certifies in writing that
13 the national interest so requires and publishes such certifi-
14 cation in the Federal Register.

15 (f) TESTIMONY AND STATEMENTS.—Nothing in this sec-
16 tion prevents an individual from giving testimony under oath
17 or from making statements required to be made under penalty
18 of perjury.

19 **§ 994. Practice in United States Court of Federal**
20 **Claims or the United States Court of Ap-**
21 **peals for the Federal Circuit by Members**
22 **of Congress**

23 Whoever, being a Member of Congress or Member of Con-
24 gress Elect, practices in the United States Court of Federal
25 Claims or the United States Court of Appeals for the Federal
26 Circuit shall be subject to the penalties set forth in section
27 1004 of this title.

28 **§ 995. Activities of officers and employees in**
29 **claims against and other matters affecting**
30 **the Government**

31 (a) FEDERAL MATTERS.—Whoever, being an officer or
32 employee of the United States in the executive, legislative, or
33 judicial branch of the Government or in any agency of the
34 United States, other than in the proper discharge of his official
35 duties—

36 (1) acts as agent or attorney for prosecuting any claim
37 against the United States, or receives any gratuity, or any

1 share of or interest in any such claim, in consideration of
2 assistance in the prosecution of such claim; or

3 (2) acts as agent or attorney for anyone before any de-
4 partment, agency, court, court-martial, officer, or civil,
5 military, or naval commission in connection with any cov-
6 ered matter in which the United States is a party or has
7 a direct and substantial interest;

8 shall be subject to the penalties set forth in section 216 of this
9 title.

10 (b) DISTRICT OF COLUMBIA.—Whoever, being an officer
11 or employee of the District of Columbia or an officer or em-
12 ployee of the Office of the United States Attorney for the Dis-
13 trict of Columbia, otherwise than in the proper discharge of of-
14 ficial duties—

15 (1) acts as agent or attorney for prosecuting any claim
16 against the District of Columbia, or receives any gratuity,
17 or any share of or interest in any such claim in consider-
18 ation of assistance in the prosecution of such claim; or

19 (2) acts as agent or attorney for anyone before any de-
20 partment, agency, court, officer, or commission in connec-
21 tion with any covered matter in which the District of Co-
22 lumbia is a party or has a direct and substantial interest;
23 shall be subject to the penalties set forth in section 216 of this
24 title.

25 (c) SPECIAL GOVERNMENT EMPLOYEES.—A special Gov-
26 ernment employee shall be subject to subsections (a) and (b)
27 only in relation to a covered matter involving a specific party
28 or parties—

29 (1) in which he has at any time participated personally
30 and substantially as a Government employee or special
31 Government employee through decision, approval, dis-
32 approval, recommendation, the rendering of advice, inves-
33 tigation, or otherwise; or

34 (2) which is pending in the department or agency of
35 the Government in which he is serving.

36 Paragraph (2) shall not apply in the case of a special Govern-
37 ment employee who has served in such department or agency

1 no more than sixty days during the immediately preceding pe-
2 riod of three hundred and sixty-five consecutive days.

3 (d) EXCLUSION WITH RESPECT TO CERTAIN PERSONS.—

4 (1) GENERALLY.—Nothing in subsection (a) or (b)
5 prevents an officer or employee, if not inconsistent with the
6 faithful performance of that officer's or employee's duties,
7 from acting without compensation as agent or attorney for,
8 or otherwise representing—

9 (A) any person who is the subject of disciplinary,
10 loyalty, or other personnel administration proceedings
11 in connection with those proceedings; or

12 (B) except as provided in paragraph (2), any coop-
13 erative, voluntary, professional, recreational, or similar
14 organization or group not established or operated for
15 profit, if a majority of the organization's or group's
16 members are current officers or employees of the
17 United States or of the District of Columbia, or their
18 spouses or dependent children.

19 (2) EXCEPTION.—Paragraph (1)(B) does not apply
20 with respect to a covered matter that—

21 (A) is a claim under subsection (a)(1) or (b)(1);

22 (B) is a judicial or administrative proceeding
23 where the organization or group is a party; or

24 (C) involves a grant, contract, or other agreement
25 (including a request for any such grant, contract, or
26 agreement) providing for the disbursement of Federal
27 funds to the organization or group.

28 (e) EXCLUSION WITH RESPECT FAMILY MEMBERS.—

29 Nothing in subsection (a) or (b) prevents an officer or em-
30 ployee, including a special Government employee, from acting,
31 with or without compensation, as agent or attorney for, or oth-
32 erwise representing, his parents, spouse, child, or any person
33 for whom, or for any estate for which, he is serving as guard-
34 ian, executor, administrator, trustee, or other personal fidu-
35 ciary except—

36 (1) in those matters in which he has participated per-
37 sonally and substantially as a Government employee or spe-

1 cial Government employee through decision, approval, dis-
2 approval, recommendation, the rendering of advice, inves-
3 tigation, or otherwise, or

4 (2) in those matters which are the subject of his offi-
5 cial responsibility,

6 subject to approval by the Government official responsible for
7 appointment to his position.

8 (f) CERTIFICATION OF NATIONAL INTEREST.—Nothing in
9 subsection (a) or (b) prevents a special Government employee
10 from acting as agent or attorney for another person in the per-
11 formance of work under a grant by, or a contract with or for
12 the benefit of, the United States if the head of the department
13 or agency concerned with the grant or contract certifies in writ-
14 ing that the national interest so requires and publishes such
15 certification in the Federal Register.

16 (g) TESTIMONY AND STATEMENTS.—Nothing in this sec-
17 tion prevents an officer or employee from giving testimony
18 under oath or from making statements required to be made
19 under penalty for perjury or contempt.

20 (h) DEFINITION.—For the purpose of this section, the
21 term “covered matter” means any judicial or other proceeding,
22 application, request for a ruling or other determination, con-
23 tract, claim, controversy, investigation, charge, accusation, ar-
24 rest, or other particular matter.

25 (i) ADDITIONAL EXCLUSIONS.—Nothing in this section
26 prevents an employee from acting pursuant to—

27 (1) chapter 71 of title 5;

28 (2) section 1004 or chapter 12 of title 39;

29 (3) section 3 of the Tennessee Valley Authority Act of
30 1933 (16 U.S.C. 831b);

31 (4) chapter 10 of title I of the Foreign Service Act of
32 1980 (22 U.S.C. 4104 et seq.); or

33 (5) any provision of any other Federal or District of
34 Columbia law that authorizes labor-management relations
35 between an agency or instrumentality of the United States
36 or the District of Columbia and any labor organization that
37 represents its employees.

1 **§ 996. Exemption of retired officers of the uni-**
 2 **formed services**

3 Sections 993 and 995 of this title shall not apply to a re-
 4 tired officer of the uniformed services of the United States
 5 while not on active duty and not otherwise an officer or em-
 6 ployee of the United States, or to any person specially excepted
 7 by Act of Congress.

8 **§ 997. Restrictions on former officers, employees,**
 9 **and elected officials of the executive and**
 10 **legislative branches**

11 (a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF
 12 THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

13 (1) PERMANENT RESTRICTIONS ON REPRESENTATION
 14 ON PARTICULAR MATTERS.—Any person who is an officer
 15 or employee (including any special Government employee)
 16 of the executive branch of the United States (including any
 17 independent agency of the United States), or of the District
 18 of Columbia, and who, after the termination of his or her
 19 service or employment with the United States or the Dis-
 20 trict of Columbia, knowingly makes, with the intent to in-
 21 fluence, any communication to or appearance before any of-
 22 ficer or employee of any department, agency, court, or
 23 court-martial of the United States or the District of Co-
 24 lumbia, on behalf of any other person (except the United
 25 States or the District of Columbia) in connection with a
 26 particular matter—

27 (A) in which the United States or the District of
 28 Columbia is a party or has a direct and substantial in-
 29 terest,

30 (B) in which the person participated personally
 31 and substantially as such officer or employee, and

32 (C) which involved a specific party or specific par-
 33 ties at the time of such participation,

34 shall be punished as provided in section 1004 of this title.

35 (2) TWO-YEAR RESTRICTIONS CONCERNING PAR-
 36 TICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—

37 Any person subject to the restrictions contained in para-

1 graph (1) who, within 2 years after the termination of his
2 or her service or employment with the United States or the
3 District of Columbia, knowingly makes, with the intent to
4 influence, any communication to or appearance before any
5 officer or employee of any department, agency, court, or
6 court-martial of the United States or the District of Co-
7 lumbia, on behalf of any other person (except the United
8 States or the District of Columbia), in connection with a
9 particular matter—

10 (A) in which the United States or the District of
11 Columbia is a party or has a direct and substantial in-
12 terest,

13 (B) which such person knows or reasonably should
14 know was actually pending under his or her official re-
15 sponsibility as such officer or employee within a period
16 of 1 year before the termination of his or her service
17 or employment with the United States or the District
18 of Columbia, and

19 (C) which involved a specific party or specific par-
20 ties at the time it was so pending,

21 shall be punished as provided in section 1004.

22 (3) CLARIFICATION OF RESTRICTIONS.—The restric-
23 tions contained in paragraphs (1) and (2) shall apply—

24 (A) in the case of an officer or employee of the ex-
25 ecutive branch of the United States (including any
26 independent agency), only with respect to communica-
27 tions to or appearances before any officer or employee
28 of any department, agency, court, or court-martial of
29 the United States on behalf of any other person (except
30 the United States), and only with respect to a matter
31 in which the United States is a party or has a direct
32 and substantial interest; and

33 (B) in the case of an officer or employee of the
34 District of Columbia, only with respect to communica-
35 tions to or appearances before any officer or employee
36 of any department, agency, or court of the District of
37 Columbia on behalf of any other person (except the

1 District of Columbia), and only with respect to a mat-
2 ter in which the District of Columbia is a party or has
3 a direct and substantial interest.

4 (b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

5 (1) IN GENERAL.—Any person who is a former officer
6 or employee of the executive branch of the United States
7 (including any independent agency) and is subject to the
8 restrictions contained in subsection (a)(1), or any person
9 who is a former officer or employee of the legislative branch
10 or a former Member of Congress, who personally and sub-
11 stantially participated in any ongoing trade or treaty nego-
12 tiation on behalf of the United States within the 1-year pe-
13 riod preceding the date on which his or her service or em-
14 ployment with the United States terminated, and who had
15 access to information concerning such trade or treaty nego-
16 tiation which is exempt from disclosure under section 552
17 of title 5, which is so designated by the appropriate depart-
18 ment or agency, and which the person knew or should have
19 known was so designated, shall not, on the basis of that in-
20 formation, knowingly represent, aid, or advise any other
21 person (except the United States) concerning such ongoing
22 trade or treaty negotiation for a period of 1 year after his
23 or her service or employment with the United States termi-
24 nates. Any person who violates this subsection shall be pun-
25 ished as provided in section 1004 of this title.

26 (2) DEFINITION.—For purposes of this paragraph—

27 (A) the term “trade negotiation” means negotia-
28 tions which the President determines to undertake to
29 enter into a trade agreement pursuant to section 1102
30 of the Omnibus Trade and Competitiveness Act of
31 1988, and does not include any action taken before
32 that determination is made; and

33 (B) the term “treaty” means an international
34 agreement made by the President that requires the ad-
35 vice and consent of the Senate.

1 (c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PER-
2 SONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT
3 AGENCIES.—

4 (1) RESTRICTIONS.—In addition to the restrictions set
5 forth in subsections (a) and (b), any person who is an offi-
6 cer or employee (including any special Government em-
7 ployee) of the executive branch of the United States (in-
8 cluding an independent agency), who is referred to in para-
9 graph (2), and who, within 1 year after the termination of
10 his or her service or employment as such officer or em-
11 ployee, knowingly makes, with the intent to influence, any
12 communication to or appearance before any officer or em-
13 ployee of the department or agency in which such person
14 served within 1 year before such termination, on behalf of
15 any other person (except the United States), in connection
16 with any matter on which such person seeks official action
17 by any officer or employee of such department or agency,
18 shall be punished as provided in section 1004 of this title.

19 (2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A)
20 Paragraph (1) shall apply to a person (other than a person
21 subject to the restrictions of subsection (d))—

22 (i) employed at a rate of pay specified in or fixed
23 according to subchapter II of chapter 53 of title 5,

24 (ii) employed in a position which is not referred to
25 in clause (i) and for which that person is paid at a rate
26 of basic pay which is equal to or greater than 86.5 per-
27 cent of the rate of basic pay for level II of the Execu-
28 tive Schedule, or, for a period of 2 years following the
29 enactment of the National Defense Authorization Act
30 for Fiscal Year 2004, a person who, on the day prior
31 to the enactment of that Act, was employed in a posi-
32 tion which is not referred to in clause (i) and for which
33 the rate of basic pay, exclusive of any locality-based
34 pay adjustment under section 5304 or section 5304a of
35 title 5, was equal to or greater than the rate of basic
36 pay payable for level 5 of the Senior Executive Service
37 on the day prior to the enactment of that Act,

1 (iii) appointed by the President to a position under
2 section 105(a)(2)(B) of title 3 or by the Vice President
3 to a position under section 106(a)(1)(B) of title 3,

4 (iv) employed in a position which is held by an ac-
5 tive duty commissioned officer of the uniformed serv-
6 ices who is serving in a grade or rank for which the
7 pay grade (as specified in section 201 of title 37) is pay
8 grade O-7 or above; OR

9 (v) assigned from a private sector organization to
10 an agency under chapter 37 of title 5.

11 (B) Paragraph (1) shall not apply to a special Govern-
12 ment employee who serves less than 60 days in the 1-year
13 period before his or her service or employment as such em-
14 ployee terminates.

15 (C) At the request of a department or agency, the Di-
16 rector of the Office of Government Ethics may waive the
17 restrictions contained in paragraph (1) with respect to any
18 position, or category of positions, referred to in clause (ii)
19 or (iv) of subparagraph (A), in such department or agency
20 if the Director determines that—

21 (i) the imposition of the restrictions with respect
22 to such position or positions would create an undue
23 hardship on the department or agency in obtaining
24 qualified personnel to fill such position or positions,
25 and

26 (ii) granting the waiver would not create the po-
27 tential for use of undue influence or unfair advantage.

28 (d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE
29 EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

30 (1) RESTRICTIONS.—In addition to the restrictions set
31 forth in subsections (a) and (b), any person who—

32 (A) serves in the position of Vice President of the
33 United States,

34 (B) is employed in a position in the executive
35 branch of the United States (including any independent
36 agency) at a rate of pay payable for level I of the Exec-
37 utive Schedule or employed in a position in the Execu-

1 tive Office of the President at a rate of pay payable for
2 level II of the Executive Schedule, or

3 (C) is appointed by the President to a position
4 under section 105(a)(2)(A) of title 3 or by the Vice
5 President to a position under section 106(a)(1)(A) of
6 title 3,

7 and who, within 1 year after the termination of that per-
8 son's service in that position, knowingly makes, with the in-
9 tent to influence, any communication to or appearance be-
10 fore any person described in paragraph (2), on behalf of
11 any other person (except the United States), in connection
12 with any matter on which such person seeks official action
13 by any officer or employee of the executive branch of the
14 United States, shall be punished as provided in section
15 1004 of this title.

16 (2) PERSONS WHO MAY NOT BE CONTACTED.—The
17 persons referred to in paragraph (1) with respect to ap-
18 pearances or communications by a person in a position de-
19 scribed in subparagraph (A), (B), or (C) of paragraph (1)
20 are—

21 (A) any officer or employee of any department or
22 agency in which such person served in such position
23 within a period of 1 year before such person's service
24 or employment with the United States Government ter-
25 minated, and

26 (B) any person appointed to a position in the exec-
27 utive branch which is listed in section 5312, 5313,
28 5314, 5315, or 5316 of title 5.

29 (e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFI-
30 CERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

31 (1) MEMBERS OF CONGRESS AND ELECTED OFFI-
32 CERS.—(A) Any person who is a Member of Congress or
33 an elected officer of either House of Congress and who,
34 within 1 year after that person leaves office, knowingly
35 makes, with the intent to influence, any communication to
36 or appearance before any of the persons described in sub-
37 paragraph (B) or (C), on behalf of any other person (ex-

1 cept the United States) in connection with any matter on
2 which such former Member of Congress or elected officer
3 seeks action by a Member, officer, or employee of either
4 House of Congress, in his or her official capacity, shall be
5 punished as provided in section 1004 of this title.

6 (B) The persons referred to in subparagraph (A) with
7 respect to appearances or communications by a former
8 Member of Congress are any Member, officer, or employee
9 of either House of Congress, and any employee of any other
10 legislative office of the Congress.

11 (C) The persons referred to in subparagraph (A) with
12 respect to appearances or communications by a former
13 elected officer are any Member, officer, or employee of the
14 House of Congress in which the elected officer served.

15 (2) PERSONAL STAFF.—(A) Any person who is an em-
16 ployee of a Senator or an employee of a Member of the
17 House of Representatives and who, within 1 year after the
18 termination of that employment, knowingly makes, with the
19 intent to influence, any communication to or appearance
20 before any of the persons described in subparagraph (B),
21 on behalf of any other person (except the United States)
22 in connection with any matter on which such former em-
23 ployee seeks action by a Member, officer, or employee of ei-
24 ther House of Congress, in his or her official capacity, shall
25 be punished as provided in section 1004 of this title.

26 (B) The persons referred to in subparagraph (A) with
27 respect to appearances or communications by a person who
28 is a former employee are the following:

29 (i) the Senator or Member of the House of Rep-
30 resentatives for whom that person was an employee;
31 and

32 (ii) any employee of that Senator or Member of
33 the House of Representatives.

34 (3) COMMITTEE STAFF.—Any person who is an em-
35 ployee of a committee of Congress and who, within 1 year
36 after the termination of that person's employment on such
37 committee, knowingly makes, with the intent to influence,

1 any communication to or appearance before any person who
2 is a Member or an employee of that committee or who was
3 a Member of the committee in the year immediately prior
4 to the termination of such person's employment by the
5 committee, on behalf of any other person (except the
6 United States) in connection with any matter on which
7 such former employee seeks action by a Member, officer, or
8 employee of either House of Congress, in his or her official
9 capacity, shall be punished as provided in section 1004 of
10 this title.

11 (4) LEADERSHIP STAFF.—(A) Any person who is an
12 employee on the leadership staff of the House of Represent-
13 atives or an employee on the leadership staff of the Senate
14 and who, within 1 year after the termination of that per-
15 son's employment on such staff, knowingly makes, with the
16 intent to influence, any communication to or appearance
17 before any of the persons described in subparagraph (B),
18 on behalf of any other person (except the United States)
19 in connection with any matter on which such former em-
20 ployee seeks action by a Member, officer, or employee of ei-
21 ther House of Congress, in his or her official capacity, shall
22 be punished as provided in section 1004 of this title.

23 (B) The persons referred to in subparagraph (A) with
24 respect to appearances or communications by a former em-
25 ployee are the following:

26 (i) in the case of a former employee on the leader-
27 ship staff of the House of Representatives, those per-
28 sons are any Member of the leadership of the House
29 of Representatives and any employee on the leadership
30 staff of the House of Representatives; and

31 (ii) in the case of a former employee on the leader-
32 ship staff of the Senate, those persons are any Member
33 of the leadership of the Senate and any employee on
34 the leadership staff of the Senate.

35 (5) OTHER LEGISLATIVE OFFICES.—(A) Any person
36 who is an employee of any other legislative office of the
37 Congress and who, within 1 year after the termination of

1 that person's employment in such office, knowingly makes,
2 with the intent to influence, any communication to or ap-
3 pearance before any of the persons described in subpara-
4 graph (B), on behalf of any other person (except the
5 United States) in connection with any matter on which
6 such former employee seeks action by any officer or em-
7 ployee of such office, in his or her official capacity, shall
8 be punished as provided in section 1004 of this title.

9 (B) The persons referred to in subparagraph (A) with
10 respect to appearances or communications by a former em-
11 ployee are the employees and officers of the former legisla-
12 tive office of the Congress of the former employee.

13 (6) LIMITATION ON RESTRICTIONS.—(A) The restric-
14 tions contained in paragraphs (2), (3), and (4) apply only
15 to acts by a former employee who, for at least 60 days, in
16 the aggregate, during the 1-year period before that former
17 employee's service as such employee terminated, was paid
18 a rate of basic pay equal to or greater than an amount
19 which is 75 percent of the basic rate of pay payable for a
20 Member of the House of Congress in which such employee
21 was employed.

22 (B) The restrictions contained in paragraph (5) apply
23 only to acts by a former employee who, for at least 60
24 days, in the aggregate, during the 1-year period before that
25 former employee's service as such employee terminated, was
26 employed in a position for which the rate of basic pay, ex-
27 clusive of any locality-based pay adjustment under section
28 5302 of title 5 (or any comparable adjustment pursuant to
29 interim authority of the President), is equal to or greater
30 than the basic rate of pay payable for level V of the Senior
31 Executive Service.

32 (7) DEFINITIONS.—As used in this subsection—

33 (A) the term “committee of Congress” includes
34 standing committees, joint committees, and select com-
35 mittees;

1 (B) a person is an employee of a House of Con-
2 gress if that person is an employee of the Senate or an
3 employee of the House of Representatives;

4 (C) the term “employee of the House of Rep-
5 resentatives” means an employee of a Member of the
6 House of Representatives, an employee of a committee
7 of the House of Representatives, an employee of a joint
8 committee of the Congress whose pay is disbursed by
9 the Clerk of the House of Representatives, and an em-
10 ployee on the leadership staff of the House of Rep-
11 resentatives;

12 (D) the term “employee of the Senate” means an
13 employee of a Senator, an employee of a committee of
14 the Senate, an employee of a joint committee of the
15 Congress whose pay is disbursed by the Secretary of
16 the Senate, and an employee on the leadership staff of
17 the Senate;

18 (E) a person is an employee of a Member of the
19 House of Representatives if that person is an employee
20 of a Member of the House of Representatives under the
21 clerk hire allowance;

22 (F) a person is an employee of a Senator if that
23 person is an employee in a position in the office of a
24 Senator;

25 (G) the term “employee of any other legislative of-
26 fice of the Congress” means an officer or employee of
27 the Architect of the Capitol, the United States Botanic
28 Garden, the Government Accountability Office, the
29 Government Printing Office, the Library of Congress,
30 the Office of Technology Assessment, the Congressional
31 Budget Office, the Copyright Royalty Tribunal, the
32 United States Capitol Police, and any other agency, en-
33 tity, or office in the legislative branch not covered by
34 paragraph (1), (2), (3), or (4) of this subsection;

35 (H) the term “employee on the leadership staff of
36 the House of Representatives” means an employee of
37 the office of a Member of the leadership of the House

1 of Representatives described in subparagraph (L), and
2 any elected minority employee of the House of Rep-
3 resentatives;

4 (I) the term “employee on the leadership staff of
5 the Senate” means an employee of the office of a Mem-
6 ber of the leadership of the Senate described in sub-
7 paragraph (M);

8 (J) the term “Member of Congress” means a Sen-
9 ator or a Member of the House of Representatives;

10 (K) the term “Member of the House of Represent-
11 atives” means a Representative in, or a Delegate or
12 Resident Commissioner to, the Congress;

13 (L) the term “Member of the leadership of the
14 House of Representatives” means the Speaker, major-
15 ity leader, minority leader, majority whip, minority
16 whip, chief deputy majority whip, chief deputy minority
17 whip, chairman of the Democratic Steering Committee,
18 chairman and vice chairman of the Democratic Caucus,
19 chairman, vice chairman, and secretary of the Repub-
20 lican Conference, chairman of the Republican Research
21 Committee, and chairman of the Republican Policy
22 Committee, of the House of Representatives (or any
23 similar position created on or after the effective date
24 set forth in section 102(a) of the Ethics Reform Act of
25 1989);

26 (M) the term “Member of the leadership of the
27 Senate” means the Vice President, and the President
28 pro tempore, Deputy President pro tempore, majority
29 leader, minority leader, majority whip, minority whip,
30 chairman and secretary of the Conference of the Major-
31 ity, chairman and secretary of the Conference of the
32 Minority, chairman and co-chairman of the Majority
33 Policy Committee, and chairman of the Minority Policy
34 Committee, of the Senate (or any similar position cre-
35 ated on or after the effective date set forth in section
36 102(a) of the Ethics Reform Act of 1989).

37 (f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

1 (1) RESTRICTIONS.—Any person who is subject to the
2 restrictions contained in subsection (c), (d), or (e) and who
3 knowingly, within 1 year after leaving the position, office,
4 or employment referred to in such subsection—

5 (A) represents a foreign entity before any officer
6 or employee of any department or agency of the United
7 States with the intent to influence a decision of such
8 officer or employee in carrying out his or her official
9 duties, or

10 (B) aids or advises a foreign entity with the intent
11 to influence a decision of any officer or employee of any
12 department or agency of the United States, in carrying
13 out his or her official duties,
14 shall be punished as provided in section 1004 of this title.

15 (2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—
16 With respect to a person who is the United States Trade
17 Representative or Deputy United States Trade Representa-
18 tive, the restrictions described in paragraph (1) shall apply
19 to representing, aiding, or advising foreign entities at any
20 time after the termination of that person’s service as the
21 United States Trade Representative.

22 (3) DEFINITION.—For purposes of this subsection, the
23 term “foreign entity” means the government of a foreign
24 country as defined in section 1(e) of the Foreign Agents
25 Registration Act of 1938, as amended, or a foreign political
26 party as defined in section 1(f) of that Act.

27 (g) SPECIAL RULES FOR DETAILEES.—For purposes of
28 this section, a person who is detailed from one department,
29 agency, or other entity to another department, agency, or other
30 entity shall, during the period such person is detailed, be
31 deemed to be an officer or employee of both departments, agen-
32 cies, or such entities.

33 (h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES
34 AND BUREAUS.—

35 (1) DESIGNATIONS.—For purposes of subsection (c)
36 and except as provided in paragraph (2), whenever the Di-
37 rector of the Office of Government Ethics determines that

1 an agency or bureau within a department or agency in the
2 executive branch exercises functions which are distinct and
3 separate from the remaining functions of the department or
4 agency and that there exists no potential for use of undue
5 influence or unfair advantage based on past Government
6 service, the Director shall by rule designate such agency or
7 bureau as a separate department or agency. On an annual
8 basis the Director of the Office of Government Ethics shall
9 review the designations and determinations made under
10 this subparagraph and, in consultation with the department
11 or agency concerned, make such additions and deletions as
12 are necessary. Departments and agencies shall cooperate to
13 the fullest extent with the Director of the Office of Govern-
14 ment Ethics in the exercise of his or her responsibilities
15 under this paragraph.

16 (2) INAPPLICABILITY OF DESIGNATIONS.—No agency
17 or bureau within the Executive Office of the President may
18 be designated under paragraph (1) as a separate depart-
19 ment or agency. No designation under paragraph (1) shall
20 apply to persons referred to in subsection (c)(2)(A)(i) or
21 (iii).

22 (i) DEFINITIONS.—For purposes of this section—

23 (1) the term “officer or employee”, when used to de-
24 scribe the person to whom a communication is made or be-
25 fore whom an appearance is made, with the intent to influ-
26 ence, shall include—

27 (A) in subsections (a), (c), and (d), the President
28 and the Vice President; and

29 (B) in subsection (f), the President, the Vice
30 President, and Members of Congress;

31 (2) the term “participated” means an action taken as
32 an officer or employee through decision, approval, dis-
33 approval, recommendation, the rendering of advice, inves-
34 tigation, or other such action; and

35 (3) the term “particular matter” includes any inves-
36 tigation, application, request for a ruling or determination,

1 rulemaking, contract, controversy, claim, charge, accusa-
2 tion, arrest, or judicial or other proceeding.

3 (j) EXCEPTIONS.—

4 (1) OFFICIAL GOVERNMENT DUTIES.—The restrictions
5 contained in this section shall not apply to acts done in car-
6 rying out official duties on behalf of the United States or
7 the District of Columbia or as an elected official of a State
8 or local government.

9 (2) STATE AND LOCAL GOVERNMENTS AND INSTITU-
10 TIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions
11 contained in subsections (c), (d), and (e) shall not apply to
12 acts done in carrying out official duties as an employee
13 of—

14 (A) an agency or instrumentality of a State or
15 local government if the appearance, communication, or
16 representation is on behalf of such government, or

17 (B) an accredited, degree-granting institution of
18 higher education, as defined in section 101 of the
19 Higher Education Act of 1965, or a hospital or medical
20 research organization, exempted and defined under sec-
21 tion 501(c)(3) of the Internal Revenue Code of 1986,
22 if the appearance, communication, or representation is
23 on behalf of such institution, hospital, or organization.

24 (3) INTERNATIONAL ORGANIZATIONS.—The restric-
25 tions contained in this section shall not apply to an appear-
26 ance or communication on behalf of, or advice or aid to,
27 an international organization in which the United States
28 participates, if the Secretary of State certifies in advance
29 that such activity is in the interests of the United States.

30 (4) SPECIAL KNOWLEDGE.—The restrictions contained
31 in subsections (c), (d), and (e) shall not prevent an indi-
32 vidual from making or providing a statement, which is
33 based on the individual's own special knowledge in the par-
34 ticular area that is the subject of the statement, if no com-
35 pensation is thereby received.

36 (5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL
37 INFORMATION.—The restrictions contained in subsections

1 (a), (c), and (d) shall not apply with respect to the making
2 of communications solely for the purpose of furnishing sci-
3 entific or technological information, if such communications
4 are made under procedures acceptable to the department or
5 agency concerned or if the head of the department or agen-
6 cy concerned with the particular matter, in consultation
7 with the Director of the Office of Government Ethics,
8 makes a certification, published in the Federal Register,
9 that the former officer or employee has outstanding quali-
10 fications in a scientific, technological, or other technical
11 discipline, and is acting with respect to a particular matter
12 which requires such qualifications, and that the national in-
13 terest would be served by the participation of the former
14 officer or employee. For purposes of this paragraph, the
15 term “officer or employee” includes the Vice President.

16 (6) EXCEPTION FOR TESTIMONY.—Nothing in this
17 section shall prevent an individual from giving testimony
18 under oath, or from making statements required to be
19 made under penalty of perjury. Notwithstanding the pre-
20 ceding sentence—

21 (A) a former officer or employee of the executive
22 branch of the United States (including any independent
23 agency) who is subject to the restrictions contained in
24 subsection (a)(1) with respect to a particular matter
25 may not, except pursuant to court order, serve as an
26 expert witness for any other person (except the United
27 States) in that matter; and

28 (B) a former officer or employee of the District of
29 Columbia who is subject to the restrictions contained in
30 subsection (a)(1) with respect to a particular matter
31 may not, except pursuant to court order, serve as an
32 expert witness for any other person (except the District
33 of Columbia) in that matter.

34 (7) POLITICAL PARTIES AND CAMPAIGN COMMIT-
35 TEES.—(A) Except as provided in subparagraph (B), the
36 restrictions contained in subsections (c), (d), and (e) shall
37 not apply to a communication or appearance made solely

1 on behalf of a candidate in his or her capacity as a can-
2 didate, an authorized committee, a national committee, a
3 national Federal campaign committee, a State committee,
4 or a political party.

5 (B) Subparagraph (A) shall not apply to—

6 (i) any communication to, or appearance before,
7 the Federal Election Commission by a former officer or
8 employee of the Federal Election Commission; or

9 (ii) a communication or appearance made by a
10 person who is subject to the restrictions contained in
11 subsections (c), (d), or (e) if, at the time of the commu-
12 nication or appearance, the person is employed by a
13 person or entity other than—

14 (I) a candidate, an authorized committee, a
15 national committee, a national Federal campaign
16 committee, a State committee, or a political party;
17 or

18 (II) a person or entity who represents,

19 (II) a person or entity who represents,
20 aids, or advises only persons or entities de-
21 scribed in subclause (I).

22 (C) For purposes of this paragraph—

23 (i) the term “candidate” means any person who
24 seeks nomination for election, or election, to Federal or
25 State office or who has authorized others to explore on
26 his or her behalf the possibility of seeking nomination
27 for election, or election, to Federal or State office;

28 (ii) the term “authorized committee” means any
29 political committee designated in writing by a candidate
30 as authorized to receive contributions or make expendi-
31 tures to promote the nomination for election, or the
32 election, of such candidate, or to explore the possibility
33 of seeking nomination for election, or the election, of
34 such candidate, except that a political committee that
35 receives contributions or makes expenditures to pro-
36 mote more than 1 candidate may not be designated as

1 an authorized committee for purposes of subparagraph
2 (A);

3 (iii) the term “national committee” means the or-
4 ganization which, by virtue of the bylaws of a political
5 party, is responsible for the day-to-day operation of
6 such political party at the national level;

7 (iv) the term “national Federal campaign com-
8 mittee” means an organization that, by virtue of the
9 bylaws of a political party, is established primarily for
10 the purpose of providing assistance, at the national
11 level, to candidates nominated by that party for elec-
12 tion to the office of Senator or Representative in, or
13 Delegate or Resident Commissioner to, the Congress;

14 (v) the term “State committee” means the organi-
15 zation which, by virtue of the bylaws of a political
16 party, is responsible for the day-to-day operation of
17 such political party at the State level;

18 (vi) the term “political party” means an associa-
19 tion, committee, or organization that nominates a can-
20 didate for election to any Federal or State elected office
21 whose name appears on the election ballot as the can-
22 didate of such association, committee, or organization;
23 and

24 (vii) the term “State” means a State of the United
25 States, the District of Columbia, the Commonwealth of
26 Puerto Rico, and any territory or possession of the
27 United States.

28 (k)(1)(A) The President may grant a waiver of a restric-
29 tion imposed by this section to any officer or employee de-
30 scribed in paragraph (2) if the President determines and cer-
31 tifies in writing that it is in the public interest to grant the
32 waiver and that the services of the officer or employee are criti-
33 cally needed for the benefit of the Federal Government. Not
34 more than 25 officers and employees currently employed by the
35 Federal Government at any one time may have been granted
36 waivers under this paragraph.

1 (B)(i) A waiver granted under this paragraph to any per-
2 son shall apply only with respect to activities engaged in by
3 that person after that person's Federal Government employ-
4 ment is terminated and only to that person's employment at a
5 Government-owned, contractor operated entity with which the
6 person served as an officer or employee immediately before the
7 person's Federal Government employment began.

8 (ii) Notwithstanding clause (i), a waiver granted under
9 this paragraph to any person who was an officer or employee
10 of Lawrence Livermore National Laboratory, Los Alamos Na-
11 tional Laboratory, or Sandia National Laboratory immediately
12 before the person's Federal Government employment began
13 shall apply to that person's employment by any such national
14 laboratory after the person's employment by the Federal Gov-
15 ernment is terminated.

16 (2) Waivers under paragraph (1) may be granted only to
17 civilian officers and employees of the executive branch, other
18 than officers and employees in the Executive Office of the
19 President.

20 (3) A certification under paragraph (1) shall take effect
21 upon its publication in the Federal Register and shall identi-
22 fy—

23 (A) the officer or employee covered by the waiver by name
24 and by position, and

25 (B) the reasons for granting the waiver.

26 A copy of the certification shall also be provided to the Director
27 of the Office of Government Ethics.

28 (4) The President may not delegate the authority provided
29 by this subsection.

30 (5)(A) Each person granted a waiver under this subsection
31 shall prepare reports, in accordance with subparagraph (B),
32 stating whether the person has engaged in activities otherwise
33 prohibited by this section for each six-month period described
34 in subparagraph (B), and if so, what those activities were.

35 (B) A report under subparagraph (A) shall cover each six-
36 month period beginning on the date of the termination of the
37 person's Federal Government employment (with respect to

1 which the waiver under this subsection was granted) and end-
2 ing two years after that date. Such report shall be filed with
3 the President and the Director of the Office of Government
4 Ethics not later than 60 days after the end of the six-month
5 period covered by the report. All reports filed with the Director
6 under this paragraph shall be made available for public inspec-
7 tion and copying.

8 (C) If a person fails to file any report in accordance with
9 subparagraphs (A) and (B), the President shall revoke the
10 waiver and shall notify the person of the revocation. The rev-
11 ocation shall take effect upon the person's receipt of the notifi-
12 cation and shall remain in effect until the report is filed.

13 (D) Any person who is granted a waiver under this sub-
14 section shall be ineligible for appointment in the civil service
15 unless all reports required of such person by subparagraphs (A)
16 and (B) have been filed.

17 (E) As used in this subsection, the term "civil service" has
18 the meaning given that term in section 2101 of title 5.

19 (I) CONTRACT ADVICE BY FORMER DETAILS.—Who-
20 ever, being an employee of a private sector organization as-
21 signed to an agency under chapter 37 of title 5, within one
22 year after the end of that assignment, knowingly represents
23 or aids, counsels, or assists in representing any other per-
24 son (except the United States) in connection with any con-
25 tract with that agency shall be punished as provided in sec-
26 tion 1004 of this title.

27 (I) Whoever, being an employee of a private sector organi-
28 zation assigned to an agency under chapter 37 of title 5, within
29 one year after the end of that assignment, knowingly represents
30 or aids, counsels, or assists in representing any other person
31 (except the United States) in connection with any contract with
32 that agency shall be punished as provided in section 1004 of
33 this title.

34 **§ 998. Acts affecting a personal financial interest**

35 (a) OFFENSE.—Except as permitted by subsection (b),
36 whoever, being an officer or employee of the executive branch
37 of the United States Government, or of any independent agency

1 of the United States, a Federal Reserve bank director, officer,
2 or employee, or an officer or employee of the District of Colum-
3 bia, including a special Government employee, participates per-
4 sonally and substantially as a Government officer or employee,
5 through decision, approval, disapproval, recommendation, the
6 rendering of advice, investigation, or otherwise, in a judicial or
7 other proceeding, application, request for a ruling or other de-
8 termination, contract, claim, controversy, charge, accusation,
9 arrest, or other particular matter in which, to his knowledge,
10 he, his spouse, minor child, general partner, organization in
11 which he is serving as officer, director, trustee, general partner
12 or employee, or any person or organization with whom he is ne-
13 gotiating or has any arrangement concerning prospective em-
14 ployment, has a financial interest shall be subject to the pen-
15 alties set forth in section 1004 of this title.

16 (b) EXCLUSIONS.—Subsection (a) shall not apply—

17 (1) if the officer or employee first advises the Govern-
18 ment official responsible for appointment to his or her posi-
19 tion of the nature and circumstances of the judicial or
20 other proceeding, application, request for a ruling or other
21 determination, contract, claim, controversy, charge, accusa-
22 tion, arrest, or other particular matter and makes full dis-
23 closure of the financial interest and receives in advance a
24 written determination made by such official that the inter-
25 est is not so substantial as to be deemed likely to affect the
26 integrity of the services which the Government may expect
27 from such officer or employee;

28 (2) if, by regulation issued by the Director of the Of-
29 fice of Government Ethics, applicable to all or a portion of
30 all officers and employees covered by this section, and pub-
31 lished in the Federal Register, the financial interest has
32 been exempted from the requirements of subsection (a) as
33 being too remote or too inconsequential to affect the integ-
34 rity of the services of the Government officers or employees
35 to which such regulation applies;

36 (3) in the case of a special Government employee serv-
37 ing on an advisory committee within the meaning of the

1 Federal Advisory Committee Act (including an individual
2 being considered for an appointment to such a position),
3 the official responsible for the employee's appointment,
4 after review of the financial disclosure report filed by the
5 individual pursuant to the Ethics in Government Act of
6 1978, certifies in writing that the need for the individual's
7 services outweighs the potential for a conflict of interest
8 created by the financial interest involved; or

9 (4) if the financial interest that would be affected by
10 the particular matter involved is that resulting solely from
11 the interest of the officer or employee, or his or her spouse
12 or minor child, in birthrights—

13 (A) in an Indian tribe, band, nation, or other or-
14 ganized group or community, including any Alaska Na-
15 tive village corporation as defined in or established pur-
16 suant to the Alaska Native Claims Settlement Act,
17 which is recognized as eligible for the special programs
18 and services provided by the United States to Indians
19 because of their status as Indians,

20 (B) in an Indian allotment the title to which is
21 held in trust by the United States or which is inalien-
22 able by the allottee without the consent of the United
23 States, or

24 (C) in an Indian claims fund held in trust or ad-
25 ministered by the United States,

26 if the particular matter does not involve the Indian allot-
27 ment or claims fund or the Indian tribe, band, nation, or-
28 ganized group or community, or Alaska Native village cor-
29 poration as a specific party or parties.

30 (c) DEEMING PROVISION.—(1) For the purpose of para-
31 graph (1) of subsection (b), in the case of class A and B direc-
32 tors of Federal Reserve banks, the Board of Governors of the
33 Federal Reserve System shall be deemed to be the Government
34 official responsible for appointment.

35 (2) The potential availability of an exemption under any
36 particular paragraph of subsection (b) does not preclude an ex-

1 exemption being granted pursuant to another paragraph of sub-
2 section (b).

3 (d) PUBLIC AVAILABILITY.—

4 (1) GENERALLY.—Upon request, a copy of any deter-
5 mination granting an exemption under subsection (b)(1) or
6 (b)(3) shall be made available to the public by the agency
7 granting the exemption pursuant to the procedures set
8 forth in section 105 of the Ethics in Government Act of
9 1978. In making such determination available, the agency
10 may withhold from disclosure any information contained in
11 the determination that would be exempt from disclosure
12 under section 552 of title 5. For purposes of determina-
13 tions under subsection (b)(3), the information describing
14 each financial interest shall be no more extensive than that
15 required of the individual in his or her financial disclosure
16 report under the Ethics in Government Act of 1978.

17 (2) UNIFORM REGULATIONS.—The Office of Govern-
18 ment Ethics, after consultation with the Attorney General,
19 shall issue uniform regulations for the issuance of waivers
20 and exemptions under subsection (b) which shall—

21 (A) list and describe exemptions; and

22 (B) provide guidance with respect to the types of in-
23 terests that are not so substantial as to be deemed likely
24 to affect the integrity of the services the Government may
25 expect from the employee.

26 **§ 999. Salary of Government officials and employ-**
27 **ees payable only by United States**

28 (a) OFFENSE.—Whoever—

29 (1) receives any salary, or any contribution to or sup-
30 plementation of salary, as compensation for his services as
31 an officer or employee of the executive branch of the
32 United States Government, of any independent agency of
33 the United States, or of the District of Columbia, from any
34 source other than the Government of the United States, ex-
35 cept as may be contributed out of the treasury of any
36 State, county, or municipality; or

1 (2) Whoever, whether an individual, partnership, asso-
2 ciation, corporation, or other organization pays, makes any
3 contribution to, or in any way supplements, the salary of
4 any such officer or employee under circumstances which
5 would make its receipt a violation of this subsection;
6 shall be subject to the penalties set forth in section 1004 of
7 this title.

8 (b) EXCLUSION.—Nothing herein prevents an officer or
9 employee of the executive branch of the United States Govern-
10 ment, or of any independent agency of the United States, or
11 of the District of Columbia, from continuing to participate in
12 a bona fide pension, retirement, group life, health or accident
13 insurance, profit-sharing, stock bonus, or other employee wel-
14 fare or benefit plan maintained by a former employer.

15 (c) SPECIAL GOVERNMENT EMPLOYEE.—This section does
16 not apply to a special Government employee or to an officer or
17 employee of the Government serving without compensation,
18 whether or not he is a special Government employee, or to any
19 person paying, contributing to, or supplementing his salary as
20 such.

21 (d) PAYMENTS UNDER CHAPTER 41 OF TITLE 5.—This
22 section does not prohibit payment or acceptance of contribu-
23 tions, awards, or other expenses under the terms of chapter 41
24 of title 5.

25 (e) RELOCATION EXPENSES.—This section does not pro-
26 hibit the payment of actual relocation expenses incident to par-
27 ticipation, or the acceptance of same by a participant in an ex-
28 ecutive exchange or fellowship program in an executive agency,
29 if such program has been established by statute or Executive
30 order of the President, offers appointments not to exceed three
31 hundred and sixty-five days, and permits no extensions in ex-
32 cess of ninety additional days or, in the case of participants in
33 overseas assignments, in excess of 365 days.

34 (f) INJURIES DURING CERTAIN OFFENSE.—This section
35 does not prohibit acceptance or receipt, by any officer or em-
36 ployee injured during the commission of an offense described
37 in section 102(7) or 102(8) of this title, of contributions or

1 payments from an organization which is described in section
 2 501(c)(3) of the Internal Revenue Code of 1986 and which is
 3 exempt from taxation under section 501(a) of such Code.

4 (g) PRIVATE SECTOR ORGANIZATION.—

5 (1) GENERALLY.—This section does not prohibit an
 6 employee of a private sector organization, while assigned to
 7 an agency under chapter 37 of title 5, from continuing to
 8 receive pay and benefits from such organization in accord-
 9 ance with such chapter.

10 (2) DEFINITION.—As used in this subsection, the term
 11 “agency” means an agency (as defined by section 3701 of
 12 title 5) and the Office of the Chief Technology Officer of
 13 the District of Columbia.

14 (h) RESERVER COMPONENTS OF ARMED FORCES.—This
 15 section does not prohibit a member of the reserve components
 16 of the armed forces on active duty pursuant to a call or order
 17 to active duty under a provision of law referred to in section
 18 101(a)(13) of title 10 from receiving from any person that em-
 19 ployed such member before the call or order to active duty any
 20 payment of any part of the salary or wages that such person
 21 would have paid the member if the member’s employment had
 22 not been interrupted by such call or order to active duty.

23 **§ 1000. Offer to procure appointive public office**

24 Whoever pays or offers or promises any money or thing
 25 of value, to any person, firm, or corporation in consideration
 26 of the use or promise to use any influence to procure any ap-
 27 pointive office or place under the United States for any person,
 28 shall be imprisoned not more than one year.

29 **§ 1001. Acceptance or solicitation to obtain ap-**
 30 **pointive public office**

31 (a) PROMISE OF OFFICE.—Whoever solicits or receives, ei-
 32 ther as a political contribution, or for personal emolument, any
 33 money or thing of value, in consideration of the promise of sup-
 34 port or use of influence in obtaining for any person any ap-
 35 pointive office or place under the United States, shall be im-
 36 prisoned not more than one year.

1 (b) ADDING PERSON TO OBTAIN EMPLOYMENT.—Whoever
2 solicits or receives any thing of value in consideration of aiding
3 a person to obtain employment under the United States either
4 by referring his name to an executive department or agency of
5 the United States or by requiring the payment of a fee because
6 such person has secured such employment shall be imprisoned
7 not more than one year.

8 (c) EXCLUSION.—This section does not apply to such serv-
9 ices rendered by an employment agency pursuant to the written
10 request of an executive department or agency of the United
11 States.

12 **§ 1002. Acceptance of loan or gratuity by financial**
13 **institution examiner**

14 Whoever, being an examiner or assistant examiner, accepts
15 a loan or gratuity from any bank, branch, agency, organization,
16 corporation, association, or institution examined by the exam-
17 iner or from any person connected with it, shall—

18 (1) be imprisoned not more than 1 year; and

19 (2) shall be disqualified from holding office as an ex-
20 aminer.

21 **§ 1003. Receipt of commissions or gifts for pro-**
22 **curing loans**

23 (a) OFFENSE.—Whoever—

24 (1) corruptly gives, offers, or promises anything of
25 value to any person, with intent to influence or reward an
26 officer, director, employee, agent, or attorney of a financial
27 institution in connection with any business or transaction
28 of such institution; or

29 (2) as an officer, director, employee, agent, or attorney
30 of a financial institution, corruptly solicits or demands for
31 the benefit of any person, or corruptly accepts or agrees to
32 accept, anything of value from any person, intending to be
33 influenced or rewarded in connection with any business or
34 transaction of such institution;

35 shall be imprisoned not more than 30 years, but if the value
36 of the thing given, offered, promised, solicited, demanded, ac-

1 cepted, or agreed to be accepted does not exceed \$1000, shall
2 be imprisoned not more than one year.

3 (b) EXCLUSION.—This section shall not apply to bona fide
4 salary, wages, fees, or other compensation paid, or expenses
5 paid or reimbursed, in the usual course of business.

6 (c) GUIDELINES.—Federal agencies with responsibility for
7 regulating a financial institution shall jointly establish such
8 guidelines as are appropriate to assist an officer, director, em-
9 ployee, agent, or attorney of a financial institution to comply
10 with this section. Such agencies shall make such guidelines
11 available to the public.

12 **§ 1004. Penalties and injunctions**

13 (a) CRIMINAL PENALTIES.—The punishment for an of-
14 fense under section 993, 994, 995, 997, 998, or 999 of this
15 title is the following:

16 (1) Whoever engages in the conduct constituting the
17 offense shall be imprisoned for not more than one year.

18 (2) Whoever knowingly engages in the conduct consti-
19 tuting the offense shall be imprisoned for not more than
20 five years.

21 (b) CIVIL ACTION.—The Attorney General may bring a
22 civil action in the appropriate United States district court
23 against any person who engages in conduct constituting an of-
24 fense under section 993, 994, 995, 997, 998, or 999 of this
25 title and, upon proof of such conduct by a preponderance of the
26 evidence, such person shall be subject to a civil penalty of not
27 more than \$50,000 for each violation or the amount of com-
28 pensation which the person received or offered for the prohib-
29 ited conduct, whichever amount is greater. The imposition of
30 a civil penalty under this subsection does not preclude any
31 other criminal or civil statutory, common law, or administrative
32 remedy, which is available by law to the United States or any
33 other person.

34 (c) COURT ORDER.—If the Attorney General has reason to
35 believe that a person is engaging in conduct constituting an of-
36 fense under section 993, 994, 995, 997, 998, or 999 of this
37 title, the Attorney General may petition an appropriate United

1 States district court for an order prohibiting that person from
2 engaging in such conduct. The court may issue an order pro-
3 hibiting that person from engaging in such conduct if the court
4 finds that the conduct constitutes such an offense. The filing
5 of a petition under this section does not preclude any other
6 remedy which is available by law to the United States or any
7 other person.

8 **§ 1005. Voiding transactions in violation of chap-**
9 **ter; recovery by the United States**

10 In addition to any other remedies provided by law the
11 President or, under regulations prescribed by him, the head of
12 any department or agency involved, may declare void and re-
13 scind any contract, loan, grant, subsidy, license, right, permit,
14 franchise, use, authority, privilege, benefit, certificate, ruling,
15 decision, opinion, or rate schedule awarded, granted, paid, fur-
16 nished, or published, or the performance of any service or
17 transfer or delivery of any thing to, by or for any agency of
18 the United States or officer or employee of the United States
19 or person acting on behalf thereof, in relation to which there
20 has been a final conviction for any violation of this chapter,
21 and the United States shall be entitled to recover in addition
22 to any penalty prescribed by law or in a contract the amount
23 expended or the thing transferred or delivered on its behalf, or
24 the reasonable value thereof.

25 **§ 1006. Officers and employees acting as agents of**
26 **foreign principals**

27 (a) OFFENSE.—Whoever, being a public official, is or acts
28 as an agent of a foreign principal required to register under the
29 Foreign Agents Registration Act of 1938 or a lobbyist required
30 to register under the Lobbying Disclosure Act of 1995 in con-
31 nection with the representation of a foreign entity, as defined
32 in section 3(6) of that Act shall be imprisoned for not more
33 than two years.

34 (b) EXCLUSION.—Nothing in this section shall apply to
35 the employment of any agent of a foreign principal as a special
36 Government employee in any case in which the head of the em-
37 ploying agency certifies that such employment is required in

1 the national interest. A copy of any certification under this
2 paragraph shall be forwarded by the head of such agency to the
3 Attorney General who shall cause the same to be filed with the
4 registration statement and other documents filed by such
5 agent, and made available for public inspection in accordance
6 with section 6 of the Foreign Agents Registration Act of 1938,
7 as amended.

8 (c) DEFINITION.—As used in this section “public official”
9 means Member of Congress, Delegate, or Resident Commis-
10 sioner, either before or after he has qualified, or an officer or
11 employee or person acting for or on behalf of the United
12 States, or any department, agency, or branch of Government
13 thereof, including the District of Columbia, in any official func-
14 tion, under or by authority of any such department, agency, or
15 branch of Government.

16 **§ 1007. Bribery in sporting contests**

17 (a) OFFENSE.—Whoever knowingly engages in any scheme
18 in or affecting interstate or foreign commerce to influence any
19 sporting contest in any way by bribery, shall be imprisoned not
20 more than 5 years.

21 (b) NONPREEMPTION.—This section shall not be construed
22 as indicating an intent on the part of Congress to occupy the
23 field in which this section operates to the exclusion of a law
24 of any State, territory, Commonwealth, or possession of the
25 United States, and no law of any State, territory, Common-
26 wealth, or possession of the United States, which would be
27 valid in the absence of the section shall be declared invalid, and
28 no local authorities shall be deprived of any jurisdiction over
29 any offense over which they would have jurisdiction in the ab-
30 sence of this section.

31 (c) DEFINITION.—As used in this section, the term “sport-
32 ing contest” means any contest in any sport, between individual
33 contestants or teams of contestants (without regard to the
34 amateur or professional status of the contestants therein), the
35 occurrence of which is publicly announced before its occurrence.

36 **§ 1008. Continuing financial crimes enterprise**

37 (a) OFFENSE.—Whoever—

1 (1) organizes, manages, or supervises a continuing fi-
 2 nancial crimes enterprise; and

3 (2) receives \$5,000,000 or more in gross receipts from
 4 such enterprise during any 24-month period,
 5 shall be imprisoned for a term of not less than 10 years and
 6 which may be life.

7 (b) DEFINITION.—As used in subsection (a), the term
 8 “continuing financial crimes enterprise” means a series of vio-
 9 lations under section 1003, 644, 645, 773, 774, 775, 779, 789,
 10 804, 801, and 803 affecting a financial institution, committed
 11 by at least 4 persons acting in concert.

12 SUBCHAPTER B—CLAIMS AND SERVICES IN
 13 MATTERS AFFECTING GOVERNMENT

Sec.

1017. False, fictitious or fraudulent claims.

14 **§ 1017. False, fictitious or fraudulent claims**

15 Whoever makes or presents to any person or officer in the
 16 civil, military, or naval service of the United States, or to any
 17 department or agency thereof, any claim upon or against the
 18 United States, or any department or agency thereof, knowing
 19 such claim to be false, fictitious, or fraudulent, shall be impris-
 20 oned not more than five years.

21 SUBCHAPTER C—CONTEMPTS

Sec.

1021. Power of court.

1022. Contempts constituting crimes.

22 **§ 1021. Power of court**

23 A court of the United States shall have power to punish
 24 by fine or imprisonment, or both, at its discretion, such con-
 25 tempt of its authority, and none other, as—

26 (1) misbehavior of any person in its presence or so
 27 near thereto as to obstruct the administration of justice;

28 (2) misbehavior of any of its officers in their official
 29 transactions; or

30 (3) disobedience or resistance to its lawful writ, proc-
 31 ess, order, rule, decree, or command.

1 **§ 1022. Contempts constituting crimes**

2 (a) OFFENSE.—Whoever disobeys any lawful writ, process,
3 order, rule, decree, or command of any district court of the
4 United States or any court of the District of Columbia, by
5 doing any act or thing therein, or thereby forbidden, if the act
6 or thing so done be of such character as to constitute also a
7 criminal offense under any statute of the United States or
8 under the laws of any State in which the act was committed,
9 shall be prosecuted for such contempt as provided in section
10 3691 and shall be imprisoned any term of years or for life.

11 (b) PAYMENT OF FINE AND LIMITATIONS ON FINE AND
12 IMPRISONMENT.—Such fine shall be paid to the United States
13 or to the complainant or other party injured by the act consti-
14 tuting the contempt, or may, where more than one is so dam-
15 aged, be divided or apportioned among them as the court may
16 direct, but in no case shall the fine to be paid to the United
17 States exceed, in case the accused is a natural person, the sum
18 of \$1,000, nor shall such imprisonment exceed the term of six
19 months.

20 (c) APPLICABILITY OF SECTION.—This section shall not
21 be construed to relate to contempts committed in the presence
22 of the court, or so near thereto as to obstruct the administra-
23 tion of justice, nor to contempts committed in disobedience of
24 any lawful writ, process, order, rule, decree, or command en-
25 tered in any suit or action brought or prosecuted in the name
26 of, or on behalf of, the United States, but the same, and all
27 other cases of contempt not specifically embraced in this sec-
28 tion may be punished in conformity to the prevailing usages at
29 law.

30 SUBCHAPTER D—ELECTIONS AND POLITICAL
31 ACTIVITIES

Sec.

1031. Intimidation of voters.

1032. Deprivation of employment or other benefit for political contribu-
tion.

1033. Solicitation of political contributions.

1034. Coercion of political activity.

1035. Voting by aliens.

1 **§ 1031. Intimidation of voters**

2 Whoever intimidates, threatens, coerces, or attempts to in-
3 timidate, threaten, or coerce, any other person for the purpose
4 of interfering with the right of such other person to vote or to
5 vote as he may choose, or of causing such other person to vote
6 for, or not to vote for, any candidate for the office of President,
7 Vice President, Presidential elector, Member of the Senate,
8 Member of the House of Representatives, Delegate from the
9 District of Columbia, or Resident Commissioner, at any elec-
10 tion held solely or in part for the purpose of electing such can-
11 didate, shall be imprisoned not more than one year.

12 **§ 1032. Deprivation of employment or other ben-**
13 **efit for political contribution**

14 (a) OFFENSE.—Whoever knowingly causes or attempts to
15 cause any person to make a contribution of a thing of value
16 (including services) for the benefit of any candidate or any po-
17 litical party, by means of the denial or deprivation, or the
18 threat of the denial or deprivation, of—

19 (1) any employment, position, or work in or for any
20 agency or other entity of the Government of the United
21 States, a State, or a political subdivision of a State, or any
22 compensation or benefit of such employment, position, or
23 work; or

24 (2) any payment or benefit of a program of the United
25 States, a State, or a political subdivision of a State;
26 if such employment, position, work, compensation, payment, or
27 benefit is provided for or made possible in whole or in part by
28 an Act of Congress, shall be imprisoned not more than one
29 year.

30 (b) DEFINITIONS.—As used in this section—

31 (1) the term “candidate” means an individual who
32 seeks nomination for election, or election, to Federal, State,
33 or local office, whether or not such individual is elected,
34 and, for purposes of this paragraph, an individual shall be
35 deemed to seek nomination for election, or election, to Fed-
36 eral, State, or local office, if he has (A) taken the action
37 necessary under the law of a State to qualify himself for

1 nomination for election, or election, or (B) received con-
2 tributions or made expenditures, or has given his consent
3 for any other person to receive contributions or make ex-
4 penditures, with a view to bringing about his nomination
5 for election, or election, to such office;

6 (2) the term “election” means (A) a general, special
7 primary, or runoff election, (B) a convention or caucus of
8 a political party held to nominate a candidate, (C) a pri-
9 mary election held for the selection of delegates to a nomi-
10 nating convention of a political party, (D) a primary elec-
11 tion held for the expression of a preference for the nomina-
12 tion of persons for election to the office of President, and
13 (E) the election of delegates to a constitutional convention
14 for proposing amendments to the Constitution of the
15 United States or of any State; and

16 (3) the term “State” means a State of the United
17 States, the District of Columbia, the Commonwealth of
18 Puerto Rico, or any territory or possession of the United
19 States.

20 § 1033. Solicitation of political contributions

21 (a) OFFENSE.—It shall be unlawful for—

22 (1) a candidate for the Congress;

23 (2) an individual elected to or serving in the office of
24 Senator or Representative in, or Delegate or Resident Com-
25 missioner to, the Congress;

26 (3) an officer or employee of the United States or any
27 department or agency thereof; or

28 (4) a person receiving any salary or compensation for
29 services from money derived from the Treasury of the
30 United States; to knowingly solicit any contribution within
31 the meaning of section 301(8) of the Federal Election
32 Campaign Act of 1971 from any other such officer, em-
33 ployee, or person. Whoever violates this section shall be im-
34 prisoned not more than 3 years.

35 (b) EXCLUSION.—The prohibition in subsection (a) shall
36 not apply to any activity of an employee (as defined in section
37 7322(1) of title 5) or any individual employed in or under the

1 United States Postal Service or the Postal Rate Commission,
2 unless that activity is prohibited by section 7323 or 7324 of
3 such title.

4 **§ 1034. Coercion of political activity**

5 It shall be unlawful for any person to intimidate, threaten,
6 command, or coerce, or attempt to intimidate, threaten, com-
7 mand, or coerce, any employee of the Federal Government as
8 defined in section 7322(1) of title 5, United States Code, to en-
9 gage in, or not to engage in, any political activity, including,
10 voting or refusing to vote for any candidate or measure in any
11 election, making or refusing to make any political contribution,
12 or working or refusing to work on behalf of any candidate.
13 Whoever violates this section shall be imprisoned not more than
14 three years.

15 **§ 1035. Voting by aliens**

16 (a) ELEMENTS OF OFFENSE.—It shall be unlawful for any
17 alien to vote in any election held solely or in part for the pur-
18 pose of electing a candidate for the office of President, Vice
19 President, Presidential elector, Member of the Senate, Member
20 of the House of Representatives, Delegate from the District of
21 Columbia, or Resident Commissioner, unless—

22 (1) the election is held partly for some other purpose;

23 (2) aliens are authorized to vote for such other pur-
24 pose under a State constitution or statute or a local ordi-
25 nance; and

26 (3) voting for such other purpose is conducted inde-
27 pendently of voting for a candidate for such Federal offices,
28 in such a manner that an alien has the opportunity to vote
29 for such other purpose, but not an opportunity to vote for
30 a candidate for any one or more of such Federal offices.

31 (b) PUNISHMENT.—Any person who violates this section
32 shall be imprisoned not more than one year.

33 (c) EXCLUSION.—Subsection (a) does not apply to an
34 alien if—

35 (1) each natural parent of the alien (or, in the case
36 of an adopted alien, each adoptive parent of the alien) is
37 or was a citizen (whether by birth or naturalization);

1 (2) the alien permanently resided in the United States
2 prior to attaining the age of 16; and

3 (3) the alien reasonably believed at the time of voting
4 in violation of such subsection that he or she was a citizen
5 of the United States.

6 SUBCHAPTER E—EMBLEMS, INSIGNIA, AND NAMES

Sec.

1051. Desecration of the flag of the United States; penalties.

1052. Official badges, identification cards, other insignia.

1054. Uniform of armed forces and Public Health Service.

1055. Military medals or decorations.

1056. False advertising or misuse of names to indicate Federal agency.

1057. Misuse of names, words, emblems, or insignia.

1058. Use of likenesses of the great seal of the United States, the seals
of the President and Vice President, the seal of the United States
Senate, the seal of the United States House of Representatives,
and the seal of the United States Congress.

1059. Police badges.

7 **§ 1051. Desecration of the flag of the United**
8 **States; penalties**

9 (a) OFFENSE.—Whoever knowingly mutilates, defaces,
10 physically defiles, burns, maintains on the floor or ground, or
11 tramples upon any flag of the United States shall be impris-
12 oned for not more than one year.

13 (b) EXCLUSIONS.—This subsection does not prohibit any
14 conduct consisting of the disposal of a flag when it has become
15 worn or soiled.

16 (c) DEFINITION.—As used in this section, the term “flag
17 of the United States” means any flag of the United States, or
18 any part thereof, made of any substance, of any size, in a form
19 that is commonly displayed.

20 (d) NONPREEMPTION.—Nothing in this section shall be
21 construed as indicating an intent on the part of Congress to
22 deprive any State, territory, possession, or the Commonwealth
23 of Puerto Rico of jurisdiction over any offense over which it
24 would have jurisdiction in the absence of this section.

25 (e) EXPEDITED APPEAL.—

26 (1) NATURE OF CLAIM.— An appeal may be taken di-
27 rectly to the Supreme Court of the United States from any
28 interlocutory or final judgment, decree, or order issued by

1 a United States district court ruling upon the constitu-
2 tionality of subsection (a).

3 (2) PROCEDURAL EXPEDITION.—The Supreme Court
4 shall, if it has not previously ruled on the question, accept ju-
5 risdiction over the appeal and advance on the docket and expe-
6 dite to the greatest extent possible.

7 **§ 1052. Official badges, identification cards, other**
8 **insignia**

9 Whoever manufactures, sells, or possesses any badge, iden-
10 tification card, or other insignia, of the design prescribed by
11 the head of any department or agency of the United States for
12 use by any officer or employee thereof, or any colorable imita-
13 tion thereof, or photographs, prints, or in any other manner
14 makes or executes any engraving, photograph, print, or impres-
15 sion in the likeness of any such badge, identification card, or
16 other insignia, or any colorable imitation thereof, except as au-
17 thorized under regulations made pursuant to law, shall be im-
18 prisoned not more than six months.

19 **§ 1054. Uniform of armed forces and Public Health**
20 **Service**

21 Whoever, in any place within the jurisdiction of the United
22 States or in the Canal Zone, without authority, wears the uni-
23 form or a distinctive part thereof or anything similar to a dis-
24 tinctive part of the uniform of any of the armed forces of the
25 United States, Public Health Service or any auxiliary of such,
26 shall be imprisoned not more than six months.

27 **§ 1055. Military medals or decorations**

28 (a) IN GENERAL.—Whoever knowingly wears, manufac-
29 tures, or sells any decoration or medal authorized by Congress
30 for the armed forces of the United States, or any of the service
31 medals or badges awarded to the members of such forces, or
32 the ribbon, button, or rosette of any such badge, decoration or
33 medal, or any colorable imitation thereof, except when author-
34 ized under regulations made pursuant to law, shall be impris-
35 oned not more than six months.

36 (b) CONGRESSIONAL MEDAL OF HONOR.—

1 (1) IN GENERAL.—If a decoration or medal involved in
 2 an offense under subsection (a) is a Congressional Medal
 3 of Honor, in lieu of the punishment provided in that sub-
 4 section, the offender shall be imprisoned not more than 1
 5 year.

6 (2) DEFINITIONS.—(A) As used in subsection (a) with
 7 respect to a Congressional Medal of Honor, “sells” includes
 8 trades, barters, or exchanges for anything of value.

9 (B) As used in this subsection, “Congressional Medal
 10 of Honor” means—

11 (i) a medal of honor awarded under section 3741,
 12 6241, or 8741 of title 10 or section 491 of title 14;

13 (ii) a duplicate medal of honor issued under sec-
 14 tion 3754, 6256, or 8754 of title 10 or section 504 of
 15 title 14; or

16 (iii) a replacement of a medal of honor provided
 17 under section 3747, 6253, or 8747 of title 10 or sec-
 18 tion 501 of title 14.

19 **§ 1056. False advertising or misuse of names to in-**
 20 **dicade Federal agency**

21 (a) OFFENSE.—Whoever—

22 (1) except as permitted by the laws of the United
 23 States, uses the words “national”, “Federal”, “United
 24 States”, “reserve”, or “Deposit Insurance” as part of the
 25 business or firm name of a person, corporation, partner-
 26 ship, business trust, association or other business entity en-
 27 gaged in the banking, loan, building and loan, brokerage,
 28 factorage, insurance, indemnity, savings or trust business;

29 (2) falsely advertises or represents, or publishes or dis-
 30 plays any sign, symbol or advertisement reasonably cal-
 31 culated to convey the impression that a nonmember bank,
 32 banking association, firm or partnership is a member of the
 33 Federal reserve system;

34 (3) except as expressly authorized by Federal law, uses
 35 the words “Federal Deposit”, “Federal Deposit Insur-
 36 ance”, or “Federal Deposit Insurance Corporation” or a
 37 combination of any three of these words, as the name or

1 a part thereof under which he or it does business, or adver-
2 tises or otherwise represents falsely by any device whatso-
3 ever that his or its deposit liabilities, obligations, certifi-
4 cates, or shares are insured or guaranteed by the Federal
5 Deposit Insurance Corporation, or by the United States or
6 by any instrumentality thereof, or whoever advertises that
7 his or its deposits, shares, or accounts are federally in-
8 sured, or falsely advertises or otherwise represents by any
9 device whatsoever the extent to which or the manner in
10 which the deposit liabilities of an insured bank or banks
11 are insured by the Federal Deposit Insurance Corporation;

12 (4) other than a bona fide organization or association
13 of Federal or State credit unions or except as permitted by
14 the laws of the United States, uses as a firm or business
15 name or transacts business using the words “National
16 Credit Union”, “National Credit Union Administration”,
17 “National Credit Union Board”, “National Credit Union
18 Share Insurance Fund”, “Share Insurance”, or “Central
19 Liquidity Facility”, or the letters “NCUA”, “NCUSIF”, or
20 “CLF”, or any other combination or variation of those
21 words or letters alone or with other words or letters, or any
22 device or symbol or other means, reasonably calculated to
23 convey the false impression that such name or business has
24 some connection with, or authorization from, the National
25 Credit Union Administration, the Government of the
26 United States, or any agency thereof, which does not in
27 fact exist, or falsely advertises or otherwise represents by
28 any device whatsoever that his or its business, product, or
29 service has been in any way endorsed, authorized, or ap-
30 proved by the National Credit Union Administration, the
31 Government of the United States, or any agency thereof,
32 or falsely advertises or otherwise represents by any device
33 whatsoever that his or its deposit liabilities, obligations,
34 certificates, shares, or accounts are insured under the Fed-
35 eral Credit Union Act or by the United States or any in-
36 strumentality thereof, or being an insured credit union as
37 defined in that Act falsely advertises or otherwise rep-

1 resents by any device whatsoever the extent to which or the
2 manner in which share holdings in such credit union are
3 insured under such Act;

4 (5) not being organized under the Farm Credit Act of
5 1971, advertises or represents that it makes Federal Farm
6 loans or advertises or offers for sale as Federal Farm loan
7 bonds any bond not issued under the Farm Credit Act of
8 1971, or uses the word “Federal” or the words “United
9 States” or any other words implying Government owner-
10 ship, obligation or supervision in advertising or offering for
11 sale any bond, note, mortgage or other security not issued
12 by the Government of the United States under the Farm
13 Credit Act of 1971; or

14 Whoever uses the words “Federal Home Loan Bank” or
15 any combination or variation of these words alone or with other
16 words as a business name or part of a business name, or falsely
17 publishes, advertises or represents by any device or symbol or
18 other means reasonably calculated to convey the impression
19 that he or it is a Federal Home Loan Bank or member of or
20 subscriber for the stock of a Federal Home Loan Bank;

21 (6) uses the words “Federal intermediate credit bank”
22 as part of the business or firm name for any person, cor-
23 poration, partnership, business trust, association or other
24 business entity not organized as an intermediate credit
25 bank under the laws of the United States;

26 (7) uses as a firm or business name the words “De-
27 partment of Housing and Urban Development”, “Housing
28 and Home Finance Agency”, “Federal Housing Adminis-
29 tration”, “Government National Mortgage Association”,
30 “United States Housing Authority”, or “Public Housing
31 Administration” or the letters “HUD”, “FHA”, “PHA”,
32 or “USHA”, or any combination or variation of those
33 words or the letters “HUD”, “FHA”, “PHA”, or “USHA”
34 alone or with other words or letters reasonably calculated
35 to convey the false impression that such name or business
36 has some connection with, or authorization from, the De-
37 partment of Housing and Urban Development, the Housing

1 and Home Finance Agency, the Federal Housing Adminis-
2 tration, the Government National Mortgage Association,
3 the United States Housing Authority, the Public Housing
4 Administration, the Government of the United States, or
5 any agency thereof, which does not in fact exist, or falsely
6 claims that any repair, improvement, or alteration of any
7 existing structure is required or recommended by the De-
8 partment of Housing and Urban Development, the Housing
9 and Home Finance Agency, the Federal Housing Adminis-
10 tration, the Government National Mortgage Association,
11 the United States Housing Authority, the Public Housing
12 Administration, the Government of the United States, or
13 any agency thereof, for the purpose of inducing any person
14 to enter into a contract for the making of such repairs, al-
15 terations, or improvements, or falsely advertises or falsely
16 represents by any device whatsoever that any housing unit,
17 project, business, or product has been in any way endorsed,
18 authorized, inspected, appraised, or approved by the De-
19 partment of Housing and Urban Development, the Housing
20 and Home Finance Agency, the Federal Housing Adminis-
21 tration, the Government National Mortgage Association,
22 the United States Housing Authority, the Public Housing
23 Administration, the Government of the United States, or
24 any agency thereof;

25 (8) except with the written permission of the Director
26 of the Federal Bureau of Investigation, knowingly uses the
27 words “Federal Bureau of Investigation” or the initials
28 “F.B.I.”, or any colorable imitation of such words or ini-
29 tials, in connection with any advertisement, circular, book,
30 pamphlet or other publication, play, motion picture, broad-
31 cast, telecast, or other production, in a manner reasonably
32 calculated to convey the impression that such advertise-
33 ment, circular, book, pamphlet or other publication, play,
34 motion picture, broadcast, telecast, or other production, is
35 approved, endorsed, or authorized by the Federal Bureau
36 of Investigation;

1 (9) except with written permission of the Director of
2 the United States Secret Service, knowingly uses the words
3 “Secret Service”, “Secret Service Uniformed Division”, the
4 initials “U.S.S.S.”, “U.D.”, or any colorable imitation of
5 such words or initials, in connection with, or as a part of
6 any advertisement, circular, book, pamphlet or other publi-
7 cation, play, motion picture, broadcast, telecast, other pro-
8 duction, product, or item, in a manner reasonably cal-
9 culated to convey the impression that such advertisement,
10 circular, book, pamphlet or other publication, product, or
11 item, is approved, endorsed, or authorized by or associated
12 in any manner with, the United States Secret Service, or
13 the United States Secret Service Uniformed Division;

14 (10) except with the written permission of the Director
15 of the United States Mint, knowingly uses the words
16 “United States Mint” or “U.S. Mint” or any colorable imi-
17 tation of such words, in connection with any advertisement,
18 circular, book, pamphlet, or other publication, play, motion
19 picture, broadcast, telecast, or other production, in a man-
20 ner reasonably calculated to convey the impression that
21 such advertisement, circular, book, pamphlet, or other pub-
22 lication, play, motion picture, broadcast, telecast, or other
23 production, is approved, endorsed, or authorized by or asso-
24 ciated in any manner with, the United States Mint;

25 (11) uses the words “Overseas Private Investment”,
26 “Overseas Private Investment Corporation”, or “OPIC”, as
27 part of the business or firm name of a person, corporation,
28 partnership, business trust, association, or business entity;

29 (12) except with the written permission of the Admin-
30 istrator of the Drug Enforcement Administration, know-
31 ingly uses the words “Drug Enforcement Administration”
32 or the initials “DEA” or any colorable imitation of such
33 words or initials, in connection with any advertisement, cir-
34 cular, book, pamphlet, software or other publication, play,
35 motion picture, broadcast, telecast, or other production, in
36 a manner reasonably calculated to convey the impression
37 that such advertisement, circular, book, pamphlet, software

1 or other publication, play, motion picture, broadcast, tele-
2 cast, or other production is approved, endorsed, or author-
3 ized by the Drug Enforcement Administration; or

4 (13) except with the written permission of the Director of
5 the United States Marshals Service, knowingly uses the words
6 “United States Marshals Service”, “U.S. Marshals Service”,
7 “United States Marshal”, “U.S. Marshal”, “U.S.M.S.”, or any
8 colorable imitation of any such words, or the likeness of a
9 United States Marshals Service badge, logo, or insignia on any
10 item of apparel, in connection with any advertisement, circular,
11 book, pamphlet, software, or other publication, or any play, mo-
12 tion picture, broadcast, telecast, or other production, in a man-
13 ner that is reasonably calculated to convey the impression that
14 the wearer of the item of apparel is acting pursuant to the legal
15 authority of the United States Marshals Service, or to convey
16 the impression that such advertisement, circular, book, pam-
17 phlet, software, or other publication, or such play, motion pic-
18 ture, broadcast, telecast, or other production, is approved, en-
19 dorsed, or authorized by the United States Marshals Service;
20 shall be punished fined.

21 (b) EXCLUSIONS.—

22 (1) LAWFUL BEFORE ENACTMENT.—This section does
23 not make unlawful the use of any name or title which was
24 lawful on June 25, 1948.

25 (2) INSURANCE.—This section shall not make unlawful the
26 use of the word “national” as part of the name of any business
27 or firm engaged in the insurance or indemnity business, wheth-
28 er such firm was engaged in the insurance or indemnity busi-
29 ness prior or subsequent to the date of enactment of this para-
30 graph.

31 A violation of this section may be enjoined at the suit of
32 the United States Attorney, upon complaint by any duly au-
33 thorized representative of any department or agency of the
34 United States.

1 **§ 1057. Misuse of names, words, emblems, or insign-**
 2 **nia**

3 Whoever, in the course of collecting or aiding in the collec-
 4 tion of private debts or obligations, or being engaged in fur-
 5 nishing private police, investigation, or other private detective
 6 services, uses or employs in any communication, correspond-
 7 ence, notice, advertisement, or circular the words “national”,
 8 “Federal”, or “United States”, the initials “U.S.”, or any em-
 9 blem, insignia, or name, for the purpose of conveying and in
 10 a manner reasonably calculated to convey the false impression
 11 that such communication is from a department, agency, bu-
 12 reau, or instrumentality of the United States or in any manner
 13 represents the United States, shall be imprisoned not more
 14 than one year.

15 **§ 1058. Use of likenesses of the great seal of the**
 16 **United States, the seals of the President**
 17 **and Vice President, the seal of the United**
 18 **States Senate, the seal of the United**
 19 **States House of Representatives, and the**
 20 **seal of the United States Congress**

21 (a) DISPLAY.—Whoever knowingly displays any printed or
 22 other likeness of the great seal of the United States, or of the
 23 seals of the President or the Vice President of the United
 24 States, or the seal of the United States Senate, or the seal of
 25 the United States House of Representatives, or the seal of the
 26 United States Congress, or any facsimile thereof, in, or in con-
 27 nection with, any advertisement, poster, circular, book, pam-
 28 phlet, or other publication, public meeting, play, motion pic-
 29 ture, telecast, or other production, or on any building, monu-
 30 ment, or stationery, for the purpose of conveying, or in a man-
 31 ner reasonably calculated to convey, a false impression of spon-
 32 sorship or approval by the Government of the United States or
 33 by any department, agency, or instrumentality thereof, shall be
 34 imprisoned not more than six months.

35 (b) LIKENESS ON ARTICLES.—Whoever, except as author-
 36 ized under regulations promulgated by the President and pub-
 37 lished in the Federal Register, knowingly manufactures, repro-

1 duces, sells, or purchases for resale, either separately or ap-
2 pended to any article manufactured or sold, any likeness of the
3 seals of the President or Vice President, or any substantial
4 part thereof, except for manufacture or sale of the article for
5 the official use of the Government of the United States, shall
6 be imprisoned not more than six months.

7 (c) SEAL OF THE UNITED STATES.—Whoever, except as
8 directed by the United States Senate, or the Secretary of the
9 Senate on its behalf, knowingly uses, manufactures, reproduces,
10 sells or purchases for resale, either separately or appended to
11 any article manufactured or sold, any likeness of the seal of the
12 United States Senate, or any substantial part thereof, except
13 for manufacture or sale of the article for the official use of the
14 Government of the United States, shall be imprisoned not more
15 than six months.

16 (d) SEAL OF UNITED STATES HOUSE OF REPRESENTA-
17 TIVES.—Whoever, except as directed by the United States
18 House of Representatives, or the Clerk of the House of Rep-
19 resentatives on its behalf, knowingly uses, manufactures, repro-
20 duces, sells or purchases for resale, either separately or ap-
21 pended to any article manufactured or sold, any likeness of the
22 seal of the United States House of Representatives, or any sub-
23 stantial part thereof, except for manufacture or sale of the arti-
24 cle for the official use of the Government of the United States,
25 shall be imprisoned not more than six months.

26 (e) SEAL OF CONGRESS.—Whoever, except as directed by
27 the United States Congress, or the Secretary of the Senate and
28 the Clerk of the House of Representatives, acting jointly on its
29 behalf, knowingly uses, manufactures, reproduces, sells or pur-
30 chases for resale, either separately or appended to any article
31 manufactured or sold, any likeness of the seal of the United
32 States Congress, or any substantial part thereof, except for
33 manufacture or sale of the article for the official use of the
34 Government of the United States, shall be imprisoned not more
35 than six months.

1 (f) VIOLATION MAY BE ENJOINED.—A violation of the pro-
 2 visions of this section may be enjoined at the suit of the Attor-
 3 ney General,

4 (1) in the case of the great seal of the United States
 5 and the seals of the President and Vice President, upon
 6 complaint by any authorized representative of any depart-
 7 ment or agency of the United States;

8 (2) in the case of the seal of the United States Senate,
 9 upon complaint by the Secretary of the Senate;

10 (3) in the case of the seal of the United States House
 11 of Representatives, upon complaint by the Clerk of the
 12 House of Representatives; and

13 (4) in the case of the seal of the United States Con-
 14 gress, upon complaint by the Secretary of the Senate and
 15 the Clerk of the House of Representatives, acting jointly.

16 **§ 1059. Police badges**

17 (a) OFFENSE.—Whoever—

18 (1) knowingly transfers, transports, or receives, in
 19 interstate or foreign commerce, a counterfeit police badge;

20 (2) knowingly transfers, in interstate or foreign com-
 21 merce, a genuine police badge to an individual, knowing
 22 that such individual is not authorized to possess it under
 23 the law of the place in which the badge is the official badge
 24 of the police;

25 (3) knowingly receives a genuine police badge in a
 26 transfer prohibited by paragraph (2); or

27 (4) being a person not authorized to possess a genuine
 28 police badge under the law of the place in which the badge
 29 is the official badge of the police, knowingly transports that
 30 badge in interstate or foreign commerce,
 31 shall be imprisoned not more than 6 months.

32 (b) DEFENSE.—It is a defense to a prosecution under this
 33 section that the badge is used or is intended to be used exclu-
 34 sively—

35 (1) as a memento, or in a collection or exhibit;

36 (2) for decorative purposes;

1 (3) for a dramatic presentation, such as a theatrical,
2 film, or television production; or

3 (4) for any other recreational purpose.

4 (c) DEFINITIONS.—As used in this section—

5 (1) the term “genuine police badge” means an official
6 badge issued by public authority to identify an individual
7 as a law enforcement officer having police powers; and

8 (2) the term “counterfeit police badge” means an item
9 that so resembles a police badge that it would deceive an
10 ordinary individual into believing it was a genuine police
11 badge.

12 SUBCHAPTER F—ESCAPE AND RESCUE

Sec.

1071. Prisoners in custody of institution or officer.

1072. Instigating or assisting escape.

1073. Officer permitting escape.

1074. High speed flight from immigration checkpoint.

1075. Escape from hospitalization.

13 **§ 1071. Prisoners in custody of institution or offi-**
14 **cer**

15 (a) ADULTS.—Whoever escapes or attempts to escape
16 from the custody of the Attorney General or his authorized rep-
17 resentative, or from any institution or facility in which he is
18 confined by direction of the Attorney General, or from any cus-
19 tody under or by virtue of any process issued under the laws
20 of the United States by any court, judge, or magistrate judge,
21 or from the custody of an officer or employee of the United
22 States pursuant to lawful arrest, shall, if the custody or con-
23 finement is by virtue of an arrest on a charge of felony, or con-
24 viction of any offense, be imprisoned not more than five years;
25 or if the custody or confinement is for extradition, or for exclu-
26 sion or expulsion proceedings under the immigration laws, or
27 by virtue of an arrest or charge of or for a misdemeanor, and
28 prior to conviction, be imprisoned not more than one year.

29 (b) JUVENILES.—Whoever escapes or attempts to escape
30 from the custody of the Attorney General or his authorized rep-
31 resentative, or from any institution or facility in which he is
32 confined by direction of the Attorney General, or from any cus-

1 tody under or by virtue of any process issued under the laws
2 of the United States by any court, judge, or magistrate judge,
3 or from the custody of an officer or employee of the United
4 States pursuant to lawful arrest, shall, if the custody or con-
5 finement is by virtue of a lawful arrest for a violation of any
6 law of the United States not punishable by death or life impris-
7 onment and committed before such person's eighteenth birth-
8 day, and as to whom the Attorney General has not specifically
9 directed the institution of criminal proceedings, or by virtue of
10 a commitment as a juvenile delinquent under section 5034 of
11 this title, be imprisoned not more than one year. Nothing in
12 this section affects the discretionary authority vested in the At-
13 torney General pursuant to section 5032 of this title.

14 **§ 1072. Instigating or assisting escape**

15 (a) ADULTS.—Whoever rescues or attempts to rescue or
16 instigates, aids or assists the escape, or attempt to escape, of
17 any person arrested upon a warrant or other process issued
18 under any law of the United States, or committed to the cus-
19 tody of the Attorney General or to any institution or facility
20 by his direction, shall, if the custody or confinement is by vir-
21 tue of an arrest on a charge of felony, or conviction of any of-
22 fense, be imprisoned not more than five years; or, if the cus-
23 tody or confinement is for extradition, or for exclusion or expul-
24 sion proceedings under the immigration laws, or by virtue of
25 an arrest or charge of or for a misdemeanor, and prior to con-
26 viction, be imprisoned not more than one year.

27 (b) JUVENILES.—Whoever rescues or attempts to rescue
28 or instigates, aids, or assists the escape or attempted escape of
29 any person in the custody of the Attorney General or his au-
30 thorized representative, or of any person arrested upon a war-
31 rant or other process issued under any law of the United States
32 or from any institution or facility in which he is confined by
33 direction of the Attorney General, shall, if the custody or con-
34 finement is by virtue of a lawful arrest for a violation of any
35 law of the United States not punishable by death or life impris-
36 onment and committed before such person's eighteenth birth-
37 day, and as to whom the Attorney General has not specifically

1 directed the institution of criminal proceedings, or by virtue of
 2 a commitment as a juvenile delinquent under section 5034 of
 3 this title, be imprisoned not more than one year.

4 **§ 1073. Officer permitting escape**

5 Whoever, having in his custody any prisoner by virtue of
 6 process issued under the laws of the United States by any
 7 court, judge, or magistrate judge, voluntarily suffers such pris-
 8 oner to escape, shall be imprisoned not more than 5 years; or
 9 if he negligently suffers such person to escape, he shall be im-
 10 prisoned not more than one year.

11 **§ 1074. High speed flight from immigration check-**
 12 **point**

13 Whoever flees or evades a checkpoint operated by the Im-
 14 migration and Naturalization Service, or any other Federal law
 15 enforcement agency, in a motor vehicle and flees Federal,
 16 State, or local law enforcement agents in excess of the legal
 17 speed limit shall be imprisoned not more than five years.

18 **§ 1075. Escape from hospitalization**

19 Whoever escapes or attempts to escape from the custody
 20 of any facility or from any place in which or to which he is con-
 21 fined pursuant to this section 1826 of title 28 or section 4243
 22 of this title, or whoever rescues or attempts to rescue or insti-
 23 gates, aids, or assists the escape or attempt to escape of such
 24 a person, shall be imprisoned not more than three years.

25 SUBCHAPTER G—FALSE PERSONATION

Sec.

1091. Citizen of the United States.
 1092. Officer or employee of the United States.
 1093. Impersonator making arrest or search.

26 **§ 1091. Citizen of the United States**

27 Whoever falsely represents oneself to be a citizen of the
 28 United States shall be imprisoned not more than three years.

29 **§ 1092. Officer or employee of the United States**

30 Whoever falsely assumes or pretends to be an officer or
 31 employee acting under the authority of the United States or
 32 any department, agency or officer thereof, and acts as such, or
 33 in such pretended character demands or obtains any money,

1 paper, document, or thing of value, shall be imprisoned not
2 more than three years.

3 **§ 1093. Impersonator making arrest or search**

4 Whoever falsely represents oneself to be an officer, agent,
5 or employee of the United States, and in such assumed char-
6 acter arrests or detains any person or in any manner searches
7 the person, buildings, or other property of any person, shall be
8 imprisoned not more than three years.

9 SUBCHAPTER H—FUGITIVES FROM JUSTICE

Sec.

1101. Concealing person from arrest.

1102. Concealing escaped prisoner.

1103. Flight to avoid prosecution or giving testimony.

1104. Flight to avoid prosecution for damaging or destroying any build-
ing or other real or personal property.

10 **§ 1101. Concealing person from arrest**

11 Whoever harbors or conceals any person for whose arrest
12 a warrant or process has been issued under the provisions of
13 any law of the United States, so as to prevent his discovery and
14 arrest, after notice or knowledge of the fact that a warrant or
15 process has been issued for the apprehension of such person,
16 shall be imprisoned not more than one year; except that if the
17 warrant or process issued on a charge of felony, or after convic-
18 tion of such person of any offense, the punishment shall be a
19 fine under this title, or imprisonment for not more than five
20 years, or both.

21 **§ 1102. Concealing escaped prisoner**

22 Whoever harbors or conceals any prisoner after that pris-
23 oner's escape from the custody of the Attorney General or from
24 a Federal penal or correctional institution, shall be imprisoned
25 not more than three years.

26 **§ 1103. Flight to avoid prosecution or giving testi-**
27 **mony**

28 (a) OFFENSE.—Whoever moves or travels in interstate or
29 foreign commerce with intent—

30 (1) to avoid prosecution, or custody or confinement
31 after conviction, under the laws of the place from which he
32 flees, for a crime, or an attempt to commit a crime, punish-

1 able by death or which is a felony under the laws of the
2 place from which the fugitive flees;

3 (2) to avoid giving testimony in any criminal pro-
4 ceedings in such place in which the commission of an of-
5 fense punishable by death or which is a felony under the
6 laws of such place, is charged, or

7 (3) to avoid service of, or contempt proceedings for al-
8 leged disobedience of, lawful process requiring attendance
9 and the giving of testimony or the production of documen-
10 tary evidence before an agency of a State empowered by
11 the law of such State to conduct investigations of alleged
12 criminal activities;

13 shall be imprisoned not more than five years.

14 (b) SPECIAL VENUE AND APPROVAL REQUIRED.—Viola-
15 tions of this section may be prosecuted only in the Federal ju-
16 dicial district in which the original crime was alleged to have
17 been committed, or in which the person was held in custody or
18 confinement, or in which an avoidance of service of process or
19 a contempt referred to in subsection (a)(3) is alleged to have
20 been committed, and only upon formal approval in writing by
21 the Attorney General, the Deputy Attorney General, the Asso-
22 ciate Attorney General, or an Assistant Attorney General of the
23 United States, which function of approving prosecutions may
24 not be delegated.

25 **§ 1104. Flight to avoid prosecution for damaging**
26 **or destroying any building or other real**
27 **or personal property**

28 (a) OFFENSE.—Whoever moves or travels in interstate or
29 foreign commerce with intent—

30 (1) to avoid prosecution, or custody, or confinement
31 after conviction, under the laws of the place from which he
32 flees, for willfully attempting to or damaging or destroying
33 by fire or explosive any building, structure, facility, vehicle,
34 dwelling house, synagogue, church, religious center or edu-
35 cational institution, public or private; or

36 (2) to avoid giving testimony in any criminal pro-
37 ceeding relating to any such offense;

1 shall be imprisoned not more than five years.

2 (b) VENUE.—Violations of this section may be prosecuted
3 in the Federal judicial district in which the original crime was
4 alleged to have been committed or in which the person was held
5 in custody or confinement: Provided, however, That this section
6 shall not be construed as indicating an intent on the part of
7 Congress to prevent any State, Territory, Commonwealth, or
8 possession of the United States of any jurisdiction over any of-
9 fense over which they would have jurisdiction in the absence of
10 such section.

11 SUBCHAPTER I—OBSTRUCTION OF JUSTICE

Sec.

1131. Assault on process server.

1132. Influencing or injuring officer or juror generally.

1133. Obstruction of proceedings before departments, agencies, and
committees.

1134. Obstruction of court orders.

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1139. Civil action to restrain harassment of a victim or witness.

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1141. Definitions for certain provisions; general provision.

1142. Destruction of corporate audit records.

12 § 1131. Assault on process server

13 Whoever—

14 (1) knowingly obstructs, resists, or opposes any officer
15 of the United States, or other person duly authorized, in
16 serving, or attempting to serve or execute, any legal or ju-
17 dicial writ or process of any court of the United States, or
18 United States magistrate judge; or

19 (2) assaults, beats, or wounds any officer or other per-
20 son duly authorized, knowing him to be such officer, or
21 other person so duly authorized, in serving or executing any
22 such writ, rule, order, process, warrant, or other legal or
23 judicial writ or process;

24 shall, except as otherwise provided by law, be imprisoned not
25 more than one year.

1 **§ 1132. Influencing or injuring officer or juror**
 2 **generally**

3 (a) ELEMENTS OF THE OFFENSE.—Whoever corruptly, or
 4 by threats or force, or by any threatening letter or communica-
 5 tion, endeavors to influence, intimidate, or impede any grand
 6 or petit juror, or officer in or of any court of the United States,
 7 or officer who may be serving at any examination or other pro-
 8 ceeding before any United States magistrate judge or other
 9 committing magistrate, in the discharge of duty, or injures any
 10 such grand or petit juror in his or her person or property on
 11 account of any verdict or indictment assented to by him or her,
 12 or on account of being or having been such juror, or injures
 13 any such officer, magistrate judge, or other committing mag-
 14 istrate in his or her person or property on account of the per-
 15 formance of his official duties, or corruptly or by threats or
 16 force, or by any threatening letter or communication, influ-
 17 ences, obstructs, or impedes, or endeavors to influence, ob-
 18 struct, or impede, the due administration of justice, shall be
 19 punished as provided in subsection (b). If the offense under
 20 this section occurs in connection with a trial of a criminal case,
 21 and the act in violation of this section involves the threat of
 22 physical force or physical force, the maximum term of impris-
 23 onment which may be imposed for the offense shall be the high-
 24 er of that otherwise provided by law or the maximum term that
 25 could have been imposed for any offense charged in such case.

26 (b) PUNISHMENT.—The punishment for an offense under
 27 this section is—

28 (1) in the case of a killing, the punishment provided
 29 in chapter 10;

30 (2) in the case of an attempted killing, or a case in
 31 which the offense was committed against a petit juror and,
 32 imprisonment for not more than 20 years; and

33 (3) in any other case, imprisonment for not more than
 34 10 years.

35 **§ 1133. Obstruction of proceedings before depart-**
 36 **ments, agencies, and committees**

37 Whoever—

1 (1) with intent to avoid, evade, prevent, or obstruct
2 compliance, in whole or in part, with any civil investigative
3 demand duly and properly made under the Antitrust Civil
4 Process Act, knowingly withholds, misrepresents, removes
5 from any place, conceals, covers up, destroys, mutilates, al-
6 ters, or by other means falsifies any documentary material,
7 answers to written interrogatories, or oral testimony, which
8 is the subject of such demand; or attempts to do so or so-
9 licits another to do so; or

10 (2) corruptly, or by threats or force, or by any threat-
11 ening letter or communication influences, obstructs, or im-
12 pedes the due and proper administration of the law under
13 which any pending proceeding is being had before any de-
14 partment or agency of the United States, or the due and
15 proper exercise of the power of inquiry under which any in-
16 quiry or investigation is being had by either House, or any
17 committee of either House or any joint committee of the
18 Congress;

19 shall be imprisoned not more than 5 years or, if the offense in-
20 volves international or domestic terrorism (as defined in section
21 283), imprisoned not more than 8 years.

22 **§ 1134. Obstruction of court orders**

23 (a) OFFENSE.—Whoever, by threats or force, knowingly
24 prevents, obstructs, impedes, or interferes with the due exercise
25 of rights or the performance of duties under any order, judg-
26 ment, or decree of a court of the United States, shall be impris-
27 oned not more than one year.

28 (b) INJUNCTIVE AND OTHER RELIEF AVAILABLE.—No in-
29 junctive or other civil relief against the conduct made criminal
30 by this section shall be denied on the ground that such conduct
31 is a crime.

32 **§ 1135. Obstruction of criminal investigations**

33 (a) IN GENERAL.—Whoever knowingly attempts by means
34 of bribery to obstruct, delay, or prevent the communication of
35 information relating to a violation of any criminal statute of
36 the United States by any person to a criminal investigator shall
37 be imprisoned not more than five years.

1 (b) FINANCIAL INSTITUTIONS.—(1) Whoever, being an of-
2 ficer of a financial institution, with the intent to obstruct a ju-
3 dicial proceeding, notifies any other person about the existence
4 or contents of a subpoena for records of that financial institu-
5 tion, or information that has been furnished to the grand jury
6 in response to that subpoena, shall be imprisoned not more
7 than 5 years.

8 (2) Whoever, being an officer of a financial institution no-
9 tifies—

10 (A) a customer of that financial institution whose
11 records are sought by a grand jury subpoena; or

12 (B) any other person named in that subpoena;
13 about the existence or contents of that subpoena or information
14 that has been furnished to the grand jury in response to that
15 subpoena, shall be imprisoned not more than one year.

16 (3) As used in this subsection—

17 (A) the term “an officer of a financial institution”
18 means an officer, director, partner, employee, agent, or at-
19 torney of or for a financial institution; and

20 (B) the term “subpoena for records” means a Federal
21 grand jury subpoena or a Department of Justice subpoena
22 (issued under section 3486 of title 18), for customer
23 records that has been served relating to a violation of, or
24 a conspiracy to violate—

25 (i) section 1003, 644, 645, 773, 774, 775, 779,
26 804, 1451, 1452, or chapter 53 of title 31; or

27 (ii) section 801 or 803 affecting a financial insti-
28 tution.

29 (c) DEFINITION.—As used in this section, the term “crimi-
30 nal investigator” means any individual duly authorized by a de-
31 partment, agency, or armed force of the United States to con-
32 duct or engage in investigations of or prosecutions for viola-
33 tions of the criminal laws of the United States.

34 (d) INSURANCE.—(1) Whoever—

35 (A) acting as, or being, an officer, director, agent or
36 employee of a person engaged in the business of insurance
37 whose activities affect interstate commerce, or

1 (ii) involves five or more persons who conduct, fi-
 2 nance, manage, supervise, direct, or own all or part of
 3 such business; and

4 (iii) has been or remains in substantially contin-
 5 uous operation for a period in excess of thirty days or
 6 has a gross revenue of \$2,000 in any single day; and

7 (2) the term “gambling” includes pool-selling, book-
 8 making, maintaining slot machines, roulette wheels, or dice
 9 tables, and conducting lotteries, policy, bolita or numbers
 10 games, or selling chances therein.

11 (c) EXCLUSION.—This section does not apply to any bingo
 12 game, lottery, or similar game of chance conducted by an orga-
 13 nization exempt from tax under paragraph (3) of subsection (c)
 14 of section 501 of the Internal Revenue Code of 1986, if no part
 15 of the gross receipts derived from such activity inures to the
 16 benefit of any private shareholder, member, or employee of
 17 such organization, except as reimbursement for actual expenses
 18 incurred in the conduct of such activity.

19 (d) PUNISHMENT.—Whoever violates this section shall be
 20 imprisoned not more than five years.

21 **§ 1137. Tampering with a witness, victim, or an in-**
 22 **formant**

23 (a) VIOLENT OFFENSE.—

24 (1) KILLING.—Whoever kills or attempts to kill an-
 25 other person, with intent to—

26 (A) prevent the attendance or testimony of any
 27 person in an official proceeding;

28 (B) prevent the production of a record, document,
 29 or other object, in an official proceeding; or

30 (C) prevent the communication by any person to
 31 a law enforcement officer or judge of the United States
 32 of information relating to the commission or possible
 33 commission of a Federal offense or a violation of condi-
 34 tions of probation, parole, or release pending judicial
 35 proceedings;

36 shall be punished as provided in paragraph (3).

1 (2) USE OR THREAT OF PHYSICAL FORCE.—Whoever
2 uses physical force or the threat of physical force against
3 any person, or attempts to do so, with intent to—

4 (A) influence, delay, or prevent the testimony of
5 any person in an official proceeding;

6 (B) cause or induce any person to—

7 (i) withhold testimony, or withhold a record,
8 document, or other object, from an official pro-
9 ceeding;

10 (ii) alter, destroy, mutilate, or conceal an ob-
11 ject with intent to impair the integrity or avail-
12 ability of the object for use in an official pro-
13 ceeding;

14 (iii) evade legal process summoning that per-
15 son to appear as a witness, or to produce a record,
16 document, or other object, in an official proceeding;
17 or

18 (iv) be absent from an official proceeding to
19 which that person has been summoned by legal
20 process; or

21 (C) hinder, delay, or prevent the communication to
22 a law enforcement officer or judge of the United States
23 of information relating to the commission or possible
24 commission of a Federal offense or a violation of condi-
25 tions of probation, supervised release, parole, or release
26 pending judicial proceedings;

27 shall be punished as provided in paragraph (3).

28 (3) PUNISHMENT.—The punishment for an offense
29 under this subsection is—

30 (A) the same as provided for a like offense in
31 chapter 10; and

32 (B) in the case of the threat of use of physical
33 force against any person, imprisonment for not more
34 than 10 years.

35 (b) NONVIOLENT OFFENSES INVOLVING OTHER PER-
36 SONS.—Whoever knowingly uses intimidation, threatens, or cor-
37 ruptly persuades another person, or attempts to do so, or en-

1 gages in misleading conduct toward another person, with intent
2 to—

3 (1) influence, delay, or prevent the testimony of any
4 person in an official proceeding;

5 (2) cause or induce any person to—

6 (A) withhold testimony, or withhold a record, doc-
7 ument, or other object, from an official proceeding;

8 (B) alter, destroy, mutilate, or conceal an object
9 with intent to impair the object's integrity or avail-
10 ability for use in an official proceeding;

11 (C) evade legal process summoning that person to
12 appear as a witness, or to produce a record, document,
13 or other object, in an official proceeding; or

14 (D) be absent from an official proceeding to which
15 such person has been summoned by legal process; or

16 (3) hinder, delay, or prevent the communication to a
17 law enforcement officer or judge of the United States of in-
18 formation relating to the commission or possible commis-
19 sion of a Federal offense or a violation of conditions of pro-
20 bation, supervised release, parole, or release pending judi-
21 cial proceedings;

22 (c) NONVIOLENT OFFENSES NOT INVOLVING OTHER PER-
23 SONS.—Whoever corruptly—

24 (1) alters, destroys, mutilates, or conceals a record,
25 document, or other object, or attempts to do so, with the
26 intent to impair the object's integrity or availability for use
27 in an official proceeding; or

28 (2) otherwise obstructs, influences, or impedes any of-
29 ficial proceeding, or attempts to do so,

30 shall be imprisoned not more than 20 years.

31 (d) HARASSMENT.—Whoever intentionally harasses an-
32 other person and thereby hinders, delays, prevents, or dis-
33 suades any person from—

34 (1) attending or testifying in an official proceeding;

35 (2) reporting to a law enforcement officer or judge of
36 the United States the commission or possible commission
37 of a Federal offense or a violation of conditions of proba-

1 tion, supervised release, parole, or release pending judicial
2 proceedings;

3 (3) arresting or seeking the arrest of another person
4 in connection with a Federal offense; or

5 (4) causing a criminal prosecution, or a parole or pro-
6 bation revocation proceeding, to be sought or instituted, or
7 assisting in such prosecution or proceeding;

8 or attempts to do so, shall be imprisoned not more than one
9 year.

10 (e) AFFIRMATIVE DEFENSE.—In a prosecution for an of-
11 fense under this section, it is an affirmative defense, that the
12 conduct consisted solely of lawful conduct and that the defend-
13 ant’s sole intention was to encourage, induce, or cause the
14 other person to testify truthfully.

15 (f) SPECIAL RULES.—For the purposes of this section—

16 (1) an official proceeding need not be pending or
17 about to be instituted at the time of the offense; and

18 (2) the testimony, or the record, document, or other
19 object need not be admissible in evidence or free of a claim
20 of privilege.

21 (g) STATE OF MIND.—In a prosecution for an offense
22 under this section, no state of mind need be proved with re-
23 spect to the circumstance—

24 (1) that the official proceeding before a judge, court,
25 magistrate judge, grand jury, or government agency is be-
26 fore a judge or court of the United States, a United States
27 magistrate judge, a bankruptcy judge, a Federal grand
28 jury, or a Federal Government agency; or

29 (2) that the judge is a judge of the United States or
30 that the law enforcement officer is an officer or employee
31 of the Federal Government or a person authorized to act
32 for or on behalf of the Federal Government or serving the
33 Federal Government as an adviser or consultant.

34 (h) EXTRATERRITORIAL JURISDICTION.—There is
35 extraterritorial Federal jurisdiction over an offense under this
36 section.

1 (i) VENUE.—A prosecution under this section or section
2 1132 may be brought in the district in which the official pro-
3 ceeding (whether or not pending or about to be instituted) was
4 intended to be affected or in the district in which the conduct
5 constituting the alleged offense occurred.

6 (j) INCREASED PUNISHMENT.—If the offense under this
7 section occurs in connection with a trial of a criminal case, the
8 maximum term of imprisonment which may be imposed for the
9 offense shall be the higher of that otherwise provided by law
10 or the maximum term that could have been imposed for any
11 offense charged in such case.

12 **§ 1138. Retaliating against a witness, victim, or an**
13 **informant**

14 (a) OFFENSES INVOLVING KILLING.—

15 (1) ELEMENTS OF THE OFFENSE.—Whoever kills an-
16 other person with intent to retaliate against any person
17 for—

18 (A) the attendance of a witness or party at an of-
19 ficial proceeding, or any testimony given or any record,
20 document, or other object produced by a witness in an
21 official proceeding; or

22 (B) providing to a law enforcement officer any in-
23 formation relating to the commission or possible com-
24 mission of a Federal offense or a violation of conditions
25 of probation, supervised release, parole, or release
26 pending judicial proceedings,

27 (2) PUNISHMENT.—The punishment for an offense
28 under this subsection is the same as for a like offense
29 under chapter 10.

30 (b) OFFENSES INVOLVING BODILY INJURY.—Whoever
31 knowingly engages in any conduct and thereby causes bodily in-
32 jury to another person or damages the tangible property of an-
33 other person, or threatens to do so, with intent to retaliate
34 against any person for—

35 (1) the attendance of a witness or party at an official
36 proceeding, or any testimony given or any record, docu-

1 ment, or other object produced by a witness in an official
2 proceeding; or

3 (2) any information relating to the commission or pos-
4 sible commission of a Federal offense or a violation of con-
5 ditions of probation, supervised release, parole, or release
6 pending judicial proceedings given by a person to a law en-
7 forcement officer;

8 (c) INCREASED PUNISHMENT.—If the retaliation occurred
9 because of attendance at or testimony in a criminal case, the
10 maximum term of imprisonment which may be imposed for the
11 offense under this section shall be the higher of that otherwise
12 provided by law or the maximum term that could have been im-
13 posed for any offense charged in such case.

14 (d) EXTRATERRITORIAL JURISDICTION.—There is
15 extraterritorial Federal jurisdiction over an offense under this
16 section.

17 (e) OTHER RETALIATION.— Whoever knowingly, with the
18 intent to retaliate, takes any action harmful to any person, in-
19 cluding interference with the lawful employment or livelihood of
20 any person, for providing to a law enforcement officer any
21 truthful information relating to the commission or possible
22 commission of any Federal offense, shall be imprisoned not
23 more than 10 years.

24 **§ 1139. Civil action to restrain harassment of a**
25 **victim or witness**

26 (a) TEMPORARY RESTRAINING ORDER.—(1) A United
27 States district court, upon application of the attorney for the
28 Government, shall issue a temporary restraining order prohib-
29 iting harassment of a victim or witness in a Federal criminal
30 case if the court finds, from specific facts shown by affidavit
31 or by verified complaint, that there are reasonable grounds to
32 believe that harassment of an identified victim or witness in a
33 Federal criminal case exists or that such order is necessary to
34 prevent and restrain an offense under section 1137 of this title,
35 other than an offense consisting of misleading conduct, or
36 under section 1138 of this title.

1 (2)(A) A temporary restraining order may be issued under
2 this section without written or oral notice to the adverse party
3 or such party's attorney in a civil action under this section if
4 the court finds, upon written certification of facts by the attor-
5 ney for the Government, that such notice should not be re-
6 quired and that there is a reasonable probability that the Gov-
7 ernment will prevail on the merits.

8 (B) A temporary restraining order issued without notice
9 under this section shall be endorsed with the date and hour of
10 issuance and be filed forthwith in the office of the clerk of the
11 court issuing the order.

12 (C) A temporary restraining order issued under this sec-
13 tion shall expire at such time, not to exceed 10 days from
14 issuance, as the court directs; the court, for good cause shown
15 before expiration of such order, may extend the expiration date
16 of the order for up to 10 days or for such longer period agreed
17 to by the adverse party.

18 (D) When a temporary restraining order is issued without
19 notice, the motion for a protective order shall be set down for
20 hearing at the earliest possible time and takes precedence over
21 all matters except older matters of the same character, and
22 when such motion comes on for hearing, if the attorney for the
23 Government does not proceed with the application for a protec-
24 tive order, the court shall dissolve the temporary restraining
25 order.

26 (E) If on two days notice to the attorney for the Govern-
27 ment or on such shorter notice as the court may prescribe, the
28 adverse party appears and moves to dissolve or modify the tem-
29 porary restraining order, the court shall proceed to hear and
30 determine such motion as expeditiously as the ends of justice
31 require.

32 (F) A temporary restraining order shall set forth the rea-
33 sons for the issuance of such order, be specific in terms, and
34 describe in reasonable detail (and not by reference to the com-
35 plaint or other document) the act or acts being restrained.

36 (b) PROTECTIVE ORDER.—(1) A United States district
37 court, upon motion of the attorney for the Government, shall

1 issue a protective order prohibiting harassment of a victim or
 2 witness in a Federal criminal case if the court, after a hearing,
 3 finds by a preponderance of the evidence that harassment of an
 4 identified victim or witness in a Federal criminal case exists or
 5 that such order is necessary to prevent and restrain an offense
 6 under section 1137 of this title, other than an offense con-
 7 sisting of misleading conduct, or under section 1138 of this
 8 title.

9 (2) At the hearing referred to in paragraph (1) of this
 10 subsection, any adverse party named in the complaint shall
 11 have the right to present evidence and cross-examine witnesses.

12 (3) A protective order shall set forth the reasons for the
 13 issuance of such order, be specific in terms, describe in reason-
 14 able detail (and not by reference to the complaint or other doc-
 15 ument) the act or acts being restrained.

16 (4) The court shall set the duration of effect of the protec-
 17 tive order for such period as the court determines necessary to
 18 prevent harassment of the victim or witness but in no case for
 19 a period in excess of three years from the date of such order's
 20 issuance. The attorney for the Government may, at any time
 21 within ninety days before the expiration of such order, apply
 22 for a new protective order under this section.

23 (c) DEFINITIONS.—As used in this section—

24 (1) the term “harassment” means a course of conduct
 25 directed at a specific person that—

26 (A) causes substantial emotional distress in such
 27 person; and

28 (B) serves no legitimate purpose; and

29 (2) the term “course of conduct” means a series of
 30 acts over a period of time, however short, indicating a con-
 31 tinuity of purpose.

32 **§ 1140. Civil action to protect against retaliation**
 33 **in fraud cases**

34 (a) WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF
 35 PUBLICLY TRADED COMPANIES.—No company with a class of
 36 securities registered under section 12 of the Securities Ex-
 37 change Act of 1934 (15 U.S.C. 78l), or that is required to file

1 reports under section 15(d) of the Securities Exchange Act of
2 1934 (15 U.S.C. 78o(d)), or any officer, employee, contractor,
3 subcontractor, or agent of such company, may discharge, de-
4 mote, suspend, threaten, harass, or in any other manner dis-
5 criminate against an employee in the terms and conditions of
6 employment because of any lawful act done by the employee—

7 (1) to provide information, cause information to be
8 provided, or otherwise assist in an investigation regarding
9 any conduct which the employee reasonably believes con-
10 stitutes a violation of section 801, 803, 804, or 807, any
11 rule or regulation of the Securities and Exchange Commis-
12 sion, or any provision of Federal law relating to fraud
13 against shareholders, when the information or assistance is
14 provided to or the investigation is conducted by—

15 (A) a Federal regulatory or law enforcement agen-
16 cy;

17 (B) any Member of Congress or any committee of
18 Congress; or

19 (C) a person with supervisory authority over the
20 employee (or such other person working for the em-
21 ployer who has the authority to investigate, discover, or
22 terminate misconduct); or

23 (2) to file, cause to be filed, testify, participate in, or
24 otherwise assist in a proceeding filed or about to be filed
25 (with any knowledge of the employer) relating to an alleged
26 violation of section 801, 803, 804, or 807, any rule or reg-
27 ulation of the Securities and Exchange Commission, or any
28 provision of Federal law relating to fraud against share-
29 holders.

30 (b) ENFORCEMENT ACTION.—

31 (1) IN GENERAL.—A person who alleges discharge or
32 other discrimination by any person in violation of sub-
33 section (a) may seek relief under subsection (c), by—

34 (A) filing a complaint with the Secretary of Labor;
35 or

36 (B) if the Secretary has not issued a final decision
37 within 180 days of the filing of the complaint and there

1 is no showing that such delay is due to the bad faith
2 of the claimant, bringing an action at law or equity for
3 de novo review in the appropriate district court of the
4 United States, which shall have jurisdiction over such
5 an action without regard to the amount in controversy.

6 (2) PROCEDURE.—

7 (A) IN GENERAL.—An action under paragraph
8 (1)(A) shall be governed under the rules and proce-
9 dures set forth in section 42121(b) of title 49, United
10 States Code.

11 (B) EXCEPTION.—Notification made under section
12 42121(b)(1) of title 49, United States Code, shall be
13 made to the person named in the complaint and to the
14 employer.

15 (C) BURDENS OF PROOF.—An action brought
16 under paragraph (1)(B) shall be governed by the legal
17 burdens of proof set forth in section 42121(b) of title
18 49, United States Code.

19 (D) STATUTE OF LIMITATIONS.—An action under
20 paragraph (1) shall be commenced not later than 90
21 days after the date on which the violation occurs.

22 (c) REMEDIES.—

23 (1) IN GENERAL.—An employee prevailing in any ac-
24 tion under subsection (b)(1) shall be entitled to all relief
25 necessary to make the employee whole.

26 (2) COMPENSATORY DAMAGES.—Relief for any action
27 under paragraph (1) shall include—

28 (A) reinstatement with the same seniority status
29 that the employee would have had, but for the discrimi-
30 nation;

31 (B) the amount of back pay, with interest; and

32 (C) compensation for any special damages sus-
33 tained as a result of the discrimination, including liti-
34 gation costs, expert witness fees, and reasonable attor-
35 ney fees.

36 (d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this
37 section shall be deemed to diminish the rights, privileges, or

1 remedies of any employee under any Federal or State law, or
2 under any collective bargaining agreement.

3 **§ 1141. Definitions for certain provisions; general**
4 **provision**

5 (a) DEFINITIONS FOR SECTIONS 1137 AND 1138.—As used
6 in sections 1137 and 1138 and in this section—

7 (1) the term “official proceeding” means—

8 (A) a proceeding before a judge or court of the
9 United States, a United States magistrate judge, a
10 bankruptcy judge, a judge of the United States Tax
11 Court, a special trial judge of the Tax Court, a judge
12 of the United States Court of Federal Claims, or a
13 Federal grand jury;

14 (B) a proceeding before the Congress;

15 (C) a proceeding before a Federal Government
16 agency which is authorized by law; or

17 (D) a proceeding involving the business of insur-
18 ance whose activities affect interstate commerce before
19 any insurance regulatory official or agency or any
20 agent or examiner appointed by such official or agency
21 to examine the affairs of any person engaged in the
22 business of insurance whose activities affect interstate
23 commerce;

24 (2) the term “physical force” means physical action
25 against another, and includes confinement;

26 (3) the term “misleading conduct” means—

27 (A) knowingly making a false statement;

28 (B) intentionally omitting information from a
29 statement and thereby causing a portion of such state-
30 ment to be misleading, or intentionally concealing a
31 material fact, and thereby creating a false impression
32 by such statement;

33 (C) with intent to mislead, knowingly submitting
34 or inviting reliance on a writing or recording that is
35 false, forged, altered, or otherwise lacking in authen-
36 ticity;

1 (D) with intent to mislead, knowingly submitting
 2 or inviting reliance on a sample, specimen, map, photo-
 3 graph, boundary mark, or other object that is mis-
 4 leading in a material respect; or

5 (E) knowingly using a trick, scheme, or device
 6 with intent to mislead;

7 (4) the term “law enforcement officer” means an offi-
 8 cer or employee of the Federal Government, or a person
 9 authorized to act for or on behalf of the Federal Govern-
 10 ment or serving the Federal Government as an adviser or
 11 consultant—

12 (A) authorized under law to engage in or supervise
 13 the prevention, detection, investigation, or prosecution
 14 of an offense; or

15 (B) serving as a probation or pretrial services offi-
 16 cer under this title;

17 (5) the term “corruptly persuades” does not include
 18 conduct which would be misleading conduct but for a lack
 19 of a state of mind.

20 (b) DEFINITION FOR SECTION 1133.—As used in section
 21 1505, the term “corruptly” means acting with an improper
 22 purpose, personally or by influencing another, including making
 23 a false or misleading statement, or withholding, concealing, al-
 24 tering, or destroying a document or other information.

25 (c) EXCLUSION.—This subchapter does not prohibit or
 26 punish the providing of lawful, bona fide, legal representation
 27 services in connection with or anticipation of an official pro-
 28 ceeding.

29 **§ 1142. Destruction of corporate audit records**

30 (a) REGULATORY REQUIREMENTS.—(1) Any accountant
 31 who conducts an audit of an issuer of securities to which sec-
 32 tion 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C.
 33 78j-1(a)) applies, shall maintain all audit or review workpapers
 34 for a period of 5 years from the end of the fiscal period in
 35 which the audit or review was concluded.

36 (2) The Securities and Exchange Commission shall pro-
 37 mulgate, within 180 days, after adequate notice and an oppor-

1 tunity for comment, such rules and regulations, as are reason-
 2 ably necessary, relating to the retention of relevant records
 3 such as workpapers, documents that form the basis of an audit
 4 or review, memoranda, correspondence, communications, other
 5 documents, and records (including electronic records) which are
 6 created, sent, or received in connection with an audit or review
 7 and contain conclusions, opinions, analyses, or financial data
 8 relating to such an audit or review, which is conducted by any
 9 accountant who conducts an audit of an issuer of securities to
 10 which section 10A(a) of the Securities Exchange Act of 1934
 11 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time
 12 to time, amend or supplement the rules and regulations that
 13 it is required to promulgate under this section, after adequate
 14 notice and an opportunity for comment, in order to ensure that
 15 such rules and regulations adequately comport with the pur-
 16 poses of this section.

17 (b) OFFENSE.—Whoever knowingly violates subsection
 18 (a)(1), or any rule or regulation promulgated by the Securities
 19 and Exchange Commission under subsection (a)(2), shall be
 20 imprisoned not more than 10 years.

21 (c) RULE OF CONSTRUCTION.—Nothing in this section
 22 shall be deemed to diminish or relieve any person of any other
 23 duty or obligation imposed by Federal or State law or regula-
 24 tion to maintain, or refrain from destroying, any document.

25 SUBCHAPTER J—PRISONS

Sec.

1161. Providing or possessing contraband in prison.

1162. Mutiny and riot prohibited.

1163. Trespass on Bureau of Prisons reservations and land.

26 **§ 1161. Providing or possessing contraband in** 27 **prison**

28 (a) OFFENSE.—Whoever—

29 (1) in violation of a statute or a rule or order issued
 30 under a statute, provides to an inmate of a prison a prohib-
 31 ited object, or attempts to do so; or

32 (2) being an inmate of a prison, makes, possesses, or
 33 obtains, or attempts to make or obtain, a prohibited object;
 34 shall be punished as provided in subsection (b) of this section.

1 (b) PUNISHMENT.—The punishment for an offense under
2 this section is a fine under this title or—

3 (1) imprisonment for not more than 20 years, or both,
4 if the object is specified in subsection (d)(1)(C) of this sec-
5 tion;

6 (2) imprisonment for not more than 10 years, or both,
7 if the object is specified in subsection (d)(1)(A) of this sec-
8 tion;

9 (3) imprisonment for not more than 5 years, or both,
10 if the object is specified in subsection (d)(1)(B) of this sec-
11 tion;

12 (4) imprisonment for not more than one year, or both,
13 if the object is specified in subsection (d)(1)(D) or
14 (d)(1)(E) of this section; and

15 (5) imprisonment for not more than 6 months, or
16 both, if the object is specified in subsection (d)(1)(F) of
17 this section.

18 (c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN
19 CASES.—Any punishment imposed under subsection (b) for a
20 violation of this section involving a controlled substance shall
21 be consecutive to any other sentence imposed by any court for
22 an offense involving such a controlled substance. Any punish-
23 ment imposed under subsection (b) for a violation of this sec-
24 tion by an inmate of a prison shall be consecutive to the sen-
25 tence being served by such inmate at the time the inmate com-
26 mits such violation.

27 (d) DEFINITIONS.—As used in this section—

28 (1) the term “prohibited object” means—

29 (A) a firearm or destructive device or a controlled
30 substance in schedule I or II, other than marijuana or
31 a controlled substance referred to in subparagraph (C)
32 of this subsection;

33 (B) marijuana or a controlled substance in sched-
34 ular III, other than a controlled substance referred to in
35 subparagraph (C) of this subsection, ammunition, a
36 weapon (other than a firearm or destructive device), or

1 an object that is designed or intended to be used as a
2 weapon or to facilitate escape from a prison;

3 (C) a narcotic drug, methamphetamine, its salts,
4 isomers, and salts of its isomers, lysergic acid
5 diethylamide, or phencyclidine;

6 (D) a controlled substance (other than a controlled
7 substance referred to in subparagraph (A), (B), or (C)
8 of this subsection) or an alcoholic beverage;

9 (E) any United States or foreign currency; and

10 (F) any other object that threatens the order, dis-
11 cipline, or security of a prison, or the life, health, or
12 safety of an individual;

13 (2) the terms “ammunition”, “firearm”, and “destruc-
14 tive device” have, respectively, the meanings given those
15 terms in section 921 of this title;

16 (3) the terms “controlled substance” and “narcotic
17 drug” have, respectively, the meanings given those terms in
18 section 102 of the Controlled Substances Act (21 U.S.C.
19 802); and

20 (4) the term “prison” means a Federal correctional,
21 detention, or penal facility.

22 **§ 1162. Mutiny and riot prohibited**

23 Whoever instigates, connives, willfully attempts to cause,
24 assists, or conspires to cause any mutiny or riot, at any Fed-
25 eral penal, detention, or correctional facility, shall be impris-
26 oned not more than ten years.

27 **§ 1163. Trespass on Bureau of Prisons reserva-**
28 **tions and land**

29 Whoever, without lawful authority or permission, goes
30 upon a reservation, land, or a facility of the Bureau of Prisons
31 shall be imprisoned not more than six months.

32 **SUBCHAPTER K—PUBLIC OFFICERS AND**
33 **EMPLOYEES**

Sec.

1171. Disclosure of confidential information generally.

1172. Unauthorized removal and retention of classified documents or
material.

1 **§ 1171. Disclosure of confidential information gen-**
2 **erally**

3 Whoever, being an officer or employee of the United
4 States or of any department or agency thereof, any person act-
5 ing on behalf of the Office of Federal Housing Enterprise
6 Oversight, or agent of the Department of Justice as defined in
7 the Antitrust Civil Process Act (15 U.S.C. 1311–1314), or
8 being an employee of a private sector organization who is or
9 was assigned to an agency under chapter 37 of title 5, pub-
10 lishes, divulges, discloses, or makes known in any manner or
11 to any extent not authorized by law any information coming to
12 him in the course of his employment or official duties or by
13 reason of any examination or investigation made by, or return,
14 report or record made to or filed with, such department or
15 agency or officer or employee thereof, which information con-
16 cerns or relates to the trade secrets, processes, operations, style
17 of work, or apparatus, or to the identity, confidential statistical
18 data, amount or source of any income, profits, losses, or ex-
19 penditures of any person, firm, partnership, corporation, or as-
20 sociation; or permits any income return or copy thereof or any
21 book containing any abstract or particulars thereof to be seen
22 or examined by any person except as provided by law; shall be
23 imprisoned not more than one year; and shall be removed from
24 office or employment.

25 **§ 1172. Unauthorized removal and retention of**
26 **classified documents or material**

27 (a) OFFENSE.—Whoever, being an officer, employee, con-
28 tractor, or consultant of the United States, and, by virtue of
29 his office, employment, position, or contract, becomes possessed
30 of documents or materials containing classified information of
31 the United States, knowingly removes such documents or mate-
32 rials without authority and with the intent to retain such docu-
33 ments or materials at an unauthorized location shall be impris-
34 oned for not more than one year.

35 (b) EXCLUSION.—For purposes of this section, the provi-
36 sion of documents and materials to the Congress shall not con-
37 stitute an offense under subsection (a).

1 (c) DEFINITION.—In this section, the term “classified in-
 2 formation of the United States” means information originated,
 3 owned, or possessed by the United States Government con-
 4 cerning the national defense or foreign relations of the United
 5 States that has been determined pursuant to law or Executive
 6 order to require protection against unauthorized disclosure in
 7 the interests of national security.

8 SUBCHAPTER L—RECORDS AND REPORTS

Sec.

1181. Concealment, removal, or mutilation generally.

1182. False entries and reports of moneys or securities.

9 **§ 1181. Concealment, removal, or mutilation gen- 10 erally**

11 Whoever knowingly and unlawfully conceals, removes, mu-
 12 tilates, obliterates, or destroys, or attempts to do so, or, with
 13 intent to do so takes and carries away any record, proceeding,
 14 map, book, paper, document, or other thing, filed or deposited
 15 with any clerk or officer of any court of the United States, or
 16 in any public office, or with any judicial or public officer of the
 17 United States, shall be imprisoned not more than three years.

18 **§ 1182. False entries and reports of moneys or se- 19 curities**

20 Whoever—

21 (1) being an officer, clerk, agent, or other employee of
 22 the United States or any of its agencies, charged with the
 23 duty of keeping accounts or records of any kind, with in-
 24 tent to deceive, mislead, injure, or defraud, makes in any
 25 such account or record any false or fictitious entry or
 26 record of any matter relating to or connected with his du-
 27 ties; or

28 (2) being an officer, clerk, agent, or other employee of
 29 the United States or any of its agencies, charged with the
 30 duty of receiving, holding, or paying over moneys or securi-
 31 ties to, for, or on behalf of the United States, or of receiv-
 32 ing or holding in trust for any person any moneys or secu-
 33 rities, with like intent, makes a false report of such moneys
 34 or securities;

1 shall be imprisoned not more than ten years.

2 SUBCHAPTER M—SEARCHES AND SEIZURES

Sec.

1191. Destruction or removal of property to prevent seizure.

1192. Rescue of seized property.

3 **§ 1191. Destruction or removal of property to pre-**
 4 **vent seizure**

5 (a) DESTRUCTION OR REMOVAL OF PROPERTY TO PRE-
 6 VENT SEIZURE.—Whoever, before, during, or after any search
 7 for or seizure of property by any person authorized to make
 8 such search or seizure, knowingly destroys, damages, wastes,
 9 disposes of, transfers, or otherwise takes any action, or know-
 10 ingly attempts to destroy, damage, waste, dispose of, transfer,
 11 or otherwise take any action, for the purpose of preventing or
 12 impairing the Government’s lawful authority to take such prop-
 13 erty into its custody or control or to continue holding such
 14 property under its lawful custody and control, shall be impris-
 15 oned not more than 5 years.

16 (b) IMPAIRMENT OF IN REM JURISDICTION.—Whoever,
 17 knowing that property is subject to the in rem jurisdiction of
 18 a United States court for purposes of civil forfeiture under
 19 Federal law, knowingly and without authority from that court,
 20 destroys, damages, wastes, disposes of, transfers, or otherwise
 21 takes any action, or knowingly attempts to destroy, damage,
 22 waste, dispose of, transfer, or otherwise take any action, for the
 23 purpose of impairing or defeating the court’s continuing in rem
 24 jurisdiction over the property, shall be imprisoned not more
 25 than 5 years.

26 (c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE WAR-
 27 RANT OR WARRANT OF ARREST IN REM.—Whoever, having
 28 knowledge that any person authorized to make searches and
 29 seizures, or to execute a seizure warrant or warrant of arrest
 30 in rem, in order to prevent the authorized seizing or securing
 31 of any person or property, gives notice or attempts to give no-
 32 tice in advance of the search, seizure, or execution of a seizure
 33 warrant or warrant of arrest in rem, to any person shall be im-
 34 prisoned not more than 5 years.

1 (d) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—
 2 Whoever, having knowledge that a Federal investigative or law
 3 enforcement officer has been authorized or has applied for au-
 4 thorization under subchapter C of chapter 37 to intercept a
 5 wire, oral, or electronic communication, in order to obstruct,
 6 impede, or prevent such interception, gives notice or attempts
 7 to give notice of the possible interception to any person shall
 8 be imprisoned not more than five years.

9 (e) FOREIGN INTELLIGENCE SURVEILLANCE.—Whoever,
 10 having knowledge that a Federal officer has been authorized or
 11 has applied for authorization to conduct electronic surveillance
 12 under the Foreign Intelligence Surveillance Act of 1978 (50
 13 U.S.C. 1801, et seq.), in order to obstruct, impede, or prevent
 14 such activity, gives notice or attempts to give notice of the pos-
 15 sible activity to any person shall be imprisoned not more than
 16 five years.

17 **§ 1192. Rescue of seized property**

18 Whoever forcibly rescues, dispossesses, or attempts to res-
 19 cue or dispossess any property, articles, or objects after the
 20 same shall have been taken, detained, or seized by any officer
 21 or other person under the authority of any revenue law of the
 22 United States, or by any person authorized to make searches
 23 and seizures, shall be imprisoned not more than two years.

24 SUBCHAPTER N—MALICIOUS MISCHIEF

Sec.

- 1201. Government property or contracts.
- 1202. Communication lines, stations or systems.
- 1203. Buildings or property within special maritime and territorial ju-
 25 risdiction.
- 1204. Tampering with consumer products.
- 1205. Destruction of an energy facility.
- 1206. Harming animals used in law enforcement.
- 1207. Destruction of veterans' memorials.

26 **§ 1201. Government property or contracts**

27 Whoever knowingly and without authority injures or com-
 28 mits any depredation against any property of the United
 29 States, or of any department or agency thereof, or any property
 30 which has been or is being manufactured or constructed for the
 United States, or any department or agency thereof, or at-

1 attempts to commit any of the foregoing offenses, shall be pun-
2 ished as follows:

3 (1) If the damage or attempted damage to such prop-
4 erty exceeds the sum of \$1,000, by imprisonment for not
5 more than ten years.

6 (2) If the damage or attempted damage to such prop-
7 erty does not exceed the sum of \$1,000, by imprisonment
8 for not more than one year.

9 **§ 1202. Communication lines, stations or systems**

10 (a) OFFENSE.—Whoever knowingly and without authority
11 injures or destroys any of the works, property, or material of
12 any radio, telegraph, telephone or cable, line, station, or sys-
13 tem, or other means of communication, operated or controlled
14 by the United States, or used or intended to be used for mili-
15 tary or civil defense functions of the United States, whether
16 constructed or in process of construction, or willfully or mali-
17 ciously interferes in any way with the working or use of any
18 such line, or system, or willfully or maliciously obstructs,
19 hinders, or delays the transmission of any communication over
20 any such line, or system, or attempts or conspires to do such
21 an act, shall be imprisoned not more than ten years.

22 (b) EXCLUSION.—In the case of any works, property, or
23 material, not operated or controlled by the United States, this
24 section shall not apply to any lawful strike activity, or other
25 lawful concerted activities for the purposes of collective bar-
26 gaining or other mutual aid and protection which do not injure
27 or destroy any line or system used or intended to be used for
28 the military or civil defense functions of the United States.

29 **§ 1203. Buildings or property within special mari-
30 time and territorial jurisdiction**

31 Whoever, within the special maritime and territorial juris-
32 diction of the United States, knowingly and without authority
33 destroys or injures any structure, conveyance, or other real or
34 personal property, or attempts or conspires to do such an act,
35 shall be imprisoned not more than five years and if the building
36 be a dwelling, or the life of any person be placed in jeopardy,
37 shall be imprisoned not more than twenty years.

1 **§ 1204. Tampering with consumer products**

2 (a) TAMPERING IN GENERAL.—Whoever, with reckless
3 disregard for the risk that another person will be placed in dan-
4 ger of death or bodily injury and under circumstances mani-
5 festing extreme indifference to such risk, tampers with any con-
6 sumer product that affects interstate or foreign commerce, or
7 the labeling of, or container for, any such product, or attempts
8 to do so, shall—

9 (1) in the case of an attempt, be imprisoned not more
10 than ten years;

11 (2) if death of an individual results, be imprisoned for
12 any term of years or for life;

13 (3) if serious bodily injury to any individual results, be
14 imprisoned not more than twenty years; and

15 (4) in any other case, be imprisoned not more than ten
16 years.

17 (b) TAINTING WITH INTENT TO CAUSE SERIOUS INJURY
18 THROUGH BUSINESS.—Whoever, with intent to cause serious
19 injury to the business of any person, taints any consumer prod-
20 uct or renders materially false or misleading the labeling of, or
21 container for, a consumer product, if such consumer product
22 affects interstate or foreign commerce, shall be imprisoned not
23 more than three years.

24 (c) FALSE INFORMATION.—(1) Whoever knowingly com-
25 municates false information that a consumer product has been
26 tainted, if such product or the results of such communication
27 affect interstate or foreign commerce, and if such tainting, had
28 it occurred, would create a risk of death or bodily injury to an-
29 other person, shall be imprisoned not more than five years.

30 (2) As used in paragraph (1) of this subsection, the term
31 “communicates false information” means communicates infor-
32 mation that is false and that the communicator knows is false,
33 under circumstances in which the information may reasonably
34 be expected to be believed.

35 (d) THREATS.—Whoever knowingly threatens, under cir-
36 cumstances in which the threat may reasonably be expected to
37 be believed, that conduct that, if it occurred, would violate sub-

1 section (a) of this section will occur, shall be imprisoned not
2 more than five years.

3 (e) CONSPIRACY.—Whoever is a party to a conspiracy of
4 two or more persons to commit an offense under subsection (a)
5 of this section, if any of the parties intentionally engages in any
6 conduct in furtherance of such offense, shall be imprisoned not
7 more than ten years.

8 (f) TAMPERING WITH WRITING.—(1) Whoever, without
9 the consent of the manufacturer, retailer, or distributor, inten-
10 tionally tampers with a consumer product that is sold in inter-
11 state or foreign commerce by knowingly placing or inserting
12 any writing in the consumer product, or in the container for
13 the consumer product, before the sale of the consumer product
14 to any consumer shall be imprisoned not more than 1 year.

15 (2) Notwithstanding the provisions of paragraph (1), if
16 any person commits a violation of this subsection after a prior
17 conviction under this section becomes final, such person shall
18 be imprisoned for not more than 3 years.

19 (3) In this subsection, the term “writing” means any form
20 of representation or communication, including hand-bills, no-
21 tices, or advertising, that contain letters, words, or pictorial
22 representations.

23 (g) AUTHORITY OF FOOD AND DRUG ADMINISTRATION
24 AND DEPARTMENT OF AGRICULTURE.—In addition to any
25 other agency which has authority to investigate violations of
26 this section, the Food and Drug Administration and the De-
27 partment of Agriculture, respectively, have authority to inves-
28 tigate violations of this section involving a consumer product
29 that is regulated by a provision of law such Administration or
30 Department, as the case may be, administers.

31 (h) DEFINITIONS.—As used in this section—

32 (1) the term “consumer product” means—

33 (A) any “food”, “drug”, “device”, or “cosmetic”,
34 as those terms are respectively defined in section 201
35 of the Federal Food, Drug, and Cosmetic Act (21
36 U.S.C. 321); or

1 (B) any article, product, or commodity which is
 2 customarily produced or distributed for consumption by
 3 individuals, or use by individuals for purposes of per-
 4 sonal care or in the performance of services ordinarily
 5 rendered within the household, and which is designed
 6 to be consumed or expended in the course of such con-
 7 sumption or use;

8 (2) the term “labeling” has the meaning given such
 9 term in section 201(m) of the Federal Food, Drug, and
 10 Cosmetic Act (21 U.S.C. 321(m));

11 **§ 1205. Destruction of an energy facility**

12 (a) DAMAGE EXCEEDING \$100,000.—Whoever knowingly
 13 and without authority—

14 (1) damages the property of an energy facility in an
 15 amount that exceeds \$100,000, or

16 (2) damages the property of an energy facility in any
 17 amount and thereby causes a significant interruption or im-
 18 pairment of a function of an energy facility;

19 shall be imprisoned for not more than 20 years.

20 (b) DAMAGE EXCEEDING \$5,000.—Whoever knowingly and
 21 without authority damages the property of an energy facility in
 22 an amount that exceeds \$5,000 shall be imprisoned for not
 23 more than five years.

24 (c) DEFINITION.—As used in this section, the term “en-
 25 ergy facility” means a facility that is involved in the produc-
 26 tion, storage, transmission, or distribution of electricity, fuel, or
 27 another form or source of energy, or research, development, or
 28 demonstration facilities relating thereto, regardless of whether
 29 such facility is still under construction or is otherwise not func-
 30 tioning, except a facility subject to the jurisdiction, administra-
 31 tion, or in the custody of the Nuclear Regulatory Commission
 32 or an interstate gas pipeline facility as defined in section 60101
 33 of title 49.

34 (d) INCREASED PUNISHMENT WHERE DEATH RESULTS.—
 35 Whoever is convicted of a violation of subsection (a) or (b) that
 36 has resulted in the death of any person shall be subject to im-
 37 prisonment for any term of years or life.

1 **§ 1206. Harming animals used in law enforcement**

2 (a) OFFENSE.—Whoever maliciously harms any police ani-
3 mal, or attempts or conspires to do so, shall be imprisoned not
4 more than 1 year. If the offense permanently disables or dis-
5 figures the animal, or causes serious bodily injury to or the
6 death of the animal, the maximum term of imprisonment shall
7 be 10 years.

8 (b) DEFINITION.—In this section, the term “police ani-
9 mal” means a dog or horse employed by a Federal agency
10 (whether in the executive, legislative, or judicial branch) for the
11 principal purpose of aiding in the detection of criminal activity,
12 enforcement of laws, or apprehension of criminal offenders.

13 **§ 1207. Destruction of veterans’ memorials**

14 (a) OFFENSE.—Whoever, as made applicable by subsection
15 (b), knowingly and without authority injures or destroys any
16 structure, plaque, statue, or other monument on public prop-
17 erty commemorating the service of any person or persons in the
18 armed forces of the United States shall be imprisoned not more
19 than 10 years.

20 (b) FEDERAL NEXUS.—Subsection (a) applies if—

21 (1) in committing the offense, the defendant travels or
22 causes another to travel in interstate or foreign commerce,
23 or uses the mail or an instrumentality of interstate or for-
24 eign commerce; or

25 (2) the structure, plaque, statue, or other monument
26 is located on property owned by, or under the jurisdiction
27 of, the Federal Government.

28 SUBCHAPTER O—PUBLIC LANDS

Sec.

1211. Timber removed or transported.
1212. Trees cut or injured.
1213. Timber set afire.
1214. Fires left unattended and unextinguished.
1215. Trespass on national forest lands.
1216. Hazardous or injurious devices on Federal lands.

29 **§ 1211. Timber removed or transported**

30 (a) OFFENSE.—Whoever knowingly and without author-
31 ity—

1 (1) cuts or destroys any timber growing on the public
2 lands of the United States;

3 (2) removes any timber from those public lands, with
4 intent to export or to dispose of that timber; or

5 (3) being the owner, master, pilot, operator, or con-
6 signee of any vessel, motor vehicle, or aircraft or the owner,
7 director, or agent of any railroad, knowingly transports any
8 timber so cut or removed, or lumber manufactured from
9 that timber;

10 shall be imprisoned not more than one year.

11 (b) EXCLUSION.—This section does not prevent any miner
12 or agriculturist from clearing land in the ordinary working of
13 the miner's mining claim, or in the preparation of the
14 agriculturalist's farm for tillage, or from taking the timber nec-
15 essary to support improvements, or the taking of timber for the
16 use of the United States; nor shall it interfere with or take
17 away any right or privilege under any existing law of the
18 United States to cut or remove timber from any public lands.

19 **§ 1212. Trees cut or injured**

20 Whoever knowingly and without authority cuts, injures, or
21 destroys any tree growing, standing, or being upon any land of
22 the United States which, in pursuance of law, has been re-
23 served or purchased by the United States for any public use,
24 or upon any Indian reservation, or lands belonging to or occu-
25 pied by any tribe of Indians under the authority of the United
26 States, or any Indian allotment while the title to the same shall
27 be held in trust by the Government, or while the same shall re-
28 main inalienable by the allottee without the consent of the
29 United States, shall be imprisoned not more than one year.

30 **§ 1213. Timber set afire**

31 (a) OFFENSE.—Whoever, knowingly and without author-
32 ity, sets on fire any timber, underbrush, or grass or other in-
33 flammable material upon the public domain or upon any lands
34 owned or leased by or under the partial, concurrent, or exclu-
35 sive jurisdiction of the United States, or under contract for
36 purchase or for the acquisition of which condemnation pro-
37 ceedings have been instituted, or upon any Indian reservation

1 or lands belonging to or occupied by any tribe or group of Indi-
2 ans under authority of the United States, or upon any Indian
3 allotment while the title to the same shall be held in trust by
4 the Government, or while the same shall remain inalienable by
5 the allottee without the consent of the United States, shall be
6 imprisoned not more than five years.

7 (b) EXCLUSION.—This section does not apply in the case
8 of a fire set by an allottee in the reasonable exercise of his pro-
9 prietary rights in the allotment.

10 **§ 1214. Fires left unattended and unextinguished**

11 Whoever, having kindled or caused to be kindled, a fire in
12 or near any forest, timber, or other inflammable material upon
13 any lands owned, controlled or leased by, or under the partial,
14 concurrent, or exclusive jurisdiction of the United States, in-
15 cluding lands under contract for purchase or for the acquisition
16 of which condemnation proceedings have been instituted, and
17 including any Indian reservation or lands belonging to or occu-
18 pied by any tribe or group of Indians under the authority of
19 the United States, or any Indian allotment while the title to the
20 same is held in trust by the United States, or while the same
21 shall remain inalienable by the allottee without the consent of
22 the United States, leaves said fire without totally extinguishing
23 the same, or permits or suffers the fire to burn or spread be-
24 yond his control, or leaves or suffers the fire to burn unat-
25 tended, shall be imprisoned not more than six months.

26 **§ 1215. Trespass on national forest lands**

27 Whoever, without authority goes upon any national-forest
28 land while it is closed to the public pursuant to lawful regula-
29 tion of the Secretary of Agriculture, shall be imprisoned not
30 more than six months.

31 **§ 1216. Hazardous or injurious devices on Federal** 32 **lands**

33 (a) ELEMENTS OF THE OFFENSE.—Whoever—

34 (1) with the intent to violate the Controlled Sub-
35 stances Act,

36 (2) with the intent to obstruct or harass the har-
37 vesting of timber, or

1 (3) with reckless disregard to the risk that another
2 person will be placed in danger of death or bodily injury
3 and under circumstances manifesting extreme indifference
4 to such risk,

5 uses a hazardous or injurious device on Federal land, on an In-
6 dian reservation, or on an Indian allotment while the title to
7 such allotment is held in trust by the United States or while
8 such allotment remains inalienable by the allottee without the
9 consent of the United States shall be punished under sub-
10 section (b).

11 (b) PUNISHMENT.—An individual who violates subsection
12 (a) shall—

13 (1) if death of an individual results, be imprisoned for
14 any term of years or for life;

15 (2) if serious bodily injury to any individual results, be
16 imprisoned for not more than 40 years;

17 (3) if bodily injury to any individual results, be impris-
18 oned for not more than 20 years;

19 (4) if damage to the property of any individual results
20 or if avoidance costs have been incurred exceeding \$10,000,
21 in the aggregate, be imprisoned for not more than 20
22 years; and

23 (5) in any other case, be imprisoned for not more than
24 one year.

25 (c) INCREASED PUNISHMENT.—Any individual who is pun-
26 ished under subsection (b)(5) after one or more prior convic-
27 tions under any such subsection shall be imprisoned for not
28 more than 20 years.

29 (d) DEFINITIONS.—As used in this section—

30 (1) the term “hazardous or injurious device” means a
31 device, which when assembled or placed, is capable of caus-
32 ing bodily injury, or damage to property, by the action of
33 any person making contact with such device subsequent to
34 the assembly or placement. Such term includes guns at-
35 tached to trip wires or other triggering mechanisms, ammu-
36 nition attached to trip wires or other triggering mecha-
37 nisms, or explosive devices attached to trip wires or other

1 triggering mechanisms, sharpened stakes, lines or wires,
 2 lines or wires with hooks attached, nails placed so that the
 3 sharpened ends are positioned in an upright manner, or
 4 tree spiking devices including spikes, nails, or other objects
 5 hammered, driven, fastened, or otherwise placed into or on
 6 any timber, whether or not severed from the stump; and

7 (2) the term “avoidance costs” means costs incurred
 8 by any individual for the purpose of—

9 (A) detecting a hazardous or injurious device; or

10 (B) preventing death, serious bodily injury, bodily
 11 injury, or property damage likely to result from the use
 12 of a hazardous or injurious device in violation of sub-
 13 section (a).

14 (e) CIVIL ACTION.— Any person injured as the result of
 15 a violation of subsection (a) may commence a civil action on
 16 his own behalf against any person who is alleged to be in viola-
 17 tion of subsection (a). The district courts shall have jurisdic-
 18 tion, without regard to the amount in controversy or the citi-
 19 zenship of the parties, in such civil actions. The court may
 20 award, in addition to monetary damages for any injury result-
 21 ing from an alleged violation of subsection (a), costs of litiga-
 22 tion, including reasonable attorney and expert witness fees, to
 23 any prevailing or substantially prevailing party, whenever the
 24 court determines such award is appropriate.

25 CHAPTER 31—INTERNATIONAL LAW CRIMES

Subchapter	Sec.
A. Piracy and Privateering	1251
B. Peonage, Slavery, and Trafficking in Persons As- sault	1261
C. Genocide	1281
D. Torture	1291
E. War Crimes	1296

26 SUBCHAPTER A—PIRACY AND PRIVATEERING

Sec.

1251. Piracy under law of nations.

27 § 1251. Piracy under law of nations

28 Whoever, on the high seas, commits the crime of piracy as
 29 defined by the law of nations, and is afterwards brought into
 30 or found in the United States, shall be imprisoned for life.

1 SUBCHAPTER B—PEONAGE, SLAVERY, AND
2 TRAFFICKING IN PERSONS

Sec.

1261. Peonage.
1262. Sale into involuntary servitude.
1263. Forced labor.
1264. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.
1265. Sex trafficking of children or by force, fraud, or coercion.
1266. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor.
1267. Civil remedy.

3 **§ 1261. Peonage**

4 Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in
5 or returning him to a condition of peonage, shall be imprisoned
6 not more than 20 years. If death results from the violation of
7 this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to
8 commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

12 **§ 1262. Sale into involuntary servitude**

13 Whoever knowingly holds to involuntary servitude or sells
14 into any condition of involuntary servitude, any other person
15 for any term, or brings within the United States any person
16 so held, shall be imprisoned not more than 20 years. If death
17 results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual
18 abuse or the attempt to commit aggravated sexual abuse, or an
19 attempt to kill, the defendant shall be imprisoned for any term
20 of years or life.

22 **§ 1263. Forced labor**

23 Whoever knowingly provides or obtains the labor or services of a person—
24

25 (1) by threats of serious harm to, or physical restraint
26 against, that person or another person;

27 (2) by means of any scheme, plan, or pattern intended
28 to cause the person to believe that, if the person did not

1 perform such labor or services, that person or another per-
 2 son would suffer serious harm or physical restraint; or

3 (3) by means of the abuse or threatened abuse of law
 4 or the legal process,

5 shall be imprisoned not more than 20 years. If death results
 6 from the violation of this section, or if the violation includes
 7 kidnapping or an attempt to kidnap, aggravated sexual abuse
 8 or the attempt to commit aggravated sexual abuse, or an at-
 9 tempt to kill, the defendant shall be imprisoned for any term
 10 of years or life.

11 **§ 1264. Trafficking with respect to peonage, slav-**
 12 **ery, involuntary servitude, or forced labor**

13 Whoever knowingly recruits, harbors, transports, provides,
 14 or obtains by any means, any person for labor or services in
 15 violation of this chapter shall be imprisoned not more than 20
 16 years. If death results from the violation of this section, or if
 17 the violation includes kidnapping or an attempt to kidnap, ag-
 18 gravated sexual abuse, or the attempt to commit aggravated
 19 sexual abuse, or an attempt to kill, the defendant shall be im-
 20 prisoned for any term of years or life.

21 **§ 1265. Sex trafficking of children or by force,**
 22 **fraud, or coercion**

23 (a) ELEMENTS OF THE OFFENSE.—Whoever knowingly—

24 (1) in or affecting interstate or foreign commerce, or
 25 within the special maritime and territorial jurisdiction of
 26 the United States, recruits, entices, harbors, transports,
 27 provides, or obtains by any means a person; or

28 (2) benefits, financially or by receiving anything of
 29 value, from participation in a venture which has engaged
 30 in an act described in violation of paragraph (1),

31 knowing that force, fraud, or coercion described in subsection
 32 (c)(2) will be used to cause the person to engage in a commer-
 33 cial sex act, or that the person has not attained the age of 18
 34 years and will be caused to engage in a commercial sex act,
 35 shall be punished as provided in subsection (b).

36 (b) PUNISHMENT.—The punishment for an offense under
 37 subsection (a) is—

1 (1) if the offense was effected by force, fraud, or coer-
 2 cion or if the person recruited, enticed, harbored, trans-
 3 ported, provided, or obtained had not attained the age of
 4 14 years at the time of such offense, by a fine under this
 5 title or imprisonment for any term of years or for life, or
 6 both; or

7 (2) if the offense was not so effected, and the person
 8 recruited, enticed, harbored, transported, provided, or ob-
 9 tained had attained the age of 14 years but had not at-
 10 tained the age of 18 years at the time of such offense, by
 11 a fine under this title or imprisonment for not more than
 12 40 years, or both.

13 (c) DEFINITIONS.—As used in this section—

14 (1) the term “commercial sex act” means any sex act,
 15 on account of which anything of value is given to or re-
 16 ceived by any person;

17 (2) the term “coercion” means—

18 (A) threats of serious harm to or physical re-
 19 straint against any person;

20 (B) any scheme, plan, or pattern intended to cause
 21 a person to believe that failure to perform an act would
 22 result in serious harm to or physical restraint against
 23 any person; or

24 (C) the abuse or threatened abuse of law or the
 25 legal process; and

26 (3) the term “venture” means any group of two or
 27 more individuals associated in fact, whether or not a legal
 28 entity.

29 **§ 1266. Unlawful conduct with respect to docu-**
 30 **ments in furtherance of trafficking, peon-**
 31 **age, slavery, involuntary servitude, or**
 32 **forced labor**

33 (a) OFFENSE.—Whoever knowingly destroys, conceals, re-
 34 moves, confiscates, or possesses any actual or purported pass-
 35 port or other immigration document, or any other actual or
 36 purported government identification document, of another per-
 37 son—

1 (1) in the course of a violation of section 1261, 1262,
2 1263, 1264, or 1265;

3 (2) with intent to violate section 1261, 1262, 1263,
4 1264, or 1265; or

5 (3) to prevent or restrict or to attempt to prevent or
6 restrict, without lawful authority, the person's liberty to
7 move or travel, in order to maintain the labor or services
8 of that person, when the person is or has been a victim of
9 a severe form of trafficking in persons, as defined in sec-
10 tion 103 of the Trafficking Victims Protection Act of 2000,
11 shall be imprisoned for not more than 5 years.

12 (b) EXCLUSION.—Subsection (a) does not apply to the
13 conduct of a person who is or has been a victim of a severe
14 form of trafficking in persons, as defined in section 103 of the
15 Trafficking Victims Protection Act of 2000, if that conduct is
16 caused by, or incident to, that trafficking.

17 **§ 1267. Civil remedy**

18 (a) CIVIL ACTION.—An individual who is a victim of a vio-
19 lation of section 1263, 1264, or 1265 may bring a civil action
20 against the perpetrator in an appropriate district court of the
21 United States and may recover damages and reasonable attor-
22 neys fees.

23 (b) STAY.—(1) Any civil action filed under this section
24 shall be stayed during the pendency of any criminal action aris-
25 ing out of the same occurrence in which the claimant is the vic-
26 tim.

27 (2) In this subsection, a “criminal action” includes inves-
28 tigation and prosecution and is pending until final adjudication
29 in the trial court.

30 SUBCHAPTER C—GENOCIDE

Sec.

1281. Genocide.

1282. Definitions.

31 **§ 1281. Genocide**

32 (a) BASIC OFFENSE.—Whoever, whether in time of peace
33 or in time of war, in a circumstance described in subsection (d)

1 and with the specific intent to destroy, in whole or in substan-
2 tial part, a national, ethnic, racial, or religious group as such—

3 (1) kills members of that group;

4 (2) causes serious bodily injury to members of that
5 group;

6 (3) causes the permanent impairment of the mental
7 faculties of members of the group through drugs, torture,
8 or similar techniques;

9 (4) subjects the group to conditions of life that are in-
10 tended to cause the physical destruction of the group in
11 whole or in part;

12 (5) imposes measures intended to prevent births with-
13 in the group; or

14 (6) transfers by force children of the group to another
15 group;

16 or attempts to do so, shall be punished as provided in sub-
17 section (b).

18 (b) PUNISHMENT FOR BASIC OFFENSE.—The punishment
19 for an offense under subsection (a) is—

20 (1) in the case of an offense under subsection (a)(1),
21 where death results, by death or imprisonment for life and
22 a fine of not more than \$1,000,000, or both; and

23 (2) a fine of not more than \$1,000,000 or imprison-
24 ment for not more than twenty years, or both, in any other
25 case.

26 (c) INCITEMENT OFFENSE.—Whoever in a circumstance
27 described in subsection (d) directly and publicly incites another
28 to violate subsection (a) shall be imprisoned not more than five
29 years.

30 (d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The cir-
31 cumstance referred to in subsections (a) and (c) is that—

32 (1) the offense is committed within the United States;

33 or

34 (2) the alleged offender is a national of the United
35 States (as defined in section 101 of the Immigration and
36 Nationality Act (8 U.S.C. 1101)).

1 (e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Not-
 2 withstanding section 3282 of this title, in the case of an offense
 3 under subsection (a)(1), an indictment may be found, or infor-
 4 mation instituted, at any time without limitation.

5 **§ 1282. Definitions**

6 As used in this subchapter—

7 (1) the term “children” means the plural and means
 8 individuals who have not attained the age of eighteen years;

9 (2) the term “ethnic group” means a set of individuals
 10 whose identity as such is distinctive in terms of common
 11 cultural traditions or heritage;

12 (3) the term “incites” means urges another to engage
 13 imminently in conduct in circumstances under which there
 14 is a substantial likelihood of imminently causing such con-
 15 duct;

16 (4) the term “members” means the plural;

17 (5) the term “national group” means a set of individ-
 18 uals whose identity as such is distinctive in terms of na-
 19 tionality or national origins;

20 (6) the term “racial group” means a set of individuals
 21 whose identity as such is distinctive in terms of physical
 22 characteristics or biological descent;

23 (7) the term “religious group” means a set of individ-
 24 uals whose identity as such is distinctive in terms of com-
 25 mon religious creed, beliefs, doctrines, practices, or rituals;
 26 and

27 (8) the term “substantial part” means a part of a
 28 group of such numerical significance that the destruction or
 29 loss of that part would cause the destruction of the group
 30 as a viable entity within the nation of which such group is
 31 a part.

32 **SUBCHAPTER D—TORTURE**

Sec.	
1291.	Torture.
1292.	Definitions.

§ 1291. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be imprisoned not more than 20 years and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

§ 1292. Definitions

As used in this subchapter—

(1) the term “torture” means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control; and

(2) the term “severe mental pain or suffering” means the prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering

1 substances or other procedures calculated to disrupt
2 profoundly the senses or personality.

3 SUBCHAPTER E—WAR CRIMES

Sec.

1296. War crimes.

4 **§ 1296. War crimes**

5 (a) OFFENSE.—Whoever, whether inside or outside the
6 United States, commits a war crime, in any of the cir-
7 cumstances described in subsection (b), shall be imprisoned for
8 life or any term of years and if death results to the victim,
9 shall also be subject to the penalty of death.

10 (b) CIRCUMSTANCES.—The circumstances referred to in
11 subsection (a) are that the person committing such war crime
12 or the victim of such war crime is a member of the Armed
13 Forces of the United States or a national of the United States
14 (as defined in section 101 of the Immigration and Nationality
15 Act).

16 (c) DEFINITION.—As used in this section the term “war
17 crime” means any conduct—

18 (1) defined as a grave breach in any of the inter-
19 national conventions signed at Geneva 12 August 1949, or
20 any protocol to such convention to which the United States
21 is a party;

22 (2) prohibited by Article 23, 25, 27, or 28 of the
23 Annex to the Hague Convention IV, Respecting the Laws
24 and Customs of War on Land, signed 18 October 1907;

25 (3) which constitutes a violation of common Article 3
26 of the international conventions signed at Geneva, 12 Au-
27 gust 1949, or any protocol to such convention to which the
28 United States is a party and which deals with non-inter-
29 national armed conflict; or

30 (4) of a person who, in relation to an armed conflict
31 and contrary to the provisions of the Protocol on Prohibi-
32 tions or Restrictions on the Use of Mines, Booby-Traps and
33 Other Devices as amended at Geneva on 3 May 1996 (Pro-
34 tocol II as amended on 3 May 1996), when the United

1 States is a party to such Protocol, willfully kills or causes
 2 serious injury to civilians.

3 **CHAPTER 33—TRANSPORTATION RELATED**
 4 **CRIMES**

Subchapter	Sec.
A. Aircraft and motor vehicles	1301
B. Roalroads	1331
C. Seamen and stowaways	1341
D. Shipping	1351

5 **SUBCHAPTER A—AIRCRAFT AND MOTOR VEHICLES**

Sec.	
1301.	Destruction of aircraft or aircraft facilities.
1302.	Destruction of motor vehicles or motor vehicle facilities.
1303.	Penalty when death results.
1304.	Imparting or conveying false information.
1305.	Violence at international airports.
1306.	Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.
1307.	Aircraft piracy.
1308.	Interference with flight crew members and attendants.
1309.	Carrying a weapon or explosive on an aircraft.
1310.	Application of certain criminal laws to acts on aircraft.
1311.	Definitions.

6 **§ 1301. Destruction of aircraft or aircraft facilities**

7 (a) IN GENERAL.—Whoever knowingly without author-
 8 ity—

9 (1) sets fire to, damages, destroys, disables, or wrecks
 10 any aircraft in the special aircraft jurisdiction of the
 11 United States or any civil aircraft used, operated, or em-
 12 ployed in interstate, overseas, or foreign air commerce;

13 (2) places or causes to be placed a destructive device
 14 or substance in, upon, or in proximity to, or otherwise
 15 makes or causes to be made unworkable or unusable or
 16 hazardous to work or use, any such aircraft, or any part
 17 or other materials used or intended to be used in connec-
 18 tion with the operation of such aircraft, if such placing or
 19 causing to be placed or such making or causing to be made
 20 is likely to endanger the safety of any such aircraft;

21 (3) sets fire to, damages, destroys, or disables any air
 22 navigation facility, or interferes by force or violence with
 23 the operation of such facility, if such fire, damaging, de-

1 stroying, disabling, or interfering is likely to endanger the
2 safety of any such aircraft in flight;

3 (4) with the intent to damage, destroy, or disable any
4 such aircraft, sets fire to, damages, destroys, or disables or
5 places a destructive device or substance in, upon, or in
6 proximity to, any appliance or structure, ramp, landing
7 area, property, machine, or apparatus, or any facility or
8 other material used, or intended to be used, in connection
9 with the operation, maintenance, loading, unloading or
10 storage of any such aircraft or any cargo carried or in-
11 tended to be carried on any such aircraft;

12 (5) performs an act of violence against or incapacitates
13 any individual on any such aircraft, if such act of vio-
14 lence or incapacitation is likely to endanger the safety of
15 such aircraft; or

16 (6) communicates information, knowing the informa-
17 tion to be false and under circumstances in which such in-
18 formation may reasonably be believed, thereby endangering
19 the safety of any such aircraft in flight,

20 shall be imprisoned not more than 20 years.

21 (b) OTHER CIVIL AIRCRAFT.—Whoever knowingly—

22 (1) performs an act of violence against any individual
23 on board any civil aircraft registered in a country other
24 than the United States while such aircraft is in flight, if
25 such act is likely to endanger the safety of that aircraft;

26 (2) destroys a civil aircraft registered in a country
27 other than the United States while such aircraft is in serv-
28 ice or causes damage to such an aircraft which renders that
29 aircraft incapable of flight or which is likely to endanger
30 that aircraft's safety in flight; or

31 (3) places or causes to be placed on a civil aircraft
32 registered in a country other than the United States while
33 such aircraft is in service, a device or substance which is
34 likely to destroy that aircraft, or to cause damage to that
35 aircraft which renders that aircraft incapable of flight or
36 which is likely to endanger that aircraft's safety in flight.

1 shall be imprisoned not more than 20 years. There is also
2 extraterritorial jurisdiction over an offense under this sub-
3 section if a national of the United States was on board, or
4 would have been on board, the aircraft; an offender is a na-
5 tional of the United States; or an offender is afterwards found
6 in the United States.

7 (c) THREATS.—Whoever knowingly imparts or conveys any
8 threat to do an act which would violate any of paragraphs (1)
9 through (5) of subsection (a) or any of paragraphs (1) through
10 (3) of subsection (b) of this section, with an apparent deter-
11 mination and will to carry the threat into execution shall be im-
12 prisoned not more than five years.

13 **§ 1302. Destruction of motor vehicles or motor ve-**
14 **hicle facilities**

15 (a) OFFENSE.—Whoever—

16 (1) knowingly, with intent to endanger the safety of
17 any person on board or anyone who he believes will board
18 the same, or with a reckless disregard for the safety of
19 human life, damages, disables, destroys, tampers with, or
20 places or causes to be placed any explosive or other de-
21 structive substance in, upon, or in proximity to, any motor
22 vehicle which is used, operated, or employed in interstate
23 or foreign commerce, or its cargo or material used or in-
24 tended to be used in connection with its operation;

25 (2) knowingly, with like intent, damages, disables, de-
26 stroys;

27 (3) sets fire to, tampers with, or places or causes to
28 be placed any explosive or other destructive substance in,
29 upon, or in proximity to any garage, terminal, structure,
30 supply, or facility used in the operation of, or in support
31 of the operation of, motor vehicles engaged in interstate or
32 foreign commerce or otherwise makes or causes such prop-
33 erty to be made unworkable, unusable, or hazardous to
34 work or use; or

35 (4) with like intent, knowingly disables or incapaciti-
36 tates any driver or person employed in connection with the
37 operation or maintenance of the motor vehicle, or in any

1 way lessens the ability of such person to perform his duties
2 as such.

3 shall be imprisoned not more than 20 years.

4 (b) INCREASED PENALTY.—Whoever is convicted of a vio-
5 lation of subsection (a) involving a motor vehicle that, at the
6 time the violation occurred, carried high-level radioactive waste
7 (as that term is defined in section 2(12) of the Nuclear Waste
8 Policy Act of 1982 (42 U.S.C. 10101(12))) or spent nuclear
9 fuel (as that term is defined in section 2(23) of the Nuclear
10 Waste Policy Act of 1982 (42 U.S.C. 10101(23))), shall be im-
11 prisoned for any term of years not less than 30, or for life.

12 **§ 1303. Penalty when death results**

13 Whoever is convicted of any crime prohibited by this sub-
14 chapter, which has resulted in the death of any person, shall
15 be subject also to the death penalty or to imprisonment for life.

16 **§ 1304. Imparting or conveying false information**

17 (a) CIVIL PENALTY.—Whoever imparts or conveys or
18 causes to be imparted or conveyed false information, knowing
19 the information to be false, concerning an attempt or alleged
20 attempt being made or to be made, to do any act which would
21 be a crime prohibited by this subchapter or subchapter B or
22 D of this chapter shall be subject to a civil penalty of not more
23 than \$1,000 which shall be recoverable in a civil action brought
24 in the name of the United States.

25 (b) CRIMINAL OFFENSE.—Whoever knowingly, or with
26 reckless disregard for the safety of human life, imparts or con-
27 veys or causes to be imparted or conveyed false information,
28 knowing the information to be false, concerning an attempt or
29 alleged attempt being made or to be made, to do any act which
30 would be a crime prohibited by this subchapter or subchapter
31 B or D of this chapter shall be imprisoned not more than five
32 years.

33 **§ 1305. Violence at international airports**

34 (a) OFFENSE.—Whoever unlawfully and knowingly, using
35 any device, substance, or weapon—

1 (1) performs an act of violence against a person at an
2 airport serving international civil aviation that causes or is
3 likely to cause serious bodily injury or death; or

4 (2) destroys or seriously damages the facilities of an
5 airport serving international civil aviation or a civil aircraft
6 not in service located thereon or disrupts the services of the
7 airport,

8 shall be imprisoned not more than 20 years.

9 (b) JURISDICTION.—There is jurisdiction over the prohib-
10 ited activity in subsection (a) if—

11 (1) the prohibited activity takes place in the United
12 States; or

13 (2) the prohibited activity takes place outside the
14 United States and (A)the offender is later found in the
15 United States; or (B) an offender or a victim is a national
16 of the United States.

17 (c) BAR TO PROSECUTION.—It is a bar to Federal pros-
18 ecutioin under subsection (a) for conduct that occurred within
19 the United States that the conduct involved was during or in
20 relation to a labor dispute, and such conduct is prohibited as
21 a felony under the law of the State in which it was committed.

22 (d) DEFINITION.—As used in this section, the term “labor
23 dispute” has the meaning set forth in section 13(c) of the Nor-
24 ris-LaGuardia Act, as amended (29 U.S.C. 113(c)).

25 **§ 1306. Fraud involving aircraft or space vehicle**
26 **parts in interstate or foreign commerce**

27 (a) OFFENSES.—Whoever, in or affecting interstate or for-
28 eign commerce, knowingly and with the intent to defraud—

29 (1)(A) falsifies or conceals a material fact concerning
30 any aircraft or space vehicle part;

31 (B) makes any materially fraudulent representation
32 concerning any aircraft or space vehicle part; or

33 (C) makes or uses any materially false writing, entry,
34 certification, document, record, data plate, label, or elec-
35 tronic communication concerning any aircraft or space ve-
36 hicle part; or

1 (2) exports from or imports or introduces into the
2 United States, sells, trades, installs on or in any aircraft
3 or space vehicle any aircraft or space vehicle part using or
4 by means of a fraudulent representation, document, record,
5 certification, depiction, data plate, label, or electronic com-
6 munication;

7 shall be punished as provided in subsection (b).

8 (b) PENALTIES.—The punishment for an offense under
9 subsection (a) is as follows:

10 (1) AVIATION QUALITY.—If the offense relates to the
11 aviation quality of a part and the part is installed in an
12 aircraft or space vehicle, a fine of not more than \$500,000,
13 imprisonment for not more than 15 years, or both.

14 (2) FAILURE TO OPERATE AS REPRESENTED.—If, by
15 reason of the failure of the part to operate as represented,
16 the part to which the offense is related is the proximate
17 cause of a malfunction or failure that results in serious
18 bodily injury, a fine of not more than \$1,000,000, impris-
19 onment for not more than 20 years, or both.

20 (3) FAILURE RESULTING IN DEATH.—If, by reason of
21 the failure of the part to operate as represented, the part
22 to which the offense is related is the proximate cause of a
23 malfunction or failure that results in the death of any per-
24 son, a fine of not more than \$1,000,000, imprisonment for
25 any term of years or life, or both.

26 (4) OTHER CIRCUMSTANCES.—In the case of an of-
27 fense under subsection (a) not described in paragraph (1),
28 (2), or (3) of this subsection, a fine under this title, impris-
29 onment for not more than 10 years, or both.

30 (5) ORGANIZATIONS.—If the offense is committed by
31 an organization, a fine of not more than—

32 (A) \$10,000,000 in the case of an offense de-
33 scribed in paragraph (1) or (4); and

34 (B) \$20,000,000 in the case of an offense de-
35 scribed in paragraph (2) or (3).

36 (c) CIVIL REMEDIES.—

1 (1) IN GENERAL.—The district courts of the United
2 States shall have jurisdiction to prevent and restrain viola-
3 tions of this section by issuing appropriate orders, includ-
4 ing—

5 (A) ordering a person (convicted of an offense
6 under this section) to divest any interest, direct or indi-
7 rect, in any enterprise used to commit or facilitate the
8 commission of the offense, or to destroy, or to mutilate
9 and sell as scrap, aircraft material or part inventories
10 or stocks;

11 (B) imposing reasonable restrictions on the future
12 activities or investments of any such person, including
13 prohibiting engagement in the same type of endeavor
14 as used to commit the offense; and

15 (C) ordering the dissolution or reorganization of
16 any enterprise knowingly used to commit or facilitate
17 the commission of an offense under this section making
18 due provisions for the rights and interests of innocent
19 persons.

20 (2) RESTRAINING ORDERS AND PROHIBITION.—Pend-
21 ing final determination of a proceeding brought under this
22 section, the court may enter such restraining orders or pro-
23 hibitions, or take such other actions (including the accept-
24 ance of satisfactory performance bonds) as the court deems
25 proper.

26 (3) ESTOPPEL.—A final judgment rendered in favor of
27 the United States in any criminal proceeding brought
28 under this section shall stop the defendant from denying
29 the essential allegations of the criminal offense in any sub-
30 sequent civil proceeding brought by the United States.

31 (e) TERRITORIAL SCOPE.—This section also applies to
32 conduct occurring outside the United States if—

33 (1) the offender is a natural person who is a citizen
34 or permanent resident alien of the United States, or an or-
35 ganization organized under the laws of the United States
36 or political subdivision thereof;

1 (2) the aircraft or spacecraft part as to which the vio-
2 lation relates was installed in an aircraft or space vehicle
3 owned or operated at the time of the offense by a citizen
4 or permanent resident alien of the United States, or by an
5 organization thereof; or

6 (3) an act in furtherance of the offense was committed
7 in the United States.

8 **§ 1307. Aircraft piracy**

9 (a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) For the
10 purposes of this subsection—

11 (A) the term “aircraft piracy” means seizing or exer-
12 cising control of an aircraft in the special aircraft jurisdic-
13 tion of the United States by force, violence, threat of force
14 or violence, or any form of intimidation, and with wrongful
15 intent; and

16 (B) an attempt to commit aircraft piracy is in the spe-
17 cial aircraft jurisdiction of the United States although the
18 aircraft is not in flight at the time of the attempt if the
19 aircraft would have been in the special aircraft jurisdiction
20 of the United States had the aircraft piracy been com-
21 pleted.

22 (2) Whoever commits aircraft piracy shall be imprisoned
23 for not less than 20 years.

24 (b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—(1)
25 Whoever commits an offense (as defined in the Convention for
26 the Suppression of Unlawful Seizure of Aircraft) on an aircraft
27 in flight outside the special aircraft jurisdiction of the United
28 States shall be imprisoned for at least 20 years.

29 (2) There is extraterritorial jurisdiction over the offense in
30 paragraph (1) if—

31 (A) a national of the United States was aboard the
32 aircraft;

33 (B) an offender is a national of the United States; or

34 (C) an offender is afterwards found in the United
35 States.

1 **§ 1308. Interference with flight crew members and**
2 **attendants**

3 An individual on an aircraft in the special aircraft jurisdic-
4 tion of the United States who, by assaulting or intimidating a
5 flight crew member or flight attendant of the aircraft, inter-
6 feres with the performance of the duties of the member or at-
7 tendant or lessens the ability of the member or attendant to
8 perform those duties, shall be imprisoned for not more than 20
9 years. However, if a dangerous weapon is used in assaulting or
10 intimidating the member or attendant, the individual shall be
11 imprisoned for any term of years or for life.

12 **§ 1309. Carrying a weapon or explosive on an air-**
13 **craft**

14 (a) DEFINITION.—In this section, “loaded firearm” means
15 a starter gun or a weapon designed or converted to expel a pro-
16 jectile through an explosive, that has a cartridge, a detonator,
17 or powder in the chamber, magazine, cylinder, or clip.

18 (b) GENERAL CRIMINAL PENALTY.—An individual shall be
19 imprisoned for not more than 10 years if the individual—

20 (1) when on, or attempting to get on, an aircraft in,
21 or intended for operation in, air transportation or intra-
22 state air transportation, has on or about the individual or
23 the property of the individual a concealed dangerous weap-
24 on that is or would be accessible to the individual in flight;

25 (2) has placed, attempted to place, or attempted to
26 have placed a loaded firearm on that aircraft in property
27 not accessible to passengers in flight; or

28 (3) has on or about the individual, or has placed, at-
29 tempted to place, or attempted to have placed on that air-
30 craft, an explosive or incendiary device.

31 (c) CRIMINAL PENALTY INVOLVING DISREGARD FOR
32 HUMAN LIFE.—An individual who willfully and without regard
33 for the safety of human life, or with reckless disregard for the
34 safety of human life, violates subsection (b) of this section,
35 shall be imprisoned for not more than 20 years, and, if death
36 results to any person, shall be imprisoned for any term of years
37 or for life.

1 (d) NONAPPLICATION.—Subsection (b)(1) of this section
2 does not apply to—

3 (1) a law enforcement officer of a State or political
4 subdivision of a State, or an officer or employee of the
5 United States Government, authorized to carry arms in an
6 official capacity;

7 (2) another individual the Administrator of the Fed-
8 eral Aviation Administration or the Under Secretary of
9 Transportation for Security by regulation authorizes to
10 carry a dangerous weapon in air transportation or intra-
11 state air transportation; or

12 (3) an individual transporting a weapon (except a
13 loaded firearm) in baggage not accessible to a passenger in
14 flight if the air carrier was informed of the presence of the
15 weapon.

16 **§ 1310. Application of certain criminal laws to**
17 **acts on aircraft**

18 An individual on an aircraft in the special aircraft jurisdic-
19 tion of the United States who commits an act that—

20 (1) if committed in the special maritime and territorial
21 jurisdiction of the United States (as defined in section 7
22 of title 18) would violate section 102, 111, 141, 650, 651,
23 or subchapter A of chapter 13, shall be imprisoned under
24 that section or chapter; or

25 (2) if committed in the District of Columbia would vio-
26 late section 9 of the Act of July 29, 1892 (D.C. Code Sec.
27 22–1112), shall be imprisoned under section 9 of the Act.

28 **§ 1311. Definitions**

29 (a) DEFINITIONS.—As used in sections 1301 through
30 1307, the following definitions apply:

31 (1) AIRCRAFT.—The term “aircraft” means a civil,
32 military, or public contrivance invented, used, or designed
33 to navigate, fly, or travel in the air.

34 (2) AVIATION QUALITY.—The term “aviation quality”,
35 with respect to a part of an aircraft or space vehicle, means
36 the quality of having been manufactured, constructed, pro-
37 duced, maintained, repaired, overhauled, rebuilt, recondi-

1 tioned, or restored in conformity with applicable standards
2 specified by law (including applicable regulations).

3 (3) DESTRUCTIVE SUBSTANCE.—The term “destructive
4 substance” means an explosive substance, flammable
5 material, infernal machine, or other chemical, mechanical,
6 or radioactive device or matter of a combustible, contami-
7 native, corrosive, or explosive nature.

8 (4) IN FLIGHT.—The term “in flight” means—

9 (A) any time from the moment at which all the ex-
10 ternal doors of an aircraft are closed following embar-
11 kation until the moment when any such door is opened
12 for disembarkation; and

13 (B) in the case of a forced landing, until com-
14 petent authorities take over the responsibility for the
15 aircraft and the persons and property on board.

16 (5) IN SERVICE.—The term “in service” means—

17 (A) any time from the beginning of preflight prep-
18 aration of an aircraft by ground personnel or by the
19 crew for a specific flight until 24 hours after any land-
20 ing; and

21 (B) in any event includes the entire period during
22 which the aircraft is in flight.

23 (6) MOTOR VEHICLE.—The term “motor vehicle”
24 means every description of carriage or other contrivance
25 propelled or drawn by mechanical power and used for com-
26 mercial purposes on the highways in the transportation of
27 passengers, passengers and property, or property or cargo.

28 (7) PART.—The term “part” means a frame, assem-
29 bly, component, appliance, engine, propeller, material, part,
30 spare part, piece, section, or related integral or auxiliary
31 equipment.

32 (8) SPACE VEHICLE.—The term “space vehicle”
33 means a man-made device, either manned or unmanned,
34 designed for operation beyond the Earth’s atmosphere.

35 (9) STATE.—The term “State” means a State of the
36 United States, the District of Columbia, and any common-
37 wealth, territory, or possession of the United States.

1 cal agent or toxin, destructive substance, or destructive de-
2 vice in, upon, or near any—

3 (A) tunnel, bridge, viaduct, trestle, track, electro-
4 magnetic guideway, signal, station, depot, warehouse,
5 terminal, or any other way, structure, property, or ap-
6 purtenance used in the operation of, or in support of
7 the operation of, a railroad carrier, and with intent to,
8 or knowing or having reason to know, such activity
9 would likely, derail, disable, or wreck railroad on-track
10 equipment; or

11 (B) garage, terminal, structure, track, electro-
12 magnetic guideway, supply, or facility used in the oper-
13 ation of, or in support of the operation of, a mass
14 transportation vehicle, and with intent to, or knowing
15 or having reason to know, such activity would likely,
16 derail, disable, or wreck a mass transportation vehicle
17 used, operated, or employed by a mass transportation
18 provider;

19 (5) removes an appurtenance from, damages, or other-
20 wise impairs the operation of a railroad signal system or
21 mass transportation signal or dispatching system, including
22 a train control system, centralized dispatching system, or
23 highway-railroad grade crossing warning signal;

24 (6) with intent to endanger the safety of any person,
25 or with a reckless disregard for the safety of human life,
26 interferes with, disables, or incapacitates any dispatcher,
27 driver, captain, locomotive engineer, railroad conductor, or
28 other person while the person is employed in dispatching,
29 operating, controlling, or maintaining railroad on-track
30 equipment or a mass transportation vehicle;

31 (7) commits an act, including the use of a dangerous
32 weapon, with the intent to cause death or serious bodily in-
33 jury to any person who is on property described in subpara-
34 graph (A) or (B) of paragraph (4);

35 (8) surveils, photographs, videotapes, diagrams, or
36 otherwise collects information with the intent to plan or as-

1 sist in planning any of the acts described in paragraphs (1)
2 through (6);

3 (9) conveys false information, knowing the information
4 to be false, concerning an attempt or alleged attempt to en-
5 gage in a violation of this subsection; or

6 (10) threatens to engage in any violation of any of
7 paragraphs (1) through (9);

8 shall be imprisoned not more than 20 years, and if the offense
9 results in the death of any person, shall be imprisoned for any
10 term of years or for life, or be subject to the penalty of death,
11 except in the case of a violation of paragraph (8), (9), or (10).

12 (b) AGGRAVATED OFFENSE.—Whoever commits an offense
13 under subsection (a) of this section in a circumstance in
14 which—

15 (1) the railroad on-track equipment or mass transpor-
16 tation vehicle was carrying a passenger or employee at the
17 time of the offense;

18 (2) the railroad on-track equipment or mass transpor-
19 tation vehicle was carrying high-level radioactive waste or
20 spent nuclear fuel at the time of the offense; or

21 (3) the offense was committed with the intent to en-
22 danger the safety of any person, or with a reckless dis-
23 regard for the safety of any person, and the railroad on-
24 track equipment or mass transportation vehicle was car-
25 rying a hazardous material at the time of the offense
26 that—

27 (A) was required to be placarded under subpart F
28 of part 172 of title 49, Code of Federal Regulations;
29 and

30 (B) is identified as class number 3, 4, 5, 6.1, or
31 8 and packing group I or packing group II, or class
32 number 1, 2, or 7 under the hazardous materials table
33 of section 172.101 of title 49, Code of Federal Regula-
34 tions,

35 shall be imprisoned for any term of years or life, and if the of-
36 fense resulted in the death of any person, the person may be
37 sentenced to death.

1 (c) APPLICABILITY.—Subsection (a) applies if any of the
2 following are true:

3 (1) Any of the conduct required for the offense is, or,
4 in the case of an attempt, threat, or conspiracy to engage
5 in conduct, the conduct required for the completed offense
6 would be, engaged in, on, against, or affecting a mass
7 transportation provider, or a railroad carrier engaged in
8 interstate or foreign commerce.

9 (2) Any person travels or communicates across a State
10 line in order to commit the offense, or transports materials
11 across a State line in aid of the commission of the offense.

12 (d) DEFINITIONS.—As used in this section—

13 (1) the term “biological agent” has the meaning given
14 to that term in section 178(1);

15 (2) the term “dangerous weapon” means a weapon,
16 device, instrument, material, or substance, animate or inani-
17 mate, that is used for, or is readily capable of, causing
18 death or serious bodily injury, including a pocket knife with
19 a blade of less than 2½ inches in length and a box cutter;

20 (3) the term “destructive device” has the meaning
21 given to that term in section 921(a)(4);

22 (4) the term “destructive substance” means an explo-
23 sive substance, flammable material, infernal machine, or
24 other chemical, mechanical, or radioactive device or mate-
25 rial, or matter of a combustible, contaminative, corrosive,
26 or explosive nature, except that the term “radioactive de-
27 vice” does not include any radioactive device or material
28 used solely for medical, industrial, research, or other peace-
29 ful purposes;

30 (5) the term “hazardous material” has the meaning
31 given to that term in chapter 51 of title 49;

32 (6) the term “high-level radioactive waste” has the
33 meaning given to that term in section 2(12) of the Nuclear
34 Waste Policy Act of 1982 (42 U.S.C. 10101(12));

35 (7) the term “mass transportation” has the meaning
36 given to that term in section 5302(a)(7) of title 49, except
37 that the term includes school bus, charter, and sightseeing

1 transportation and passenger vessel as that term is defined
2 in section 2101(22) of title 46, United States Code;

3 (8) the term “on-track equipment” means a carriage
4 or other contrivance that runs on rails or electromagnetic
5 guideways;

6 (9) the term “railroad on-track equipment” means a
7 train, locomotive, tender, motor unit, freight or passenger
8 car, or other on-track equipment used, operated, or em-
9 ployed by a railroad carrier;

10 (10) the term “railroad” has the meaning given to
11 that term in chapter 201 of title 49;

12 (11) the term “railroad carrier” has the meaning
13 given to that term in chapter 201 of title 49;

14 (12) the term “serious bodily injury” has the meaning
15 given to that term in section 1365;

16 (13) the term “spent nuclear fuel” has the meaning
17 given to that term in section 2(23) of the Nuclear Waste
18 Policy Act of 1982 (42 U.S.C. 10101(23));

19 (14) the term “toxin” has the meaning given to that
20 term in section 178(2); and

21 (15) the term “vehicle” means any carriage or other
22 contrivance used, or capable of being used, as a means of
23 transportation on land, on water, or through the air.

24 SUBCHAPTER C—SEAMEN AND STOWAWAYS

Sec.

1341. Drunkenness or neglect of duty by seamen.

1342. Misuse of Federal certificate, license or document.

1343. Stowaways on vessels or aircraft.

25 **§ 1341. Drunkenness or neglect of duty by seamen**

26 Whoever, being a master, officer, radio operator, seaman,
27 apprentice or other person employed on any merchant vessel,
28 by willful breach of duty, or by reason of drunkenness, does
29 any act tending to the immediate loss or destruction of, or seri-
30 ous damage to, such vessel, or tending immediately to endanger
31 the life or limb of any person belonging to or on board of such
32 vessel; or, by knowing breach of duty or by neglect of duty or
33 by reason of drunkenness, refuses or omits to do any lawful act
34 proper and requisite to be done by him for preserving such ves-

1 sel from immediate loss, destruction, or serious damage, or for
2 preserving any person belonging to or on board of such ship
3 from immediate danger to life or limb, shall be imprisoned not
4 more than one year.

5 **§ 1342. Misuse of Federal certificate, license or**
6 **document**

7 Whoever—

8 (1) not being lawfully entitled thereto, uses, exhibits,
9 or attempts to use or exhibit, or, with intent unlawfully to
10 use the same, receives or possesses any certificate, license,
11 or document issued to vessels, or officers or seamen by any
12 officer or employee of the United States authorized by law
13 to issue the same;

14 (2) without authority, alters or attempts to alter any
15 such certificate, license, or document by addition, interpola-
16 tion, deletion, or erasure;

17 (3) forges, counterfeits, or steals, or attempts to forge,
18 counterfeit, or steal, any such certificate, license, or docu-
19 ment; or unlawfully possesses or knowingly uses any such
20 altered, changed, forged, counterfeit, or stolen certificate,
21 license, or document;

22 (4) without authority, prints or manufactures any
23 blank form of such certificate, license, or document, or
24 Whoever possesses without lawful excuse, and with intent
25 unlawfully to use the same, any blank form of such certifi-
26 cate, license, or document; or

27 (5) in any manner, transfers or negotiates such trans-
28 fer of, any blank form of such certificate, license, or docu-
29 ment, or any such altered, forged, counterfeit, or stolen cer-
30 tificate, license, or document, or any such certificate, li-
31 cense, or document to which the party transferring or re-
32 ceiving the same is not lawfully entitled;

33 shall be imprisoned not more than five years.

34 **§ 1343. Stowaways on vessels or aircraft**

35 (a) OFFENSE.—Whoever—

36 (1) without the consent of the owner, charterer, mas-
37 ter, or person in command of any vessel, or aircraft, with

1 intent to obtain transportation, boards, enters or secretes
 2 himself aboard such vessel or aircraft and is thereon at the
 3 time of departure of said vessel or aircraft from a port,
 4 harbor, wharf, airport or other place within the jurisdiction
 5 of the United States;

6 (2) with like intent, having boarded, entered or se-
 7 creted himself aboard a vessel or aircraft at any place with-
 8 in or without the jurisdiction of the United States, remains
 9 aboard after the vessel or aircraft has left such place and
 10 is thereon at any place within the jurisdiction of the United
 11 States; or

12 (3) with intent to obtain a ride or transportation,
 13 boards or enters any aircraft owned or operated by the
 14 United States without the consent of the person in com-
 15 mand or other duly authorized officer or agent;

16 shall be imprisoned not more than one year.

17 (b) DEFINITION.—As used in this section the term “air-
 18 craft” includes any contrivance for navigation or flight in the
 19 air.

20 SUBCHAPTER D—SHIPPING

21 Sec.

1351. Violence against maritime navigation.

22 § 1351. Violence against maritime navigation

23 (a) OFFENSES.—

24 (1) IN GENERAL.—A person who unlawfully and inten-
 25 tionally—

26 (A) seizes or exercises control over a ship by force
 or threat thereof or any other form of intimidation;

27 (B) performs an act of violence against a person
 28 on board a ship if that act is likely to endanger the
 29 safe navigation of that ship;

30 (C) destroys a ship or causes damage to a ship or
 31 to its cargo which is likely to endanger the safe naviga-
 32 tion of that ship;

33 (D) places or causes to be placed on a ship, by any
 34 means whatsoever, a device or substance which is likely
 35 to destroy that ship, or cause damage to that ship or

1 its cargo which endangers or is likely to endanger the
2 safe navigation of that ship;

3 (E) destroys or seriously damages maritime navi-
4 gational facilities or seriously interferes with their oper-
5 ation, if such act is likely to endanger the safe naviga-
6 tion of a ship;

7 (F) communicates information, knowing the infor-
8 mation to be false and under circumstances in which
9 such information may reasonably be believed, thereby
10 endangering the safe navigation of a ship;

11 (G) injures or kills any person in connection with
12 the commission or the attempted commission of any of
13 the offenses set forth in subparagraphs (A) through
14 (F); or

15 (H) attempts or conspires to do any act prohibited
16 under subparagraphs (A) through (G),
17 shall be imprisoned not more than 20 years; and if the
18 death of any person results from conduct prohibited by this
19 paragraph, shall be punished by death or imprisoned for
20 any term of years or for life.

21 (2) THREAT TO NAVIGATION.—A person who threat-
22 ens to do any act prohibited under paragraph (1)(B), (C)
23 or (E), with apparent determination and will to carry the
24 threat into execution, if the threatened act is likely to en-
25 danger the safe navigation of the ship in question, shall be
26 imprisoned not more than 5 years.

27 (b) JURISDICTION.—There is jurisdiction over the activity
28 prohibited in subsection (a)—

29 (1) in the case of a covered ship, if—

30 (A) such activity is committed—

31 (i) against or on board a ship flying the flag
32 of the United States at the time the prohibited ac-
33 tivity is committed;

34 (ii) in the United States; or

35 (iii) by a national of the United States or by
36 a stateless person whose habitual residence is in
37 the United States;

1 (B) during the commission of such activity, a na-
2 tional of the United States is seized, threatened, in-
3 jured or killed; or

4 (C) the offender is later found in the United
5 States after such activity is committed;

6 (2) in the case of a ship navigating or scheduled to
7 navigate solely within the territorial sea or internal waters
8 of a country other than the United States, if the offender
9 is later found in the United States after such activity is
10 committed; and

11 (3) in the case of any vessel, if such activity is com-
12 mitted in an attempt to compel the United States to do or
13 abstain from doing any act.

14 (c) BAR TO PROSECUTION.—It is a bar to Federal pros-
15 ecution under subsection (a) for conduct that occurred within
16 the United States that the conduct involved was during or in
17 relation to a labor dispute, and such conduct is prohibited as
18 a felony under the law of the State in which it was committed.
19 For purposes of this section, the term “labor dispute” has the
20 meaning set forth in section 13(c) of the Norris-LaGuardia
21 Act, as amended (29 U.S.C. 113(c)).

22 (d) DELIVERY OF SUSPECTED OFFENDER.—The master
23 of a covered ship flying the flag of the United States who has
24 reasonable grounds to believe that there is on board that ship
25 any person who has committed an offense under Article 3 of
26 the Convention for the Suppression of Unlawful Acts Against
27 the Safety of Maritime Navigation may deliver such person to
28 the authorities of a State Party to that Convention. Before de-
29 livering such person to the authorities of another country, the
30 master shall notify in an appropriate manner the Attorney
31 General of the United States of the alleged offense and await
32 instructions from the Attorney General as to what action to
33 take. When delivering the person to a country which is a State
34 Party to the Convention, the master shall, whenever prac-
35 ticable, and if possible before entering the territorial sea of
36 such country, notify the authorities of such country of the mas-
37 ter’s intention to deliver such person and the reasons therefor.

1 If the master delivers such person, the master shall furnish to
 2 the authorities of such country the evidence in the master's
 3 possession that pertains to the alleged offense.

4 (e) DEFINITIONS.—As used in this section—

5 (1) the term “covered ship” means a ship that is navi-
 6 gating or is scheduled to navigate into, through or from
 7 waters beyond the outer limit of the territorial sea of a sin-
 8 gle country or a lateral limit of that country's territorial
 9 sea with an adjacent country;

10 (2) the term “territorial sea of the United States”
 11 means all waters extending seaward to 12 nautical miles
 12 from the baselines of the United States determined in ac-
 13 cordance with international law; and

14 (3) the term “ship” means a vessel of any type what-
 15 soever not permanently attached to the sea-bed, including
 16 dynamically supported craft, submersibles or any other
 17 floating craft, but does not include a warship, a ship owned
 18 or operated by a government when being used as a naval
 19 auxiliary or for customs or police purposes, or a ship which
 20 has been withdrawn from navigation or laid up.

21 CHAPTER 35—REGULATORY CRIMES

Subchapter	Sec.
A. Animals, birds, fish, and plants	1371
B. Gambling	1381
C. Protection of trade secrets	1391
D. Trafficking in contraband cigarettes	1411
E. Child support	1431
F. Obscenity	1441
G. Money laundering	1451

22 SUBCHAPTER A—ANIMALS, BIRDS, FISH, AND 23 PLANTS

Sec.	
1371.	Hunting, fishing, trapping; disturbance or injury on wildlife refuges
1372.	Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations
1373.	Animal enterprise terrorism
1374.	Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes
1375.	Depiction of animal cruelty

1 **§ 1371. Hunting, fishing, trapping; disturbance or**
2 **injury on wildlife refuges**

3 Whoever, except in compliance with rules and regulations
4 promulgated by authority of law, hunts, traps, captures, will-
5 fully disturbs or kills any bird, fish, or wild animal of any kind
6 whatever, or takes or destroys the eggs or nest of any such bird
7 or fish, on any lands or waters which are set apart or reserved
8 as sanctuaries, refuges or breeding grounds for such birds, fish,
9 or animals under any law of the United States or willfully in-
10 jures, molests, or destroys any property of the United States
11 on any such lands or waters, shall be imprisoned not more than
12 six months.

13 **§ 1372. Importation or shipment of injurious mam-**
14 **mals, birds, fish (including mollusks and**
15 **crustacea), amphibia, and reptiles; per-**
16 **mits, specimens for museums; regulations**

17 (a) PROHIBITION.—(1) The importation into the United
18 States, any territory of the United States, the District of Co-
19 lumbia, the Commonwealth of Puerto Rico, or any possession
20 of the United States, or any shipment between the continental
21 United States, the District of Columbia, Hawaii, the Common-
22 wealth of Puerto Rico, or any possession of the United States,
23 of the mongoose of the species *Herpestes auropunctatus*; of the
24 species of so-called “flying foxes” or fruit bats of the genus
25 *Pteropus*; of the zebra mussel of the species *Dreissena*
26 *polymorpha*; and such other species of wild mammals, wild
27 birds, fish (including mollusks and crustacea), amphibians, rep-
28 tiles, brown tree snakes, or the offspring or eggs of any of the
29 foregoing which the Secretary of the Interior may prescribe by
30 regulation to be injurious to human beings, to the interests of
31 agriculture, horticulture, forestry, or to wildlife or the wildlife
32 resources of the United States, is hereby prohibited. All such
33 prohibited mammals, birds, fish (including mollusks and
34 crustacea), amphibians, and reptiles, and the eggs or offspring
35 therefrom, shall be promptly exported or destroyed at the ex-
36 pense of the importer or consignee. Nothing in this section
37 shall be construed to repeal or modify any provision of the Pub-

1 lic Health Service Act or Federal Food, Drug, and Cosmetic
2 Act. Also, this section shall not authorize any action with re-
3 spect to the importation of any plant pest as defined in the
4 Federal Plant Pest Act, insofar as such importation is subject
5 to regulation under that Act.

6 (b) DEFINITION.—As used in subsection (a), the term
7 “wild” relates to any creatures that, whether or not raised in
8 captivity, normally are found in a wild state; and the terms
9 “wildlife” and “wildlife resources” include those resources that
10 comprise wild mammals, wild birds, fish (including mollusks
11 and crustacea), and all other classes of wild creatures whatso-
12 ever, and all types of aquatic and land vegetation upon which
13 such wildlife resources are dependent.

14 (c) PERMISSION FOR IMPORTATION.—Notwithstanding the
15 foregoing, the Secretary of the Interior, when he finds that
16 there has been a proper showing of responsibility and continued
17 protection of the public interest and health, shall permit the
18 importation for zoological, educational, medical, and scientific
19 purposes of any mammals, birds, fish, (including mollusks and
20 crustacea), amphibia, and reptiles, or the offspring or eggs
21 thereof, where such importation would be prohibited otherwise
22 by or pursuant to this Act, and this Act shall not restrict im-
23 portations by Federal agencies for their own use.

24 (d) EXCLUSION.—Nothing in this section restricts the im-
25 portation of dead natural-history specimens for museums or for
26 scientific collections, or the importation of domesticated canar-
27 ies, parrots (including all other species of psittacine birds), or
28 such other cage birds as the Secretary of the Interior may des-
29 ignate.

30 (e) ENFORCEMENT.—The Secretary of the Treasury and
31 the Secretary of the Interior shall enforce the provisions of this
32 subsection, including any regulations issued hereunder, and, if
33 requested by the Secretary of the Interior, the Secretary of the
34 Treasury may require the furnishing of an appropriate bond
35 when desirable to insure compliance with such provisions.

1 (f) OFFENSE.—Whoever violates this section, or any regu-
2 lation issued pursuant thereto, shall be imprisoned not more
3 than six months.

4 **§ 1373. Animal enterprise terrorism**

5 (a) OFFENSE.—Whoever—

6 (1) travels in interstate or foreign commerce, or uses
7 or causes to be used the mail or any facility in interstate
8 or foreign commerce for the purpose of causing physical
9 disruption to the functioning of an animal enterprise; and

10 (2) knowingly damages or causes the loss of any prop-
11 erty (including animals or records) used by the animal en-
12 terprise,

13 shall be punished as provided for in subsection (b).

14 (b) PENALTIES.—

15 (1) ECONOMIC DAMAGE.—Whoever, in the course of a
16 violation of subsection (a), causes economic damage not ex-
17 ceeding \$10,000 to an animal enterprise shall be impris-
18 oned not more than 6 months.

19 (2) MAJOR ECONOMIC DAMAGE.—Whoever, in the
20 course of a violation of subsection (a), causes economic
21 damage exceeding \$10,000 to an animal enterprise shall be
22 imprisoned not more than 3 years.

23 (3) SERIOUS BODILY INJURY.—Any person who, in the
24 course of a violation of subsection (a), causes serious bodily
25 injury to another individual shall be imprisoned not more
26 than 20 years.

27 (4) DEATH.—Any person who, in the course of a viola-
28 tion of subsection (a), causes the death of an individual
29 shall be imprisoned for life or for any term of years.

30 (c) RESTITUTION.—An order of restitution under section
31 3663 or 3663A of this title with respect to a violation of this
32 section may also include restitution—

33 (1) for the reasonable cost of repeating any experimen-
34 tation that was interrupted or invalidated as a result of the
35 offense;

36 (2) the loss of food production or farm income reason-
37 ably attributable to the offense; and

1 (3) for any other economic damage resulting from the
2 offense.

3 (d) DEFINITIONS.—As used in this section—

4 (1) the term “animal enterprise” means—

5 (A) a commercial or academic enterprise that uses
6 animals for food or fiber production, agriculture, re-
7 search, or testing;

8 (B) a zoo, aquarium, circus, rodeo, or lawful com-
9 petitive animal event; or

10 (C) any fair or similar event intended to advance
11 agricultural arts and sciences;

12 (2) the term “physical disruption” does not include
13 any lawful disruption that results from lawful public, gov-
14 ernmental, or animal enterprise employee reaction to the
15 disclosure of information about an animal enterprise;

16 (3) the term “economic damage” means the replace-
17 ment costs of lost or damaged property or records, the
18 costs of repeating an interrupted or invalidated experiment,
19 or the loss of profits; and

20 (e) NON-PREEMPTION.—Nothing in this section preempts
21 any State law.

22 **§ 1374. Use of aircraft or motor vehicles to hunt**
23 **certain wild horses or burros; pollution of**
24 **watering holes**

25 (a) AIRCRAFT FOR HUNTING.—Whoever uses an aircraft
26 or a motor vehicle to hunt, for the purpose of capturing or kill-
27 ing, any wild unbranded horse, mare, colt, or burro running at
28 large on any of the public land or ranges shall be imprisoned
29 not more than six months.

30 (b) POLLUTION OF WATERING HOLES.—Whoever pollutes
31 or causes the pollution of any watering hole on any of the pub-
32 lic land or ranges for the purpose of trapping, killing, wound-
33 ing, or maiming any of the animals referred to in subsection
34 (a) of this section shall be imprisoned not more than six
35 months.

36 (c) DEFINITIONS.—As used in subsection (a) of this sec-
37 tion—

1 (1) the term “aircraft” means any contrivance used
2 for flight in the air; and

3 (2) the term “motor vehicle” includes an automobile,
4 automobile truck, automobile wagon, motorcycle, or any
5 other self-propelled vehicle designed for running on land.

6 **§ 1375. Depiction of animal cruelty**

7 (a) CREATION, SALE, OR POSSESSION.—Whoever know-
8 ingly creates, sells, or possesses a depiction of animal cruelty
9 with the intention of placing that depiction in interstate or for-
10 eign commerce for commercial gain, shall be imprisoned not
11 more than 5 years.

12 (b) EXCEPTION.—Subsection (a) does not apply to any de-
13 piction that has serious religious, political, scientific, edu-
14 cational, journalistic, historical, or artistic value.

15 (c) DEFINITIONS.—In this section, the term “depiction of
16 animal cruelty” means any visual or auditory depiction, includ-
17 ing any photograph, motion-picture film, video recording, elec-
18 tronic image, or sound recording of conduct in which a living
19 animal is intentionally maimed, mutilated, tortured, wounded,
20 or killed, if such conduct is illegal under Federal law or the law
21 of the State in which the creation, sale, or possession takes
22 place, regardless of whether the maiming, mutilation, torture,
23 wounding, or killing took place in the State.

24 **SUBCHAPTER B—GAMBLING**

Sec.

1381. Transmission of wagering information; penalties

1382. Definitions

25 **§ 1381. Transmission of wagering information;**
26 **penalties**

27 (a) OFFENSE.—Whoever being engaged in the business of
28 betting or wagering knowingly uses a wire communication facil-
29 ity for the transmission in interstate or foreign commerce of
30 bets or wagers or information assisting in the placing of bets
31 or wagers on any sporting event or contest, or for the trans-
32 mission of a wire communication which entitles the recipient to
33 receive money or credit as a result of bets or wagers, or for

1 information assisting in the placing of bets or wagers, shall be
2 imprisoned not more than two years.

3 (b) EXCLUSION.—Nothing in this section shall be con-
4 strued to prevent the transmission in interstate or foreign com-
5 merce of information for use in news reporting of sporting
6 events or contests, or for the transmission of information as-
7 sisting in the placing of bets or wagers on a sporting event or
8 contest from a State or foreign country where betting on that
9 sporting event or contest is legal into a State or foreign coun-
10 try in which such betting is legal.

11 (c) NONPREEMPTION.—Nothing contained in this section
12 shall create immunity from criminal prosecution under any
13 laws of any State.

14 (d) NOTIFICATION TO COMMON CARRIER.—When any
15 common carrier, subject to the jurisdiction of the Federal Com-
16 munications Commission, is notified in writing by a Federal,
17 State, or local law enforcement agency, acting within its juris-
18 diction, that any facility furnished by it is being used or will
19 be used for the purpose of transmitting or receiving gambling
20 information in interstate or foreign commerce in violation of
21 Federal, State or local law, it shall discontinue or refuse, the
22 leasing, furnishing, or maintaining of such facility, after rea-
23 sonable notice to the subscriber, but no damages, penalty or
24 forfeiture, civil or criminal, shall be found against any common
25 carrier for any act done in compliance with any notice received
26 from a law enforcement agency. Nothing in this section shall
27 be deemed to prejudice the right of any person affected thereby
28 to secure an appropriate determination, as otherwise provided
29 by law, in a Federal court or in a State or local tribunal or
30 agency, that such facility should not be discontinued or re-
31 moved, or should be restored.

32 **§ 1382. Definitions**

33 As used in this subchapter—

34 (1) the term “gambling ship” means a vessel used
35 principally for the operation of one or more gambling estab-
36 lishments. Such term does not include a vessel with respect
37 to gambling aboard such vessel beyond the territorial wa-

1 ters of the United States during a covered voyage (as de-
2 fined in section 4472 of the Internal Revenue Code of 1986
3 as in effect on January 1, 1994);

4 (2) the term “gambling establishment” means any
5 common gaming or gambling establishment operated for
6 the purpose of gaming or gambling, including accepting, re-
7 cording, or registering bets, or carrying on a policy game
8 or any other lottery, or playing any game of chance, for
9 money or other thing of value;

10 (3) the term “American vessel” means any vessel doc-
11 umented or numbered under the laws of the United States;
12 and includes any vessel which is neither documented or
13 numbered under the laws of the United States nor docu-
14 mented under the laws of any foreign country, if such ves-
15 sel is owned by, chartered to, or otherwise controlled by one
16 or more citizens or residents of the United States or cor-
17 porations organized under the laws of the United States or
18 of any State; and

19 (4) the term “wire communication facility” means any
20 and all instrumentalities, personnel, and services (among
21 other things, the receipt, forwarding, or delivery of commu-
22 nications) used or useful in the transmission of writings,
23 signs, pictures, and sounds of all kinds by aid of wire,
24 cable, or other like connection between the points of origin
25 and reception of such transmission.

26 SUBCHAPTER C—PROTECTION OF TRADE SECRETS

Sec.

- 1391. Economic espionage
- 1392. Theft of trade secrets
- 1393. Exceptions to prohibitions
- 1395. Orders to preserve confidentiality
- 1396. Civil proceedings to enjoin violations
- 1397. Applicability to conduct outside the United States
- 1398. Construction with other laws
- 1399. Definitions

27 **§ 1391. Economic espionage**

28 (a) IN GENERAL.—Whoever, intending or knowing that
29 the offense will benefit any foreign government, foreign instru-
30 mentality, or foreign agent, knowingly—

1 (1) steals, or without authorization appropriates,
2 takes, carries away, or conceals, or by fraud, artifice, or de-
3 ception obtains a trade secret;

4 (2) without authorization copies, duplicates, sketches,
5 draws, photographs, downloads, uploads, alters, destroys,
6 photocopies, replicates, transmits, delivers, sends, mails,
7 communicates, or conveys a trade secret;

8 (3) receives, buys, or possesses a trade secret, knowing
9 the same to have been stolen or appropriated, obtained, or
10 converted without authorization;

11 (4) attempts to commit any offense described in any
12 of paragraphs (1) through (3); or

13 (5) conspires with one or more other persons to com-
14 mit any offense described in any of paragraphs (1) through
15 (3), and one or more of such persons do any act to effect
16 the object of the conspiracy,

17 shall, except as provided in subsection (b), be imprisoned not
18 more than 15 years.

19 (b) ORGANIZATIONS.—Any organization that commits any
20 offense described in subsection (a) shall be fined not more than
21 \$10,000,000.

22 § 1392. Theft of trade secrets

23 (a) OFFENSE.—Whoever, with intent to convert a trade
24 secret, that is related to or included in a product that is pro-
25 duced for or placed in interstate or foreign commerce, to the
26 economic benefit of anyone other than the owner thereof, and
27 intending or knowing that the offense will, injure any owner of
28 that trade secret, knowingly—

29 (1) steals, or without authorization appropriates,
30 takes, carries away, or conceals, or by fraud, artifice, or de-
31 ception obtains such information;

32 (2) without authorization copies, duplicates, sketches,
33 draws, photographs, downloads, uploads, alters, destroys,
34 photocopies, replicates, transmits, delivers, sends, mails,
35 communicates, or conveys such information;

1 (3) receives, buys, or possesses such information,
2 knowing the same to have been stolen or appropriated, ob-
3 tained, or converted without authorization;

4 (4) attempts to commit any offense described in para-
5 graphs (1) through (3); or

6 (5) conspires with one or more other persons to com-
7 mit any offense described in paragraphs (1) through (3),
8 and one or more of such persons do any act to effect the
9 object of the conspiracy,

10 shall, except as provided in subsection (b), be imprisoned not
11 more than 10 years.

12 (b) ORGANIZATIONS.—Any organization that commits any
13 offense described in subsection (a) shall be fined not more than
14 \$5,000,000.

15 **§ 1393. Exceptions to prohibitions**

16 This subchapter does not prohibit—

17 (1) any otherwise lawful activity conducted by a gov-
18 ernmental entity of the United States, a State, or a polit-
19 ical subdivision of a State; or

20 (2) the reporting of a suspected violation of law to any
21 governmental entity of the United States, a State, or a po-
22 litical subdivision of a State, if such entity has lawful au-
23 thority with respect to that violation.

24 **§ 1395. Orders to preserve confidentiality**

25 In any prosecution or other proceeding under this sub-
26 chapter and any forfeiture relating to a violation of this sub-
27 chapter, the court shall enter such orders and take such other
28 action as may be necessary and appropriate to preserve the
29 confidentiality of trade secrets, consistent with the require-
30 ments of the Federal Rules of Criminal and Civil Procedure,
31 the Federal Rules of Evidence, and all other applicable laws.
32 An interlocutory appeal by the United States shall lie from a
33 decision or order of a district court authorizing or directing the
34 disclosure of any trade secret.

1 **§ 1396. Civil proceedings to enjoin violations**

2 (a) CIVIL ACTION.—The Attorney General may, in a civil
3 action, obtain appropriate injunctive relief against any violation
4 of this subchapter.

5 (b) EXCLUSIVE JURISDICTION.—The district courts of the
6 United States shall have exclusive original jurisdiction of civil
7 actions under this section.

8 **§ 1397. Applicability to conduct outside the**
9 **United States**

10 This subchapter also applies to conduct occurring outside
11 the United States if—

12 (1) the offender is a natural person who is a citizen
13 or permanent resident alien of the United States, or an or-
14 ganization organized under the laws of the United States
15 or a State or political subdivision thereof; or

16 (2) an act in furtherance of the offense was committed
17 in the United States.

18 **§ 1398. Construction with other laws**

19 This subchapter shall not be construed to preempt or dis-
20 place any other remedies, whether civil or criminal, provided by
21 United States Federal, State, commonwealth, possession, or
22 territory law for the misappropriation of a trade secret, or to
23 affect the otherwise lawful disclosure of information by any
24 Government employee under section 552 of title 5 (commonly
25 known as the Freedom of Information Act).

26 **§ 1399. Definitions**

27 As used in this subchapter—

28 (1) the term “foreign instrumentality;” means any
29 agency, bureau, ministry, component, institution, associa-
30 tion, or any legal, commercial, or business organization,
31 corporation, firm, or entity that is substantially owned,
32 controlled, sponsored, commanded, managed, or dominated
33 by a foreign government;

34 (2) the term “foreign agent” means any officer, em-
35 ployee, proxy, servant, delegate, or representative of a for-
36 eign government;

1 (2) the term “contraband cigarettes” means a quan-
2 tity in excess of 10,000 cigarettes, which bear no evidence
3 of the payment of applicable State or local cigarette taxes
4 in the State or locality where such cigarettes are found, if
5 the State or local government requires a stamp, impression,
6 or other indication to be placed on packages or other con-
7 tainers of cigarettes to evidence payment of cigarette taxes,
8 and which are in the possession of any person other than—

9 (A) a person holding a permit issued pursuant to
10 chapter 52 of the Internal Revenue Code of 1986 as a
11 manufacturer of tobacco products or as an export ware-
12 house proprietor, or a person operating a customs
13 bonded warehouse pursuant to section 311 or 555 of
14 the Tariff Act of 1930 (19 U.S.C. 1311 or 1555) or
15 an agent of such person;

16 (B) a common or contract carrier transporting the
17 cigarettes involved under a proper bill of lading or
18 freight bill which states the quantity, source, and des-
19 tination of such cigarettes;

20 (C) a person—

21 (i) who is licensed or otherwise authorized by
22 the State where the cigarettes are found to account
23 for and pay cigarette taxes imposed by such State;
24 and

25 (ii) who has complied with the accounting and
26 payment requirements relating to such license or
27 authorization with respect to the cigarettes in-
28 volved; or

29 (D) an officer, employee, or other agent of the
30 United States or a State, or any department, agency,
31 or instrumentality of the United States or a State (in-
32 cluding any political subdivision of a State) having pos-
33 session of such cigarettes in connection with the per-
34 formance of official duties;

35 (3) the term “common or contract carrier” means a
36 carrier holding a certificate of convenience and necessity, a
37 permit for contract carrier by motor vehicle, or other valid

1 operating authority under subtitle IV of title 49, or under
2 equivalent operating authority from a regulatory agency of
3 the United States or of any State;

4 (4) the term “State” means a State of the United
5 States, the District of Columbia, the Commonwealth of
6 Puerto Rico, or the Virgin Islands;

7 (5) the term “Attorney General” means the Attorney
8 General of the United States;

9 (6) the term “smokeless tobacco” means any finely
10 cut, ground, powdered, or leaf tobacco that is intended to
11 be placed in the oral or nasal cavity or otherwise consumed
12 without being combusted;

13 (7) the term “contraband smokeless tobacco” means a
14 quantity in excess of 500 single-unit consumer-sized cans
15 or packages of smokeless tobacco, or their equivalent, that
16 are in the possession of any person other than—

17 (A) a person holding a permit issued pursuant to
18 chapter 52 of the Internal Revenue Code of 1986 as
19 manufacturer of tobacco products or as an export ware-
20 house proprietor, a person operating a customs bonded
21 warehouse pursuant to section 311 or 555 of the Tariff
22 Act of 1930 (19 U.S.C. 1311, 1555), or an agent of
23 such person;

24 (B) a common carrier transporting such smokeless
25 tobacco under a proper bill of lading or freight bill
26 which states the quantity, source, and designation of
27 such smokeless tobacco;

28 (C) a person who—

29 (i) is licensed or otherwise authorized by the
30 State where such smokeless tobacco is found to en-
31 gage in the business of selling or distributing to-
32 bacco products; and

33 (ii) has complied with the accounting, tax, and
34 payment requirements relating to such license or
35 authorization with respect to such smokeless to-
36 bacco; or

1 (D) an officer, employee, or agent of the United
2 States or a State, or any department, agency, or in-
3 strumentality of the United States or a State (includ-
4 ing any political subdivision of a State), having posses-
5 sion of such smokeless tobacco in connection with the
6 performance of official duties;

7 **§ 1412. Unlawful acts**

8 It shall be unlawful for any person knowingly to ship,
9 transport, receive, possess, sell, distribute, or purchase contra-
10 band cigarettes or contraband smokeless tobacco.

11 **§ 1413. Recordkeeping, reporting, and inspection**

12 (a) RECORDKEEPING.—Whoever ships, sells, or distributes
13 any quantity of cigarettes in excess of 10,000, or any quantity
14 of smokeless tobacco in excess of 500 single-unit consumer-
15 sized cans or packages, in a single transaction shall maintain
16 such information about the shipment, receipt, sale, and dis-
17 tribution of cigarettes as the Attorney General may prescribe
18 by rule or regulation. The Attorney General may require such
19 person to keep such information as the Attorney General con-
20 sidered appropriate for purposes of enforcement of this chapter,
21 including—

22 (1) the name, address, destination (including street
23 address), vehicle license number, driver's license number,
24 signature of the person receiving such cigarettes, and the
25 name of the purchaser;

26 (2) a declaration of the specific purpose of the receipt
27 (personal use, resale, or delivery to another); and

28 (3) a declaration of the name and address of the re-
29 cipient's principal in all cases when the recipient is acting
30 as an agent.

31 Such information shall be contained on business records kept
32 in the normal course of business.

33 (b) REPORTING.—Whoever, except for a tribal govern-
34 ment, engages in a delivery sale, and who ships, sells, or dis-
35 tributes any quantity in excess of 10,000 cigarettes, or any
36 quantity in excess of 500 single-unit consumer-sized cans or
37 packages of smokeless tobacco, or their equivalent, within a sin-

1 gle month, shall submit to the Attorney General, pursuant to
2 rules or regulations prescribed by the Attorney General, a re-
3 port that sets forth the following:

4 (1) The person's beginning and ending inventory of
5 cigarettes and cans or packages of smokeless tobacco (in
6 total) for such month.

7 (2) The total quantity of cigarettes and cans or pack-
8 ages of smokeless tobacco that the person received within
9 such month from each other person (itemized by name and
10 address).

11 (3) The total quantity of cigarettes and cans or pack-
12 ages of smokeless tobacco that the person distributed with-
13 in such month to each person (itemized by name and ad-
14 dress) other than a retail purchaser.

15 (c) INSPECTION.—Upon the consent of any person who
16 ships, sells, or distributes any quantity of cigarettes in excess
17 of 10,000 in a single transaction, or pursuant to a duly issued
18 search warrant, the Attorney General may enter the premises
19 (including places of storage) of such person for the purpose of
20 inspecting any records or information required to be main-
21 tained by such person under this chapter, and any cigarettes
22 kept or stored by such person at such premises.

23 (d) OTHERS TO RECEIVE REPORTS.—Any report required
24 to be submitted under this subchapter to the Attorney General
25 shall also be submitted to the Secretary of the Treasury and
26 to the attorneys general and the tax administrators of the
27 States from where the shipments, deliveries, or distributions
28 both originated and concluded.

29 (e) DELIVERY SALE DEFINED.—As used in this section,
30 the term “delivery sale” means any sale of cigarettes or smoke-
31 less tobacco in interstate commerce to a consumer if—

32 (1) the consumer submits the order for such sale by
33 means of a telephone or other method of voice trans-
34 mission, the mails, or the Internet or other online service,
35 or by any other means where the consumer is not in the
36 same physical location as the seller when the purchase or
37 offer of sale is made; or

1 (2) the cigarettes or smokeless tobacco are delivered
2 by use of the mails, common carrier, private delivery serv-
3 ice, or any other means where the consumer is not in the
4 same physical location as the seller when the consumer ob-
5 tains physical possession of the cigarettes or smokeless to-
6 bacco.

7 **§ 1414. Penalties**

8 (a) 1412(A) VIOLATIONS.—Whoever knowingly violates
9 section 1412(a) shall be imprisoned not more than five years.

10 (b) 1413(A) AND 1416 VIOLATIONS.—Whoever knowingly
11 violates any rule or regulation promulgated under section
12 1413(a) or 1416 or violates section 1412(b) shall be imprisoned
13 not more than three years.

14 (c) Any contraband cigarettes or contraband smokeless to-
15 bacco involved in any violation of the provisions of this chapter
16 shall be subject to seizure and forfeiture. The provisions of
17 chapter 50 relating to civil forfeitures shall extend to any sei-
18 zure or civil forfeiture under this section. Any cigarettes or
19 smokeless tobacco so seized and forfeited shall be either—

20 (1) destroyed and not resold; or

21 (2) used for undercover investigative operations for the
22 detection and prosecution of crimes, and then destroyed
23 and not resold.

24 **§ 1415. Effect on State and local law**

25 (a) Nothing in this chapter shall be construed to affect the
26 concurrent jurisdiction of a State or local government to enact
27 and enforce its own cigarette tax laws, to provide for the confis-
28 cation of cigarettes or smokeless tobacco and other property
29 seized for violation of such laws, and to provide for penalties
30 for the violation of such laws.

31 (b) Nothing in this chapter shall be construed to inhibit
32 or otherwise affect any coordinated law enforcement effort by
33 a number of State or local governments, through interstate
34 compact or otherwise, to provide for the administration of State
35 or local cigarette tax laws, to provide for the confiscation of
36 cigarettes or smokeless tobacco and other property seized in

1 violation of such laws, and to establish cooperative programs
2 for the administration of such laws.

3 **§ 1416. Enforcement and regulations**

4 (a) GENERALLY.—The Attorney General, subject to the
5 provisions of section 1413(a), shall enforce this subchapter and
6 may prescribe rules and regulations to carry out this sub-
7 chapter.

8 (b) STATE ENFORCEMENT THROUGH CIVIL ACTIONS.—

9 (1) A State, through its attorney general, a local gov-
10 ernment, through its chief law enforcement officer (or a
11 designee thereof), or any person who holds a permit under
12 chapter 52 of the Internal Revenue Code of 1986, may
13 bring an action in the United States district courts to pre-
14 vent and restrain violations of this chapter by any person
15 (or by any person controlling such person), except that any
16 person who holds a permit under chapter 52 of the Internal
17 Revenue Code of 1986 may not bring such an action
18 against a State or local government. No civil action may be
19 commenced under this paragraph against an Indian tribe
20 or an Indian in Indian country (as defined in section
21 1151).

22 (2) A State, through its attorney general, or a local gov-
23 ernment, through its chief law enforcement officer (or a des-
24 ignee thereof), may in a civil action under paragraph (1) also
25 obtain any other appropriate relief for violations of this chapter
26 from any person (or by any person controlling such person), in-
27 cluding civil penalties, money damages, and injunctive or other
28 equitable relief. Nothing in this chapter shall be deemed to ab-
29 rogate or constitute a waiver of any sovereign immunity of a
30 State or local government, or an Indian tribe against any
31 unconsented lawsuit under this chapter, or otherwise to re-
32 strict, expand, or modify any sovereign immunity of a State or
33 local government, or an Indian tribe.

34 (3) The remedies under paragraphs (1) and (2) are in ad-
35 dition to any other remedies under Federal, State, local, or
36 other law.

1 (4) Nothing in this chapter shall be construed to expand,
 2 restrict, or otherwise modify any right of an authorized State
 3 official to proceed in State court, or take other enforcement ac-
 4 tions, on the basis of an alleged violation of State or other law.

5 (5) Nothing in this chapter shall be construed to expand,
 6 restrict, or otherwise modify any right of an authorized local
 7 government official to proceed in State court, or take other en-
 8 forcement actions, on the basis of an alleged violation of local
 9 or other law.

10 SUBCHAPTER E—CHILD SUPPORT

Sec.

1431. Failure to pay legal child support obligations.

11 **§ 1431. Failure to pay legal child support obliga-** 12 **tions**

13 (a) OFFENSE.—Whoever—

14 (1) knowingly fails to pay a support obligation with re-
 15 spect to a child who resides in another State, if such obli-
 16 gation has remained unpaid for a period longer than 1
 17 year, or is greater than \$5,000;

18 (2) travels in interstate or foreign commerce with the
 19 intent to evade a support obligation, if such obligation has
 20 remained unpaid for a period longer than 1 year, or is
 21 greater than \$5,000; or

22 (3) knowingly fails to pay a support obligation with re-
 23 spect to a child who resides in another State, if such obli-
 24 gation has remained unpaid for a period longer than 2
 25 years, or is greater than \$10,000;

26 shall be punished as provided in subsection (c).

27 (b) PRESUMPTION.—The existence of a support obligation
 28 that was in effect for the time period charged in the indictment
 29 or information creates a rebuttable presumption that the obli-
 30 gor has the ability to pay the support obligation for that time
 31 period.

32 (c) PUNISHMENT.—The punishment for an offense under
 33 this section is—

34 (1) in the case of a first offense under subsection
 35 (a)(1), imprisonment for not more than 6 months; and

1 (1) Every obscene, lewd, lascivious, indecent, filthy or
2 vile article, matter, thing, device, or substance.

3 (2) Every article or thing designed, adapted, or in-
4 tended for producing abortion, or for any indecent or im-
5 moral use.

6 (3) Every article, instrument, substance, drug, medi-
7 cine, or thing which is advertised or described in a manner
8 calculated to lead another to use or apply it for producing
9 abortion, or for any indecent or immoral purpose.

10 (4) Every written or printed card, letter, circular,
11 book, pamphlet, advertisement, or notice of any kind giving
12 information, directly or indirectly, where, or how, or from
13 whom, or by what means any of such mentioned matters,
14 articles, or things may be obtained or made, or where or
15 by whom any act or operation of any kind for the procuring
16 or producing of abortion will be done or performed, or how
17 or by what means abortion may be produced, whether
18 sealed or unsealed.

19 (5) Every paper, writing, advertisement, or representa-
20 tion that any article, instrument, substance, drug, medi-
21 cine, or thing may, or can, be used or applied for producing
22 abortion, or for any indecent or immoral purpose.

23 (6) Every description calculated to induce or incite a
24 person to so use or apply any such article, instrument, sub-
25 stance, drug, medicine, or thing.

26 (b) OFFENSE.—Whoever knowingly uses the mails for the
27 mailing, carriage in the mails, or delivery of anything declared
28 by this section or section 3001(e) of title 39 to be nonmailable,
29 or knowingly causes to be delivered by mail according to the
30 direction thereon, or at the place at which it is directed to be
31 delivered by the person to whom it is addressed, or knowingly
32 takes any such thing from the mails for the purpose of circu-
33 lating or disposing thereof, or of aiding in the circulation or
34 disposition thereof, shall be imprisoned not more than five
35 years, for the first such offense, and shall be imprisoned not
36 more than ten years for each such offense thereafter.

1 **§ 1442. Importation or transportation of obscene**
 2 **matters**

3 Whoever—

4 (1) brings into the United States, or any place subject
 5 to the jurisdiction thereof, or knowingly uses any express
 6 company or other common carrier or interactive computer
 7 service (as defined in section 230(e)(2) of the Communica-
 8 tions Act of 1934), for carriage in interstate or foreign
 9 commerce—

10 (A) any obscene, lewd, lascivious, or filthy book,
 11 pamphlet, picture, motion-picture film, paper, letter,
 12 writing, print, or other matter of indecent character; or

13 (B) any obscene, lewd, lascivious, or filthy phono-
 14 graph recording, electrical transcription, or other arti-
 15 cle or thing capable of producing sound; or

16 (C) any drug, medicine, article, or thing designed,
 17 adapted, or intended for producing abortion, or for any
 18 indecent or immoral use; or any written or printed
 19 card, letter, circular, book, pamphlet, advertisement, or
 20 notice of any kind giving information, directly or indi-
 21 rectly, where, how, or of whom, or by what means any
 22 of such mentioned articles, matters, or things may be
 23 obtained or made; or

24 (2) knowingly takes or receives, from such express com-
 25 pany or other common carrier or interactive computer service
 26 (as defined in section 230(e)(2) of the Communications Act of
 27 1934) any matter or thing the carriage or importation of which
 28 is herein made unlawful;
 29 shall be imprisoned not more than five years for the first such
 30 offense and shall be imprisoned not more than ten years for
 31 each such offense thereafter.

32 **§ 1443. Transportation of obscene matters for sale**
 33 **or distribution**

34 (a) OFFENSE.—Whoever knowingly transports or travels
 35 in, or uses a facility or means of, interstate or foreign com-
 36 merce or an interactive computer service (as defined in section
 37 230(e)(2) of the Communications Act of 1934) in or affecting

1 such commerce for the purpose of sale or distribution, of any
2 obscene, lewd, lascivious, or filthy book, pamphlet, picture, film,
3 paper, letter, writing, print, silhouette, drawing, figure, image,
4 cast, phonograph recording, electrical transcription or other ar-
5 ticle capable of producing sound or any other matter of inde-
6 cent or immoral character, shall be imprisoned not more than
7 five years.

8 (b) PRESUMPTION.—The transportation as aforesaid of
9 two or more copies of any publication or two or more of any
10 article of the character described above, or a combined total of
11 five such publications and articles, shall create a presumption
12 that such publications or articles are intended for sale or dis-
13 tribution, but such presumption shall be rebuttable.

14 **§ 1444. Engaging in the business of selling or**
15 **transferring obscene matter**

16 (a) OFFENSE.—Whoever is engaged in the business of sell-
17 ing or transferring obscene matter, who knowingly receives or
18 possesses with intent to distribute any obscene book, magazine,
19 picture, paper, film, videotape, or phonograph or other audio
20 recording, which has been shipped or transported in interstate
21 or foreign commerce, shall be punished by imprisonment for
22 not more than 5 years or by a fine under this title, or both.

23 (b) DEFINITION.—As used in this section, the term “en-
24 gaged in the business” means that the person who sells or
25 transfers or offers to sell or transfer obscene matter devotes
26 time, attention, or labor to such activities, as a regular course
27 of trade or business, with the objective of earning a profit, al-
28 though it is not necessary that the person make a profit or that
29 the selling or transferring or offering to sell or transfer such
30 material be the person’s sole or principal business or source of
31 income. The offering for sale of or to transfer, at one time, two
32 or more copies of any obscene publication, or two or more of
33 any obscene article, or a combined total of five or more such
34 publications and articles, shall create a rebuttable presumption
35 that the person so offering them is “engaged in the business”
36 as defined in this subsection.

1 **§ 1445. Obscene visual representations of the sex-**
2 **ual abuse of children**

3 (a) IN GENERAL.—Whoever, as made applicable by sub-
4 section (d), knowingly produces, distributes, receives, or pos-
5 sesses with intent to distribute, a visual depiction of any kind,
6 including a drawing, cartoon, sculpture, or painting, that—

7 (1)(A) depicts a minor engaging in sexually explicit
8 conduct; and (B) is obscene; or

9 (2)(A) depicts an image that is, or appears to be, of
10 a minor engaging in graphic bestiality, sadistic or mas-
11 ochistic abuse, or sexual intercourse, including genital-gen-
12 ital, oral-genital, anal-genital, or oral-anal, whether between
13 persons of the same or opposite sex; and

14 (B) lacks serious literary, artistic, political, or sci-
15 entific value;

16 or attempts or conspires to do so, shall be subject to the pen-
17 alties provided in section 223(b)(1), including the penalties pro-
18 vided for cases involving a prior conviction.

19 (b) ADDITIONAL OFFENSES.—Whoever, as made applica-
20 ble by subsection (d), knowingly possesses a visual depiction of
21 any kind, including a drawing, cartoon, sculpture, or painting,
22 that—

23 (1)(A) depicts a minor engaging in sexually explicit
24 conduct; and (B) is obscene; or

25 (2)(A) depicts an image that is, or appears to be, of
26 a minor engaging in graphic bestiality, sadistic or mas-
27 ochistic abuse, or sexual intercourse, including genital-gen-
28 ital, oral-genital, anal-genital, or oral-anal, whether between
29 persons of the same or opposite sex; and

30 (B) lacks serious literary, artistic, political, or sci-
31 entific value;

32 or attempts or conspires to do so, shall be subject to the pen-
33 alties provided in section 223(b)(2), including the penalties pro-
34 vided for cases involving a prior conviction.

35 (c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a
36 required element of any offense under this section that the
37 minor depicted actually exist.

1 (d) APPLICABILITY.—Subsections (a) and (b) apply if—

2 (1) any communication involved in or made in further-
3 ance of the offense is communicated or transported by the
4 mail, or in interstate or foreign commerce by any means,
5 including by computer, or any means or instrumentality of
6 interstate or foreign commerce is otherwise used in commit-
7 ting or in furtherance of the commission of the offense;

8 (2) any communication involved in or made in further-
9 ance of the offense contemplates the transmission or trans-
10 portation of a visual depiction by the mail, or in interstate
11 or foreign commerce by any means, including by computer;

12 (3) any person travels or is transported in interstate
13 or foreign commerce in the course of the commission or in
14 furtherance of the commission of the offense;

15 (4) any visual depiction involved in the offense has
16 been mailed, or has been shipped or transported in inter-
17 state or foreign commerce by any means, including by com-
18 puter, or was produced using materials that have been
19 mailed, or that have been shipped or transported in inter-
20 state or foreign commerce by any means, including by com-
21 puter; or

22 (5) the offense is committed in the special maritime
23 and territorial jurisdiction of the United States or in any
24 territory or possession of the United States.

25 (e) AFFIRMATIVE DEFENSE.—It shall be an affirmative
26 defense to a charge of violating subsection (b) that the defend-
27 ant—

28 (1) possessed less than 3 such visual depictions; and

29 (2) promptly and in good faith, and without retaining
30 or allowing any person, other than a law enforcement agen-
31 cy, to access any such visual depiction—

32 (A) took reasonable steps to destroy each such vis-
33 ual depiction; or

34 (B) reported the matter to a law enforcement
35 agency and afforded that agency access to each such
36 visual depiction.

37 (f) DEFINITIONS.—As used in this section—

1 (1) the term “visual depiction” includes undeveloped
2 film and videotape, and data stored on a computer disk or
3 by electronic means which is capable of conversion into a
4 visual image, and also includes any photograph, film, video,
5 picture, digital image or picture, computer image or pic-
6 ture, or computer generated image or picture, whether
7 made or produced by electronic, mechanical, or other
8 means;

9 (2) the term “sexually explicit conduct” has the mean-
10 ing given the term in section 229(2)(A) or 229(2)(B); and

11 (3) the term “graphic”, when used with respect to a
12 depiction of sexually explicit conduct, means that a viewer
13 can observe any part of the genitals or pubic area of any
14 depicted person or animal during any part of the time that
15 the sexually explicit conduct is being depicted.

16 **§ 1447. Presumptions**

17 (a) INTERSTATE COMMERCE.—In any prosecution under
18 this subchapter in which an element of the offense is that the
19 matter in question was transported, shipped, or carried in
20 interstate commerce, proof, by either circumstantial or direct
21 evidence, that such matter was produced or manufactured in
22 one State and is subsequently located in another State shall
23 raise a rebuttable presumption that such matter was trans-
24 ported, shipped, or carried in interstate commerce.

25 (b) FOREIGN COMMERCE.—In any prosecution under this
26 subchapter in which an element of the offense is that the mat-
27 ter in question was transported, shipped, or carried in foreign
28 commerce, proof, by either circumstantial or direct evidence,
29 that such matter was produced or manufactured outside of the
30 United States and is subsequently located in the United States
31 shall raise a rebuttable presumption that such matter was
32 transported, shipped, or carried in foreign commerce.

33 **§ 1448. Transfer of obscene material to minors**

34 Whoever, using the mail or any facility or means of inter-
35 state or foreign commerce, knowingly transfers obscene matter
36 to another individual who has not attained the age of 16 years,
37 knowing that such other individual has not attained the age of

1 16 years, or attempts to do so, shall be imprisoned not more
2 than 10 years.

3 SUBCHAPTER G—MONEY LAUNDERING

Sec.

1451. Laundering of monetary instruments

1452. Engaging in monetary transactions in property derived from specified unlawful activity

1453. Structuring transactions to evade reporting requirement prohibited

1454. Bulk cash smuggling into or out of the United States

4 **§ 1451. Laundering of monetary instruments**

5 (a) OFFENSES.—(1) Whoever, knowing that the property
6 involved in a financial transaction represents the proceeds of
7 some form of unlawful activity, conducts or attempts to con-
8 duct such a financial transaction which in fact involves the pro-
9 ceeds of specified unlawful activity—

10 (A)(i) with the intent to promote the carrying on of
11 specified unlawful activity; or

12 (ii) with intent to engage in conduct constituting a viola-
13 tion of section 7201 or 7206 of the Internal Revenue Code of
14 1986; or

15 (B) knowing that the transaction is designed in whole
16 or in part—

17 (i) to conceal or disguise the nature, the location, the
18 source, the ownership, or the control of the proceeds of
19 specified unlawful activity; or

20 (ii) to avoid a transaction reporting requirement under
21 State or Federal law,

22 shall be sentenced to a fine of not more than \$500,000 or twice
23 the value of the property involved in the transaction, whichever
24 is greater, or imprisonment for not more than twenty years, or
25 both.

26 (2) Whoever transports, transmits, or transfers, or at-
27 tempts to transport, transmit, or transfer a monetary instru-
28 ment or funds from a place in the United States to or through
29 a place outside the United States or to a place in the United
30 States from or through a place outside the United States—

31 (A) with the intent to promote the carrying on of spec-
32 ified unlawful activity; or

1 (B) knowing that the monetary instrument or funds
2 involved in the transportation, transmission, or transfer
3 represent the proceeds of some form of unlawful activity
4 and knowing that such transportation, transmission, or
5 transfer is designed in whole or in part—

6 (i) to conceal or disguise the nature, the location,
7 the source, the ownership, or the control of the pro-
8 ceeds of specified unlawful activity; or

9 (ii) to avoid a transaction reporting requirement
10 under State or Federal law,

11 shall be sentenced to a fine of not more than \$500,000 or twice
12 the value of the monetary instrument or funds involved in the
13 transportation, transmission, or transfer, whichever is greater,
14 or imprisonment for not more than twenty years, or both. For
15 the purpose of the offense described in subparagraph (B), the
16 defendant's knowledge may be established by proof that a law
17 enforcement officer represented the matter specified in sub-
18 paragraph (B) as true, and the defendant's subsequent state-
19 ments or actions indicate that the defendant believed such rep-
20 resentations to be true.

21 (3) Whoever, with the intent—

22 (A) to promote the carrying on of specified unlawful
23 activity;

24 (B) to conceal or disguise the nature, location, source,
25 ownership, or control of property believed to be the pro-
26 ceeds of specified unlawful activity; or

27 (C) to avoid a transaction reporting requirement under
28 State or Federal law,

29 conducts or attempts to conduct a financial transaction involv-
30 ing property represented to be the proceeds of specified unlaw-
31 ful activity, or property used to conduct or facilitate specified
32 unlawful activity, shall be imprisoned for not more than 20
33 years. For purposes of this paragraph and paragraph (2), the
34 term “represented” means any representation made by a law
35 enforcement officer or by another person at the direction of, or
36 with the approval of, a Federal official authorized to investigate
37 or prosecute violations of this section.

1 (b) PENALTIES.—

2 (1) IN GENERAL.—Whoever conducts or attempts to
3 conduct a transaction described in subsection (a)(1) or
4 (a)(3), or section 1452, or a transportation, transmission,
5 or transfer described in subsection (a)(2), is liable to the
6 United States for a civil penalty of not more than the
7 greater of—

8 (A) the value of the property, funds, or monetary
9 instruments involved in the transaction; or

10 (B) \$10,000.

11 (2) JURISDICTION OVER FOREIGN PERSONS.—For
12 purposes of adjudicating an action filed or enforcing a pen-
13 alty ordered under this section, the district courts shall
14 have jurisdiction over any foreign person, including any fi-
15 nancial institution authorized under the laws of a foreign
16 country, against whom the action is brought, if service of
17 process upon the foreign person is made under the Federal
18 Rules of Civil Procedure or the laws of the country in
19 which the foreign person is found, and—

20 (A) the foreign person commits an offense under
21 subsection (a) involving a financial transaction that oc-
22 curs in whole or in part in the United States;

23 (B) the foreign person converts, to his or her own
24 use, property in which the United States has an owner-
25 ship interest by virtue of the entry of an order of for-
26 feiture by a court of the United States; or

27 (C) the foreign person is a financial institution
28 that maintains a bank account at a financial institution
29 in the United States.

30 (3) COURT AUTHORITY OVER ASSETS.—A court de-
31 scribed in paragraph (2) may issue a pretrial restraining
32 order or take any other action necessary to ensure that any
33 bank account or other property held by the defendant in
34 the United States is available to satisfy a judgment under
35 this section.

36 (4) FEDERAL RECEIVER.—

1 (A) IN GENERAL.—A court described in paragraph
2 (2) may appoint a Federal Receiver, in accordance with
3 subparagraph (B) of this paragraph, to collect, mar-
4 shal, and take custody, control, and possession of all
5 assets of the defendant, wherever located, to satisfy a
6 civil judgment under this subsection, a forfeiture judg-
7 ment under section 981 or 982, or a criminal sentence
8 under section 1957 or subsection (a) of this section, in-
9 cluding an order of restitution to any victim of a speci-
10 fied unlawful activity.

11 (B) APPOINTMENT AND AUTHORITY.—A Federal
12 Receiver described in subparagraph (A)—

13 (i) may be appointed upon application of a
14 Federal prosecutor or a Federal or State regulator,
15 by the court having jurisdiction over the defendant
16 in the case;

17 (ii) shall be an officer of the court, and the
18 powers of the Federal Receiver shall include the
19 powers set out in section 754 of title 28, United
20 States Code; and

21 (iii) shall have standing equivalent to that of
22 a Federal prosecutor for the purpose of submitting
23 requests to obtain information regarding the assets
24 of the defendant—

25 (I) from the Financial Crimes Enforce-
26 ment Network of the Department of the Treas-
27 ury; or

28 (II) from a foreign country pursuant to a
29 mutual legal assistance treaty, multilateral
30 agreement, or other arrangement for inter-
31 national law enforcement assistance, provided
32 that such requests are in accordance with the
33 policies and procedures of the Attorney Gen-
34 eral.

35 (II) from a foreign country pursuant to a
36 mutual legal assistance treaty, multilateral
37 agreement, or other arrangement for inter-

1 national law enforcement assistance, provided
2 that such requests are in accordance with the
3 policies and procedures of the Attorney Gen-
4 eral.

5 (c) DEFINITIONS.—As used in this section—

6 (1) the term “knowing that the property involved in
7 a financial transaction represents the proceeds of some
8 form of unlawful activity” means that the person knew the
9 property involved in the transaction represented proceeds
10 from some form, though not necessarily which form, of ac-
11 tivity that constitutes a felony under State, Federal, or for-
12 eign law, regardless of whether or not such activity is speci-
13 fied in paragraph (7);

14 (2) the term “conducts” includes initiating, con-
15 cluding, or participating in initiating, or concluding a
16 transaction;

17 (3) the term “transaction” includes a purchase, sale,
18 loan, pledge, gift, transfer, delivery, or other disposition,
19 and with respect to a financial institution includes a de-
20 posit, withdrawal, transfer between accounts, exchange of
21 currency, loan, extension of credit, purchase or sale of any
22 stock, bond, certificate of deposit, or other monetary instru-
23 ment, use of a safe deposit box, or any other payment,
24 transfer, or delivery by, through, or to a financial institu-
25 tion, by whatever means effected;

26 (4) the term “financial transaction” means (A) a
27 transaction which in any way or degree affects interstate
28 or foreign commerce (i) involving the movement of funds by
29 wire or other means or (ii) involving one or more monetary
30 instruments, or (iii) involving the transfer of title to any
31 real property, vehicle, vessel, or aircraft, or (B) a trans-
32 action involving the use of a financial institution which is
33 engaged in, or the activities of which affect, interstate or
34 foreign commerce in any way or degree;

35 (5) the term “monetary instruments” means (i) coin
36 or currency of the United States or of any other country,
37 travelers’ checks, personal checks, bank checks, and money

1 orders, or (ii) investment securities or negotiable instru-
2 ments, in bearer form or otherwise in such form that title
3 thereto passes upon delivery;

4 (6) the term “financial institution” means—

5 (A) any financial institution, as defined in section
6 5312(a)(2) of title 31, or regulations under such sec-
7 tion; or

8 (B) any foreign bank, as defined in section 1 of
9 the International Banking Act of 1978 (12 U.S.C.
10 3101);

11 (7) the term “specified unlawful activity” means—

12 (C) any act or activity constituting an offense list-
13 ed in section 511(1) of this title except an act which
14 is indictable under subchapter II of chapter 53 of title
15 31;

16 (D) with respect to a financial transaction occur-
17 ring in whole or in part in the United States, an of-
18 fense against a foreign nation involving—

19 (i) the manufacture, importation, sale, or dis-
20 tribution of a controlled substance (as such term is
21 defined for the purposes of the Controlled Sub-
22 stances Act);

23 (ii) murder, kidnapping, robbery, extortion, de-
24 struction of property by means of explosive or fire,
25 or a crime of violence;

26 (iii) fraud, or any scheme or attempt to de-
27 fraud, by or against a foreign bank (as defined in
28 paragraph 7 of section 1(b) of the International
29 Banking Act of 1978));

30 (iv) bribery of a public official, or the mis-
31 appropriation, theft, or embezzlement of public
32 funds by or for the benefit of a public official;

33 (v) smuggling or export control violations in-
34 volving—

35 (I) an item controlled on the United
36 States Munitions List established under section

1 38 of the Arms Export Control Act (22 U.S.C.
2 2778); or

3 (II) an item controlled under regulations
4 under the Export Administration Regulations
5 (15 C.F.R. Parts 730–774); or

6 (II) an item controlled under regulations
7 under the Export Administration Regulations
8 (15 C.F.R. Parts 730–774); or

9 (vi) an offense with respect to which the
10 United States would be obligated by a multilateral
11 treaty, either to extradite the alleged offender or to
12 submit the case for prosecution, if the offender
13 were found within the territory of the United
14 States;

15 (E) any act or acts constituting a continuing
16 criminal enterprise, as that term is defined in section
17 413;

18 (F) an offense under section 1301 (relating to the
19 destruction of aircraft), section 1306 (relating to vio-
20 lence at international airports), section 102 (relating
21 murder), section 871 (relating to concealment of assets;
22 false oaths and claims; bribery), section 624 (relating
23 to the variola virus), section 1003 (relating to commis-
24 sions or gifts for procuring loans), section 102(7) (re-
25 lating to congressional or Cabinet officer assassina-
26 tion), any of sections 711 through 712 (relating to cer-
27 tain counterfeiting offenses), section 719 (relating to
28 securities of States and private entities), section 861
29 (relating to goods falsely classified), section 862 relat-
30 ing to entry of goods by means of false statements),
31 section 863 (relating to smuggling goods into the
32 United States), section 865 (relating to removing goods
33 from Customs custody), section 641 (relating to public
34 money, property, or records), section 644 (relating to
35 theft, embezzlement, or misapplication by bank officer
36 or employee), section 645 (relating to lending, credit,
37 and insurance institutions), section 646 (relating to

1 property mortgaged or pledged to farm credit agen-
2 cies), section 654 (relating to theft or bribery con-
3 cerning programs receiving Federal funds), section 301,
4 302, or 303 (relating to espionage), section 601 (relat-
5 ing to prohibited transactions involving nuclear mate-
6 rials), section 614 (f) or (i) (relating to destruction by
7 explosives or fire of Government property or property
8 affecting interstate or foreign commerce), section 144
9 (relating to interstate communications), section 582(1)
10 (relating to the unlawful importation of firearms), sec-
11 tion 584(n) (relating to firearms trafficking), section
12 955 (relating to conspiracy to kill, kidnap, maim, or in-
13 jure certain property in a foreign country), section 773
14 (relating to fraudulent bank entries), section 774 (re-
15 lating to fraudulent Federal credit institution entries),
16 section 775 (relating to Federal Deposit Insurance
17 transactions), section 779 (relating to fraudulent loan
18 or credit applications), section 787 (relating to com-
19 puter fraud and abuse), section 789 (relating to con-
20 cealment of assets from conservator, receiver, or liqui-
21 dating agent of financial institution), section 121 (re-
22 lating to kidnaping), section 123 (relating to hostage
23 taking), section 1201 (relating to willful injury of Gov-
24 ernment property), section 1203 (relating to destruc-
25 tion of property within the special maritime and terri-
26 torial jurisdiction), section 847 (theft from the mail),
27 section 143 (relating to bank robbery), section 1351
28 (relating to violence against maritime navigation), sec-
29 tion 676 (relating to copyright infringement), section
30 680 (relating to trafficking in counterfeit goods and
31 services), section 271 (relating to use of weapons of
32 mass destruction), section 273 (relating to inter-
33 national terrorist acts transcending national bound-
34 aries), section 274 (relating to missile systems designed
35 to destroy aircraft), section 275 (relating to radio-
36 logical dispersal devices), or section 278 or 279 (relat-
37 ing to providing material support to terrorists) of this

1 title, section 46502 of title 49, United States Code, a
2 felony violation of the Chemical Diversion and Traf-
3 ficking Act of 1988 (relating to precursor and essential
4 chemicals), section 590 of the Tariff Act of 1930 (19
5 U.S.C. 1590) (relating to aviation smuggling), section
6 422 of the Controlled Substances Act (relating to
7 transportation of drug paraphernalia), section 38(c)
8 (relating to criminal violations) of the Arms Export
9 Control Act, section 11 (relating to violations) of the
10 Export Administration Act of 1979, section 206 (relat-
11 ing to penalties) of the International Emergency Eco-
12 nomic Powers Act, section 16 (relating to offenses and
13 punishment) of the Trading with the Enemy Act, any
14 felony violation of section 15 of the Food Stamp Act
15 of 1977 (relating to food stamp fraud) involving a
16 quantity of coupons having a value of not less than
17 \$5,000, any violation of section 543(a)(1) of the Hous-
18 ing Act of 1949 (relating to equity skimming), any fel-
19 ony violation of the Foreign Agents Registration Act of
20 1938, any felony violation of the Foreign Corrupt Prac-
21 tices Act, or section 92 of the Atomic Energy Act of
22 1954 (42 U.S.C. 2122) (relating to prohibitions gov-
23 erning atomic weapons)

24 (E) a felony violation of the Federal Water Pollu-
25 tion Control Act (33 U.S.C. 1251 et seq.), the Ocean
26 Dumping Act (33 U.S.C. 1401 et seq.), the Act to Pre-
27 vent Pollution from Ships (33 U.S.C. 1901 et seq.), the
28 Safe Drinking Water Act (42 U.S.C. 300f et seq.), or
29 the Resources Conservation and Recovery Act (42
30 U.S.C. 6901 et seq.); or

31 (F) any act or activity constituting an offense in-
32 volving a Federal health care offense;

33 (8) the term “State” includes a State of the United
34 States, the District of Columbia, and any commonwealth,
35 territory, or possession of the United States.

36 (d) NONEXCLUSIVITY.—Nothing in this section shall su-
37 persede any provision of Federal, State, or other law imposing

1 criminal penalties or affording civil remedies in addition to
2 those provided for in this section.

3 (e) INVESTIGATED AUTHORITY.—Violations of this section
4 may be investigated by such components of the Department of
5 Justice as the Attorney General may direct, and by such com-
6 ponents of the Department of the Treasury as the Secretary of
7 the Treasury may direct, as appropriate and, with respect to
8 offenses over which the United States Postal Service has juris-
9 diction, by the Postal Service. Such authority of the Secretary
10 of the Treasury and the Postal Service shall be exercised in ac-
11 cordance with an agreement which shall be entered into by the
12 Secretary of the Treasury, the Postal Service, and the Attorney
13 General. Violations of this section involving offenses described
14 in paragraph (c)(7)(E) may be investigated by such compo-
15 nents of the Department of Justice as the Attorney General
16 may direct, and the National Enforcement Investigations Cen-
17 ter of the Environmental Protection Agency.

18 (f) EXTRATERRITORIAL JURISDICTION.—There is
19 extraterritorial jurisdiction over the conduct prohibited by this
20 section if—

21 (1) the conduct is by a United States citizen or, in the
22 case of a non-United States citizen, the conduct occurs in
23 part in the United States; and

24 (2) the transaction or series of related transactions in-
25 volves funds or monetary instruments of a value exceeding
26 \$10,000.

27 (g) NOTICE OF CONVICTION OF FINANCIAL INSTITU-
28 TIONS.—If any financial institution or any officer, director, or
29 employee of any financial institution has been found guilty of
30 an offense under this section, section 1452 or 508, or section
31 5322 or 5324 of title 31, the Attorney General shall provide
32 written notice of such fact to the appropriate regulatory agency
33 for the financial institution.

34 (i) VENUE.—(1) Except as provided in paragraph (2), a
35 prosecution for an offense under this section or section 1452
36 may be brought in—

1 (A) any district in which the financial or monetary
2 transaction is conducted; or

3 (B) any district where a prosecution for the underlying
4 specified unlawful activity could be brought, if the defend-
5 ant participated in the transfer of the proceeds of the spec-
6 ified unlawful activity from that district to the district
7 where the financial or monetary transaction is conducted.

8 (2) A prosecution for an attempt or conspiracy offense
9 under this section or section 1957 may be brought in the dis-
10 trict where venue would lie for the completed offense under
11 paragraph (1), or in any other district where an act in further-
12 ance of the attempt or conspiracy took place.

13 (3) For purposes of this section, a transfer of funds from
14 1 place to another, by wire or any other means, shall constitute
15 a single, continuing transaction. Any person who conducts (as
16 that term is defined in subsection (c)(2)) any portion of the
17 transaction may be charged in any district in which the trans-
18 action takes place.

19 **§ 1452. Engaging in monetary transactions in**
20 **property derived from specified unlawful**
21 **activity**

22 (a) ELEMENTS OF OFFENSE.—Whoever, as made applica-
23 ble by subsection (d), knowingly engages or attempts to engage
24 in a monetary transaction in criminally derived property of a
25 value greater than \$10,000 and is derived from specified un-
26 lawful activity, shall be punished as provided in subsection (b).

27 (b) PUNISHMENT.—(1) Except as provided in paragraph
28 (2), the punishment for an offense under this section is impris-
29 onment for not more than ten years.

30 (2) The court may impose an alternate fine to that
31 imposable under paragraph (1) of not more than twice the
32 amount of the criminally derived property involved in the trans-
33 action.

34 (c) PROOF.—In a prosecution for an offense under this
35 section, the Government is not required to prove the defendant
36 knew that the offense from which the criminally derived prop-
37 erty was derived was specified unlawful activity.

1 (d) APPLICABILITY.—Subsection (a) applies if—

2 (1) that the offense under this section takes place in
3 the United States or in the special maritime and territorial
4 jurisdiction of the United States; or

5 (2) that the offense under this section takes place out-
6 side the United States and such special jurisdiction, but the
7 defendant is a United States person (as defined in section
8 3077 of this title, but excluding the class described in para-
9 graph (2)(D) of such section).

10 (e) INVESTIGATIVE AUTHORITY.—Violations of this section
11 may be investigated by such components of the Department of
12 Justice as the Attorney General may direct, and by such com-
13 ponents of the Department of the Treasury as the Secretary of
14 the Treasury may direct, as appropriate and, with respect to
15 offenses over which the United States Postal Service has juris-
16 diction, by the Postal Service. Such authority of the Secretary
17 of the Treasury and the Postal Service shall be exercised in ac-
18 cordance with an agreement which shall be entered into by the
19 Secretary of the Treasury, the Postal Service, and the Attorney
20 General.

21 (f) DEFINITIONS.—As used in this section—

22 (1) the term “monetary transaction” means the de-
23 posit, withdrawal, transfer, or exchange, in or affecting
24 interstate or foreign commerce, of funds or a monetary in-
25 strument (as defined in section 1451(c)(5) of this title) by,
26 through, or to a financial institution (as defined in section
27 1451 of this title), including any transaction that would be
28 a financial transaction under section 1451(c)(4)(B) of this
29 title, but such term does not include any transaction nec-
30 essary to preserve a person’s right to representation as
31 guaranteed by the sixth amendment to the Constitution;

32 (2) the term “criminally derived property” means any
33 property constituting, or derived from, proceeds obtained
34 from a criminal offense; and

35 (3) the term “specified unlawful activity” has the
36 meaning given that term in section 1451 of this title.

1 **§ 1453. Structuring transactions to evade report-**
2 **ing requirement prohibited**

3 (a) DOMESTIC COIN AND CURRENCY TRANSACTIONS IN-
4 VOLVING FINANCIAL INSTITUTIONS.—No person shall, for the
5 purpose of evading the reporting requirements of section
6 5313(a) or 5325 of title 31 or any regulation prescribed under
7 any such section, the reporting or recordkeeping requirements
8 imposed by any order issued under section 5326 of that title,
9 or the recordkeeping requirements imposed by any regulation
10 prescribed under section 21 of the Federal Deposit Insurance
11 Act or section 123 of Public Law 91–508—

12 (1) cause or attempt to cause a domestic financial in-
13 stitution to fail to file a report required under section
14 5313(a) or 5325 of title 31 or any regulation prescribed
15 under any such section, to file a report or to maintain a
16 record required by an order issued under section 5326 of
17 title 31, or to maintain a record required pursuant to any
18 regulation prescribed under section 21 of the Federal De-
19 posit Insurance Act or section 123 of Public Law 91–508;

20 (2) cause or attempt to cause a domestic financial in-
21 stitution to file a report required under section 5313(a) or
22 5325 of title 31 or any regulation prescribed under any
23 such section, to file a report or to maintain a record re-
24 quired by any order issued under section 5326 of title 31,
25 or to maintain a record required pursuant to any regulation
26 prescribed under section 5326 of title 31, or to maintain
27 a record required pursuant to any regulation prescribed
28 under section 21 of the Federal Deposit Insurance Act or
29 section 123 of Public Law 91–508, that contains a material
30 omission or misstatement of fact; or

31 (3) structure or assist in structuring, or attempt to
32 structure or assist in structuring, any transaction with one
33 or more domestic financial institutions.

34 (b) DOMESTIC COIN AND CURRENCY TRANSACTIONS IN-
35 VOLVING NONFINANCIAL TRADES OR BUSINESSES.—No person
36 shall, for the purpose of evading the report requirements of sec-

1 tion 5331 of title 31 or any regulation prescribed under such
2 section—

3 (1) cause or attempt to cause a nonfinancial trade or
4 business to fail to file a report required under section 5331
5 of title 31 or any regulation prescribed under such section;

6 (2) cause or attempt to cause a nonfinancial trade or
7 business to file a report required under section 5331 of
8 title 31 or any regulation prescribed under such section
9 that contains a material omission or misstatement of fact;

10 or

11 (3) structure or assist in structuring, or attempt to
12 structure or assist in structuring, any transaction with 1
13 or more nonfinancial trades or businesses.

14 (c) INTERNATIONAL MONETARY INSTRUMENT TRANS-
15 ACTIONS.—No person shall, for the purpose of evading the re-
16 porting requirements of section 5316 of title 31—

17 (1) fail to file a report required by section 5316 of
18 title 31, or cause or attempt to cause a person to fail to
19 file such a report;

20 (2) file or cause or attempt to cause a person to file
21 a report required under section 5316 of title 31 that con-
22 tains a material omission or misstatement of fact; or

23 (3) structure or assist in structuring, or attempt to
24 structure or assist in structuring, any importation or expor-
25 tation of monetary instruments.

26 (d) CRIMINAL PENALTY.—

27 (1) IN GENERAL.—Whoever violates this section shall
28 be imprisoned for not more than 5 years.

29 (2) ENHANCED PENALTY FOR AGGRAVATED CASES.—
30 Whoever violates this section while violating another law of
31 the United States or as part of a pattern of any illegal ac-
32 tivity involving more than \$100,000 in a 12-month period
33 shall be imprisoned for not more than 10 years.

34 **§ 1454. Bulk cash smuggling into or out of the**
35 **United States**

36 (a) CRIMINAL OFFENSE.—

1 (1) IN GENERAL.—Whoever, with the intent to evade
2 a currency reporting requirement under section 5316 of
3 title 31, knowingly conceals more than \$10,000 in currency
4 or other monetary instruments on the person of such indi-
5 vidual or in any conveyance, article of luggage, merchan-
6 dise, or other container, and transports or transfers or at-
7 tempts to transport or transfer such currency or monetary
8 instruments from a place within the United States to a
9 place outside of the United States, or from a place outside
10 the United States to a place within the United States, shall
11 be guilty of a currency smuggling offense and subject to
12 punishment pursuant to subsection (b).

13 (2) CONCEALMENT ON PERSON.—For purposes of this
14 section, the concealment of currency on the person of any
15 individual includes concealment in any article of clothing
16 worn by the individual or in any luggage, backpack, or
17 other container worn or carried by such individual.

18 (b) PENALTY.—

19 (1) TERM OF IMPRISONMENT.—A person convicted of
20 a currency smuggling offense under subsection (a), or a
21 conspiracy to commit such offense, shall be imprisoned for
22 not more than 5 years.

23 (2) FORFEITURE.—In addition, the court, in imposing
24 sentence under paragraph (1), shall order that the defend-
25 ant forfeit to the United States, any property, real or per-
26 sonal, involved in the offense, and any property traceable
27 to such property, subject to subsection (c) of this section.

28 (3) PROCEDURE.—The seizure, restraint, and for-
29 feiture of property under this section shall be governed by
30 section 413 of the Controlled Substances Act.

31 (4) PERSONAL MONEY JUDGMENT.—If the property
32 subject to forfeiture under paragraph (2) is unavailable,
33 and the defendant has insufficient substitute property that
34 may be forfeited under section 2561, the court shall enter
35 a personal money judgment against the defendant for the
36 amount that would be subject to forfeiture.

37 (c) CIVIL FORFEITURE.—

1 (1) IN GENERAL.—Any property involved in a violation
 2 of subsection (a), or a conspiracy to commit such violation,
 3 and any property traceable to such violation or conspiracy,
 4 may be seized and forfeited to the United States.

5 (2) TREATMENT OF CERTAIN PROPERTY AS INVOLVED
 6 IN THE OFFENSE.—For purposes of this subsection and
 7 subsection (b), any currency or other monetary instrument
 8 that is concealed or intended to be concealed in violation
 9 of subsection (a), any article, container, or conveyance
 10 used, or intended to be used, to conceal or transport the
 11 currency or other monetary instrument, and any other
 12 property used, or intended to be used, to facilitate the of-
 13 fense, shall be considered property involved in the offense.

14 CHAPTER 37—PRIVACY

Subchapter	Sec.
A. Privacy	1481
B. Wire and electronic communications interception and interception of oral communications	1491
C. Stored wire and electronic communications and transactional records access	1521
D. Prohibition on release and use of certain personal information from state motor vehicle records	1541
E. Identity theft	1551

15 SUBCHAPTER A—PRIVACY

Sec.
 1481. Video voyeurism.

16 § 1481. Video voyeurism

17 (a) OFFENSE.—Whoever, in the special maritime and ter-
 18 ritorial jurisdiction of the United States, has the intent to cap-
 19 ture an image of a private area of an individual without their
 20 consent, and knowingly does so under circumstances in which
 21 the individual has a reasonable expectation of privacy, shall be
 22 imprisoned not more than one year.

23 (b) DEFINITIONS FOR SECTION.—As used in this sec-
 24 tion—

25 (1) the term “capture”, with respect to an image,
 26 means to videotape, photograph, film, record by any means,
 27 or broadcast;

1 (2) the term “broadcast” means to electronically
2 transmit a visual image with the intent that it be viewed
3 by a person or persons;

4 (3) the term “a private area of the individual” means
5 the naked or undergarment clad genitals, pubic area, but-
6 tocks, or female breast of that individual;

7 (4) the term “female breast” means any portion of the
8 female breast below the top of the areola; and

9 (5) the term “under circumstances in which that indi-
10 vidual has a reasonable expectation of privacy” means—

11 (A) circumstances in which a reasonable person
12 would believe that he or she could disrobe in privacy,
13 without being concerned that an image of a private
14 area of the individual was being captured; or

15 (B) circumstances in which a reasonable person
16 would believe that a private area of the individual
17 would not be visible to the public, regardless of whether
18 that person is in a public or private place.

19 (c) EXCLUSION.—This section does not prohibit any lawful
20 law enforcement, correctional, or intelligence activity.

21 SUBCHAPTER B—WIRE AND ELECTRONIC COMMU-
22 NICATIONS INTERCEPTION AND INTERCEPTION
23 OF ORAL COMMUNICATIONS

Sec.

1491. Definitions.
1492. Interception and disclosure of wire, oral, or electronic communica-
tions prohibited.
1493. Manufacture, distribution, possession, and advertising of wire,
oral, or electronic communication intercepting devices prohibited.
1494. Confiscation of wire, oral, or electronic communication inter-
cepting devices.
1495. Prohibition of use as evidence of intercepted wire or oral commu-
nications.
1496. Authorization for interception of wire, oral, or electronic commu-
nications.
1497. Authorization for disclosure and use of intercepted wire, oral, or
electronic communications.
1498. Procedure for interception of wire, oral, or electronic communica-
tions.
1499. Reports concerning intercepted wire, oral, or electronic commu-
nications.
1500. Recovery of civil damages authorized.
1501. Injunction against illegal interception.

1502. Enforcement of the Communications Assistance for Law Enforcement Act.

1 **§ 1491. Definitions**

2 As used in this subchapter—

3 (1) the term “wire communication” means any aural
4 transfer made in whole or in part through the use of facilities
5 for the transmission of communications by the aid of
6 wire, cable, or other like connection between the point of
7 origin and the point of reception (including the use of such
8 connection in a switching station) furnished or operated by
9 any person engaged in providing or operating such facilities
10 for the transmission of interstate or foreign communica-
11 tions or communications affecting interstate or foreign
12 commerce;

13 (2) the term “oral communication” means any oral
14 communication uttered by a person exhibiting an expecta-
15 tion that such communication is not subject to interception
16 under circumstances justifying such expectation, but such
17 term does not include any electronic communication;

18 (3) the term “intercept” means the aural or other ac-
19 quisition of the contents of any wire, electronic, or oral
20 communication through the use of any electronic, mechan-
21 ical, or other device.

22 (4) the term “electronic, mechanical, or other device”
23 means any device or apparatus which can be used to inter-
24 cept a wire, oral, or electronic communication other than—

25 (A) any telephone or telegraph instrument, equip-
26 ment or facility, or any component thereof, (i) fur-
27 nished to the subscriber or user by a provider of wire
28 or electronic communication service in the ordinary
29 course of its business and being used by the subscriber
30 or user in the ordinary course of its business or fur-
31 nished by such subscriber or user for connection to the
32 facilities of such service and used in the ordinary
33 course of its business; or (ii) being used by a provider
34 of wire or electronic communication service in the ordi-
35 nary course of its business, or by an investigative or

1 law enforcement officer in the ordinary course of his
2 duties;

3 (B) a hearing aid or similar device being used to
4 correct subnormal hearing to not better than normal;

5 (7) the term “Investigative or law enforcement officer”
6 means any officer of the United States or of a State or po-
7 litical subdivision thereof, who is empowered by law to con-
8 duct investigations of or to make arrests for offenses enu-
9 merated in this chapter, and any attorney authorized by
10 law to prosecute or participate in the prosecution of such
11 offenses;

12 (8) the term “contents”, when used with respect to
13 any wire, oral, or electronic communication, includes any
14 information concerning the substance, purport, or meaning
15 of that communication;

16 (9) the term “Judge of competent jurisdiction”
17 means—

18 (A) a judge of a United States district court or a
19 United States court of appeals; and

20 (B) a judge of any court of general criminal juris-
21 diction of a State who is authorized by a statute of that
22 State to enter orders authorizing interceptions of wire,
23 oral, or electronic communications;

24 (10) the term “communication common carrier” has
25 the meaning given that term in section 3 of the Commu-
26 nications Act of 1934;

27 (11) the term “aggrieved person” means a person who
28 was a party to any intercepted wire, oral, or electronic com-
29 munication or a person against whom the interception was
30 directed;

31 (12) the term “electronic communication” means any
32 transfer of signs, signals, writing, images, sounds, data, or
33 intelligence of any nature transmitted in whole or in part
34 by a wire, radio, electromagnetic, photoelectronic or
35 photooptical system that affects interstate or foreign com-
36 merce, but does not include—

37 (A) any wire or oral communication;

1 (B) any communication made through a tone-only
2 paging device;

3 (C) any communication from a tracking device (as
4 defined in section 3117 of this title); or

5 (D) electronic funds transfer information stored by
6 a financial institution in a communications system used
7 for the electronic storage and transfer of funds;

8 (13) the term “user” means any person or entity
9 who—

10 (A) uses an electronic communication service; and

11 (B) is duly authorized by the provider of such
12 service to engage in such use;

13 (14) the term “electronic communications system”
14 means any wire, radio, electromagnetic, photooptical or
15 photoelectronic facilities for the transmission of wire or
16 electronic communications, and any computer facilities or
17 related electronic equipment for the electronic storage of
18 such communications;

19 (15) the term “electronic communication service”
20 means any service which provides to users thereof the abil-
21 ity to send or receive wire or electronic communications;

22 (16) the term “readily accessible to the general pub-
23 lic” means, with respect to a radio communication, that
24 such communication is not—

25 (A) scrambled or encrypted;

26 (B) transmitted using modulation techniques
27 whose essential parameters have been withheld from
28 the public with the intention of preserving the privacy
29 of such communication;

30 (C) carried on a subcarrier or other signal sub-
31 sidiary to a radio transmission;

32 (D) transmitted over a communication system pro-
33 vided by a common carrier, unless the communication
34 is a tone only paging system communication; or

35 (E) transmitted on frequencies allocated under
36 part 25, subpart D, E, or F of part 74, or part 94 of
37 the Rules of the Federal Communications Commission,

1 unless, in the case of a communication transmitted on
2 a frequency allocated under part 74 that is not exclu-
3 sively allocated to broadcast auxiliary services, the com-
4 munication is a two-way voice communication by radio;

5 (17) the term “electronic storage” means—

6 (A) any temporary, intermediate storage of a wire
7 or electronic communication incidental to the electronic
8 transmission thereof; and

9 (B) any storage of such communication by an elec-
10 tronic communication service for purposes of backup
11 protection of such communication;

12 (18) the term “aural transfer” means a transfer con-
13 taining the human voice at any point between and includ-
14 ing the point of origin and the point of reception;

15 (19) the term “foreign intelligence information”, for
16 purposes of section 1497(6), means—

17 (A) information, whether or not concerning a
18 United States person, that relates to the ability of the
19 United States to protect against—

20 (i) actual or potential attack or other grave
21 hostile acts of a foreign power or an agent of a fore-
22 eign power;

23 (ii) sabotage or international terrorism by a
24 foreign power or an agent of a foreign power; or

25 (iii) clandestine intelligence activities by an in-
26 telligence service or network of a foreign power or
27 by an agent of a foreign power; or

28 (B) information, whether or not concerning a
29 United States person, with respect to a foreign power
30 or foreign territory that relates to—

31 (i) the national defense or the security of the
32 United States; or

33 (ii) the conduct of the foreign affairs of the
34 United States;

35 (20) the term “protected computer” has the meaning
36 set forth in section 1030; and

37 (21) the term “computer trespasser”—

1 (A) means a person who accesses a protected com-
2 puter without authorization and thus has no reasonable
3 expectation of privacy in any communication trans-
4 mitted to, through, or from the protected computer;
5 and

6 (B) does not include a person known by the owner
7 or operator of the protected computer to have an exist-
8 ing contractual relationship with the owner or operator
9 of the protected computer for access to all or part of
10 the protected computer.

11 **§ 1492. Interception and disclosure of wire, oral,**
12 **or electronic communications prohibited**

13 (a) OFFENSE.—Except as otherwise specifically provided
14 in this subchapter any person who—

15 (1) intentionally intercepts, endeavors to intercept, or
16 procures any other person to intercept or endeavor to inter-
17 cept, any wire, oral, or electronic communication;

18 (2) intentionally uses, endeavors to use, or procures
19 any other person to use or endeavor to use any electronic,
20 mechanical, or other device to intercept any oral commu-
21 nication when—

22 (A) such device is affixed to, or otherwise trans-
23 mits a signal through, a wire, cable, or other like con-
24 nection used in wire communication; or

25 (B) such device transmits communications by
26 radio, or interferes with the transmission of such com-
27 munication; or

28 (C) such person knows, or has reason to know,
29 that such device or any component thereof has been
30 sent through the mail or transported in interstate or
31 foreign commerce; or

32 (D) such use or endeavor to use (A) takes place
33 on the premises of any business or other commercial
34 establishment the operations of which affect interstate
35 or foreign commerce; or (B) obtains or is for the pur-
36 pose of obtaining information relating to the operations
37 of any business or other commercial establishment the

1 operations of which affect interstate or foreign com-
2 merce; or

3 (E) such person acts in the District of Columbia,
4 the Commonwealth of Puerto Rico, or any territory or
5 possession of the United States;

6 (3) intentionally discloses, or endeavors to disclose, to
7 any other person the contents of any wire, oral, or elec-
8 tronic communication, knowing or having reason to know
9 that the information was obtained through the interception
10 of a wire, oral, or electronic communication in violation of
11 this subsection;

12 (4) intentionally uses, or endeavors to use, the con-
13 tents of any wire, oral, or electronic communication, know-
14 ing or having reason to know that the information was ob-
15 tained through the interception of a wire, oral, or electronic
16 communication in violation of this subsection; or

17 (5)(A) intentionally discloses, or endeavors to disclose,
18 to any other person the contents of any wire, oral, or elec-
19 tronic communication, intercepted by means authorized by
20 sections 1497(2)(A)(ii), 1497(2)(b)–(c), 1492(2)(e), 1496,
21 and 1498 of this subchapter;

22 (B) knowing or having reason to know that the infor-
23 mation was obtained through the interception of such a
24 communication in connection with a criminal investigation;

25 (C) having obtained or received the information in
26 connection with a criminal investigation; and

27 (D) with intent to improperly obstruct, impede, or
28 interfere with a duly authorized criminal investigation,
29 shall be punished as provided in subsection (d) or shall be sub-
30 ject to suit as provided in subsection (5).

31 (b) EXCLUSIONS.—(1)(A) It shall not be unlawful under
32 this subchapter for an operator of a switchboard, or an officer,
33 employee, or agent of a provider of wire or electronic commu-
34 nication service, whose facilities are used in the transmission of
35 a wire or electronic communication, to intercept, disclose, or
36 use that communication in the normal course of his employ-
37 ment while engaged in any activity which is a necessary inci-

1 dent to the rendition of his service or to the protection of the
2 rights or property of the provider of that service, except that
3 a provider of wire communication service to the public shall not
4 utilize service observing or random monitoring except for me-
5 chanical or service quality control checks.

6 (B) Notwithstanding any other law, providers of wire or
7 electronic communication service, their officers, employees, and
8 agents, landlords, custodians, or other persons, are authorized
9 to provide information, facilities, or technical assistance to per-
10 sons authorized by law to intercept wire, oral, or electronic
11 communications or to conduct electronic surveillance, as defined
12 in section 101 of the Foreign Intelligence Surveillance Act of
13 1978, if such provider, its officers, employees, or agents, land-
14 lord, custodian, or other specified person, has been provided
15 with—

16 (i) a court order directing such assistance signed by the
17 authorizing judge, or

18 (ii) a certification in writing by a person specified in sec-
19 tion 2518(7) of this title or the Attorney General of the United
20 States that no warrant or court order is required by law, that
21 all statutory requirements have been met, and that the speci-
22 fied assistance is required,

23 setting forth the period of time during which the provision of
24 the information, facilities, or technical assistance is authorized
25 and specifying the information, facilities, or technical assistance
26 required. No provider of wire or electronic communication serv-
27 ice, officer, employee, or agent thereof, or landlord, custodian,
28 or other specified person shall disclose the existence of any
29 interception or surveillance or the device used to accomplish the
30 interception or surveillance with respect to which the person
31 has been furnished a court order or certification under this
32 subchapter, except as may otherwise be required by legal proc-
33 ess and then only after prior notification to the Attorney Gen-
34 eral or to the principal prosecuting attorney of a State or any
35 political subdivision of a State, as may be appropriate. Any
36 such disclosure, shall render such person liable for the civil
37 damages provided for in section 2520. No cause of action shall

1 lie in any court against any provider of wire or electronic com-
2 munication service, its officers, employees, or agents, landlord,
3 custodian, or other specified person for providing information,
4 facilities, or assistance in accordance with the terms of a court
5 order, statutory authorization, or certification under this sub-
6 chapter.

7 (2) It shall not be unlawful under this subchapter for an
8 officer, employee, or agent of the Federal Communications
9 Commission, in the normal course of his employment and in
10 discharge of the monitoring responsibilities exercised by the
11 Commission in the enforcement of chapter 5 of title 47 of the
12 United States Code, to intercept a wire or electronic commu-
13 nication, or oral communication transmitted by radio, or to dis-
14 close or use the information thereby obtained.

15 (3) It shall not be unlawful under this subchapter for a
16 person acting under color of law to intercept a wire, oral, or
17 electronic communication, where such person is a party to the
18 communication or one of the parties to the communication has
19 given prior consent to such interception.

20 (4) It shall not be unlawful under this subchapter for a
21 person not acting under color of law to intercept a wire, oral,
22 or electronic communication where such person is a party to
23 the communication or where one of the parties to the commu-
24 nication has given prior consent to such interception unless
25 such communication is intercepted for the purpose of commit-
26 ting any criminal or tortious act in violation of the Constitution
27 or laws of the United States or of any State.

28 (5) Notwithstanding any other provision of this title or
29 section 705 or 706 of the Communications Act of 1934, it shall
30 not be unlawful for an officer, employee, or agent of the United
31 States in the normal course of his official duty to conduct elec-
32 tronic surveillance, as defined in section 101 of the Foreign In-
33 telligence Surveillance Act of 1978, as authorized by that Act.

34 (6) Nothing contained in this subchapter or subchapter C
35 if chapter 37, or section 705 of the Communications Act of
36 1934, shall be deemed to affect the acquisition by the United
37 States Government of foreign intelligence information from

1 international or foreign communications, or foreign intelligence
2 activities conducted in accordance with otherwise applicable
3 Federal law involving a foreign electronic communications sys-
4 tem, utilizing a means other than electronic surveillance as de-
5 fined in section 101 of the Foreign Intelligence Surveillance
6 Act of 1978, and procedures in this subchapter or subchapter
7 C if chapter 37 and the Foreign Intelligence Surveillance Act
8 of 1978 shall be the exclusive means by which electronic sur-
9 veillance, as defined in section 101 of such Act, and the inter-
10 ception of domestic wire, oral, and electronic communications
11 may be conducted.

12 (7) It shall not be unlawful under this subchapter or sub-
13 chapter C if chapter 37 for any person—

14 (A) to intercept or access an electronic communication
15 made through an electronic communication system that is
16 configured so that such electronic communication is readily
17 accessible to the general public;

18 (B) to intercept any radio communication which is
19 transmitted—

20 (i) by any station for the use of the general public,
21 or that relates to ships, aircraft, vehicles, or persons in
22 distress;

23 (ii) by any governmental, law enforcement, civil
24 defense, private land mobile, or public safety commu-
25 nications system, including police and fire, readily ac-
26 cessible to the general public;

27 (iii) by a station operating on an authorized fre-
28 quency within the bands allocated to the amateur, citi-
29 zens band, or general mobile radio services; or

30 (iv) by any marine or aeronautical communications
31 system;

32 (C) to engage in any conduct which—

33 (i) is prohibited by section 633 of the Communica-
34 tions Act of 1934; or

35 (ii) is excepted from the application of section
36 705(a) of the Communications Act of 1934 by section
37 705(b) of that Act;

1 (iii) of the Communications Act of 1934 by section
2 705(b) of that Act;

3 (iv) to intercept any wire or electronic communication
4 the transmission of which is causing harmful interference
5 to any lawfully operating station or consumer electronic
6 equipment, to the extent necessary to identify the source of
7 such interference; or

8 (v) for other users of the same frequency to intercept
9 any radio communication made through a system that uti-
10 lizes frequencies monitored by individuals engaged in the
11 provision or the use of such system, if such communication
12 is not scrambled or encrypted.

13 (8) It shall not be unlawful under this subchapter—

14 (A) to use a pen register or a trap and trace device
15 (as those terms are defined for the purposes of chapter 206
16 (relating to pen registers and trap and trace devices) of
17 this title); or

18 (B) for a provider of electronic communication service
19 to record the fact that a wire or electronic communication
20 was initiated or completed in order to protect such pro-
21 vider, another provider furnishing service toward the com-
22 pletion of the wire or electronic communication, or a user
23 of that service, from fraudulent, unlawful or abusive use of
24 such service.

25 (9) It shall not be unlawful under this subchapter for a
26 person acting under color of law to intercept the wire or elec-
27 tronic communications of a computer trespasser transmitted to,
28 through, or from the protected computer, if—

29 (A) the owner or operator of the protected computer
30 authorizes the interception of the computer trespasser's
31 communications on the protected computer;

32 (B) the person acting under color of law is lawfully en-
33 gaged in an investigation;

34 (C) the person acting under color of law has reason-
35 able grounds to believe that the contents of the computer
36 trespasser's communications will be relevant to the inves-
37 tigation; and

1 (D) such interception does not acquire communica-
2 tions other than those transmitted to or from the computer
3 trespasser.

4 (c) CONTENTS IN TRANSMISSION.—(1) Except as provided
5 in paragraph (b) of this subsection, a person or entity pro-
6 viding an electronic communication service to the public shall
7 not intentionally divulge the contents of any communication
8 (other than one to such person or entity, or an agent thereof)
9 while in transmission on that service to any person or entity
10 other than an addressee or intended recipient of such commu-
11 nication or an agent of such addressee or intended recipient.

12 (2) A person or entity providing electronic communication
13 service to the public may divulge the contents of any such com-
14 munication—

15 (A) as otherwise authorized in section 2511(2)(a) or
16 2517 of this title;

17 (B) with the lawful consent of the originator or any
18 addressee or intended recipient of such communication;

19 (C) to a person employed or authorized, or whose fa-
20 cilities are used, to forward such communication to its des-
21 tination; or

22 (D) which were inadvertently obtained by the service
23 provider and which appear to pertain to the commission of
24 a crime, if such divulgence is made to a law enforcement
25 agency.

26 (d) PUNISHMENT.—(1) Except as provided in paragraph
27 (b) of this subsection or in subsection (5), whoever violates sub-
28 section (1) of this section shall be imprisoned not more than
29 five years.

30 (2) Conduct otherwise an offense under this subsection
31 that consists of or relates to the interception of a satellite
32 transmission that is not encrypted or scrambled and that is
33 transmitted—

34 (A) to a broadcasting station for purposes of retrans-
35 mission to the general public; or

1 (B) as an audio subcarrier intended for redistribution
2 to facilities open to the public, but not including data
3 transmissions or telephone calls,
4 is not an offense under this subsection unless the conduct is
5 for the purposes of direct or indirect commercial advantage or
6 private financial gain.

7 (e) CERTAIN COMMUNICATIONS.—(1)(A) If the commu-
8 nication is—

9 (i) a private satellite video communication that is
10 not scrambled or encrypted and the conduct in violation
11 of this subchapter is the private viewing of that com-
12 munication and is not for a tortious or illegal purpose
13 or for purposes of direct or indirect commercial advan-
14 tage or private commercial gain; or

15 (ii) a radio communication that is transmitted on
16 frequencies allocated under subpart D of part 74 of the
17 rules of the Federal Communications Commission that
18 is not scrambled or encrypted and the conduct in viola-
19 tion of this subchapter is not for a tortious or illegal
20 purpose or for purposes of direct or indirect commercial
21 advantage or private commercial gain,

22 then the person who engages in such conduct shall be subject
23 to suit by the Federal Government in a court of competent ju-
24 risdiction.

25 (B) In an action under this subsection—

26 (i) if the violation of this subchapter is a first offense for
27 the person under paragraph (a) of subsection (4) and such per-
28 son has not been found liable in a civil action under section
29 2520 of this title, the Federal Government shall be entitled to
30 appropriate injunctive relief; and

31 (ii) if the violation of this subchapter is a second or subse-
32 quent offense under paragraph (a) of subsection (4) or such
33 person has been found liable in any prior civil action under sec-
34 tion 2520, the person shall be subject to a mandatory \$500
35 civil fine.

36 (2) The court may use any means within its authority to
37 enforce an injunction issued under paragraph (ii)(A), and shall

1 impose a civil fine of not less than \$500 for each violation of
2 such an injunction.

3 **§ 1493. Manufacture, distribution, possession, and**
4 **advertising of wire, oral, or electronic**
5 **communication intercepting devices pro-**
6 **hibited**

7 (a) OFFENSE.—Except as otherwise specifically provided
8 in this subchapter, any person who intentionally—

9 (1) sends through the mail, or sends or carries in
10 interstate or foreign commerce, any electronic, mechanical,
11 or other device, knowing or having reason to know that the
12 design of such device renders it primarily useful for the
13 purpose of the surreptitious interception of wire, oral, or
14 electronic communications;

15 (2) manufactures, assembles, possesses, or sells any
16 electronic, mechanical, or other device, knowing or having
17 reason to know that the design of such device renders it
18 primarily useful for the purpose of the surreptitious inter-
19 ception of wire, oral, or electronic communications, and
20 that such device or any component thereof has been or will
21 be sent through the mail or transported in interstate or
22 foreign commerce; or

23 (3) places in any newspaper, magazine, handbill, or
24 other publication or disseminates by electronic means any
25 advertisement of—

26 (A) any electronic, mechanical, or other device
27 knowing or having reason to know that the design of
28 such device renders it primarily useful for the purpose
29 of the surreptitious interception of wire, oral, or elec-
30 tronic communications; or

31 (B) any other electronic, mechanical, or other de-
32 vice, where such advertisement promotes the use of
33 such device for the purpose of the surreptitious inter-
34 ception of wire, oral, or electronic communications,
35 knowing the content of the advertisement and knowing or
36 having reason to know that such advertisement will be sent

1 through the mail or transported in interstate or foreign
2 commerce,
3 shall be imprisoned not more than five years.

4 (b) EXCLUSION.—It shall not be unlawful under this sec-
5 tion for—

6 (1) a provider of wire or electronic communication
7 service or an officer, agent, or employee of, or a person
8 under contract with, such a provider, in the normal course
9 of the business of providing that wire or electronic commu-
10 nication service, or

11 (2) an officer, agent, or employee of, or a person
12 under contract with, the United States, a State, or a polit-
13 ical subdivision thereof, in the normal course of the activi-
14 ties of the United States, a State, or a political subdivision
15 thereof,

16 to send through the mail, send or carry in interstate or foreign
17 commerce, or manufacture, assemble, possess, or sell any elec-
18 tronic, mechanical, or other device knowing or having reason to
19 know that the design of such device renders it primarily useful
20 for the purpose of the surreptitious interception of wire, oral,
21 or electronic communications.

22 (c) ADDITIONAL EXCLUSION.—It shall not be unlawful
23 under this section to advertise for sale a device described in
24 subsection (a) of this section if the advertisement is mailed,
25 sent, or carried in interstate or foreign commerce solely to a
26 domestic provider of wire or electronic communication service
27 or to an agency of the United States, a State, or a political
28 subdivision thereof which is duly authorized to use such device.

29 **§ 1494. Confiscation of wire, oral, or electronic**
30 **communication intercepting devices**

31 Any electronic, mechanical, or other device used, sent, car-
32 ried, manufactured, assembled, possessed, sold, or advertised in
33 violation of section 1492 or section 1493 may be seized and
34 forfeited to the United States. All provisions of law relating to
35 (1) the seizure, summary and judicial forfeiture, and con-
36 demnation of vessels, vehicles, merchandise, and baggage for
37 violations of the customs laws contained in title 19 of the

1 United States Code, (2) the disposition of such vessels, vehicles,
2 merchandise, and baggage or the proceeds from the sale there-
3 of, (3) the remission or mitigation of such forfeiture, (4) the
4 compromise of claims, and (5) the award of compensation to
5 informers in respect of such forfeitures, shall apply to seizures
6 and forfeitures incurred, or alleged to have been incurred,
7 under the provisions of this section, insofar as applicable and
8 not inconsistent with the provisions of this section; except that
9 such duties as are imposed upon the collector of customs or any
10 other person with respect to the seizure and forfeiture of ves-
11 sels, vehicles, merchandise, and baggage under the provisions of
12 the customs laws contained in title 19 of the United States
13 Code shall be performed with respect to seizure and forfeiture
14 of electronic, mechanical, or other intercepting devices under
15 this section by such officers, agents, or other persons as may
16 be authorized or designated for that purpose by the Attorney
17 General.

18 **§ 1495. Prohibition of use as evidence of inter-**
19 **cepted wire or oral communications**

20 Whenever any wire or oral communication has been inter-
21 cepted, no part of the contents of such communication and no
22 evidence derived therefrom may be received in evidence in any
23 trial, hearing, or other proceeding in or before any court, grand
24 jury, department, officer, agency, regulatory body, legislative
25 committee, or other authority of the United States, a State, or
26 a political subdivision thereof if the disclosure of that informa-
27 tion would be in violation of this subchapter.

28 **§ 1496. Authorization for interception of wire,**
29 **oral, or electronic communications**

30 (a) FEDERAL PROSECUTORS.—The Attorney General,
31 Deputy Attorney General, Associate Attorney General, or any
32 Assistant Attorney General, any acting Assistant Attorney Gen-
33 eral, or any Deputy Assistant Attorney General or acting Dep-
34 uty Assistant Attorney General in the Criminal Division spe-
35 cially designated by the Attorney General, may authorize an
36 application to a Federal judge of competent jurisdiction for,
37 and such judge may grant in conformity with section 2518 of

1 this subchapter an order authorizing or approving the intercep-
2 tion of wire or oral communications by the Federal Bureau of
3 Investigation, or a Federal agency having responsibility for the
4 investigation of the offense as to which the application is made,
5 when such interception may provide or has provided evidence
6 of—

7 (1) any offense punishable by death or by imprison-
8 ment for more than one year under sections 2122 and 2274
9 through 2277 of title 42 of the United States Code (relat-
10 ing to the enforcement of the Atomic Energy Act of 1954),
11 section 2284 of title 42 of the United States Code (relating
12 to sabotage of nuclear facilities or fuel), or under the fol-
13 lowing chapters of this title: subchapter E of chapter 15
14 (relating to espionage), subchapter C of chapter 10 (relat-
15 ing to kidnapping), subchapter C of chapter 35 (relating to
16 protection of trade secrets), subchapter A of chapter 15
17 (relating to treason), subchapter N of chapter 29 (relating
18 to malicious mischief), or subchapter A of chapter 31 (re-
19 lating to piracy);

20 (2) a violation of section 186 or section 501(c) of title
21 29, United States Code (dealing with restrictions on pay-
22 ments and loans to labor organizations), or any offense
23 which involves murder, kidnapping, robbery, or extortion,
24 and which is punishable under this title;

25 (3) any offense which is punishable under the fol-
26 lowing sections of this title: section 991 (bribery of public
27 officials and witnesses), section 1003 (relating to bribery of
28 bank officials), section 1005 (bribery in sporting contests),
29 subsection (d), (e), (f), (g), (h), or (i) of section 614 (un-
30 lawful use of explosives), section 1071 (relating to escape),
31 section 779 (relating to loans and credit applications gener-
32 ally; renewals and discounts), sections 1132, 1137, and
33 1138 (influencing or injuring an officer, juror, or witness
34 generally), section 1135 (obstruction of criminal investiga-
35 tions), section 1136 (obstruction of State or local law en-
36 forcement), section 1265 (sex trafficking of children by
37 force, fraud, or coercion), section 102, 201, 203 (Presi-

1 dential and Presidential staff assassination, kidnapping,
2 and assault), section 501 (interference with commerce by
3 threats or violence), section 502 (interstate and foreign
4 travel or transportation in aid of racketeering enterprises),
5 section 506 (relating to use of interstate commerce facili-
6 ties in the commission of murder for hire), section 507 (re-
7 lating to violent crimes in aid of racketeering activity), sec-
8 tion 504 (offer, acceptance, or solicitation to influence oper-
9 ations of employee benefit plan), section 505 (prohibition of
10 business enterprises of gambling), section 1451 (laundering
11 of monetary instruments), section 1452 (relating to engag-
12 ing in monetary transactions in property derived from spec-
13 ified unlawful activity), section 547 (theft from interstate
14 shipment), section 652 (embezzlement from pension and
15 welfare funds), section 803 (fraud by wire, radio, or tele-
16 vision), section 804 (relating to bank fraud), sections 221
17 and 223 (sexual exploitation of children), section 222 (sell-
18 ing or buying of children), section 223 (relating to material
19 constituting or containing child pornography), section 1445
20 (relating to child obscenity), section 161 (production of sex-
21 ually explicit depictions of a minor for importation into the
22 United States), sections 211, 212, 213, and 215 (relating
23 to transportation for illegal sexual activity and related
24 crimes), sections 671, 672, 673, and 674 (interstate trans-
25 portation of stolen property), section 682 (relating to traf-
26 ficking in certain motor vehicles or motor vehicle parts),
27 section 203 (relating to hostage taking), section 786 (relat-
28 ing to fraud and related activity in connection with access
29 devices), section 1301 (relating to destruction of aircraft or
30 aircraft facilities), section 1307 (relating to aircraft parts
31 fraud), section 513 (violations with respect to racketeer in-
32 fluenced and corrupt organizations), section 102, 111, 201,
33 and 203 (relating to threatening or retaliating against a
34 Federal official), section 801 (relating to mail fraud), a fel-
35 ony violation of section 787 (relating to computer fraud
36 and abuse), section 601 (relating to prohibited transactions
37 involving nuclear materials), section 1302 (relating to de-

1 construction of motor vehicles or motor vehicle facilities), sec-
2 tion 621 (relating to biological weapons), section 624 (re-
3 lating to variola virus), section 1331 (relating to wrecking
4 trains), a felony violation of section 783 (relating to pro-
5 duction of false identification documentation), section 315
6 (relating to the procurement of citizenship or nationaliza-
7 tion unlawfully), section 316 (relating to the sale of natu-
8 ralization or citizenship papers), section 311 (relating to
9 false statements in passport applications), section 312 (re-
10 lating to forgery or false use of passports), section 313 (re-
11 lating to misuse of passports), or section 314 (relating to
12 fraud and misuse of visas, permits, and other documents)
13 ;

14 (4) any offense involving counterfeiting punishable
15 under section 692, 693, or 694 of this title;

16 (5) any offense involving fraud connected with a case
17 under title 11 or the manufacture, importation, receiving,
18 concealment, buying, selling, or otherwise dealing in nar-
19 cotic drugs, marihuana, or other dangerous drugs, punish-
20 able under any law of the United States;

21 (6) any offense including extortionate credit trans-
22 actions under sections 155, 156, or 157 of this title;

23 (7) a violation of section 5322 of title 31, United
24 States Code (dealing with the reporting of currency trans-
25 actions);

26 (8) any felony violation of sections 1492 and 1493 (re-
27 lating to interception and disclosure of certain communica-
28 tions and to certain intercepting devices) of this title;

29 (9) any felony violation of subchapter F of chapter 35
30 (relating to obscenity) of this title;

31 (10) any violation of section 60123(b) (relating to de-
32 struction of a natural gas pipeline) or section 46502 (relat-
33 ing to aircraft piracy) of title 49;

34 (11) any criminal violation of section 2778 of title 22
35 (relating to the Arms Export Control Act);

36 (12) the location of any fugitive from justice from an
37 offense described in this section;

1 (13) the location of any fugitive from justice from an
2 offense described in this section;

3 (14) a violation of section 274, 277, or 278 of the Im-
4 migration and Nationality Act (8 U.S.C. 1324, 1327, or
5 1328) (relating to the smuggling of aliens);

6 (15) any felony violation of sections 582 and 584 of
7 title 18, United States Code (relating to firearms);

8 (16) any violation of section 5861 of the Internal Rev-
9 enue Code of 1986 (relating to firearms);

10 (17) a felony violation of section 783 (relating to pro-
11 duction of false identification documents), section 311 (re-
12 lating to false statements in passport applications), section
13 314 (relating to fraud and misuse of visas, permits, and
14 other documents) of this title or a violation of section 274,
15 277, or 278 of the Immigration and Nationality Act (relat-
16 ing to the smuggling of aliens);

17 (18) any criminal violation of section 631 (relating to
18 chemical weapons); or sections 271, 273, 274, 275, 278,
19 279, or 208 of this title (relating to terrorism); or

20 (19) any conspiracy to commit any offense described
21 in any subparagraph of this paragraph.

22 (b) STATE PROSECUTORS.—The principal prosecuting at-
23 torney of any State, or the principal prosecuting attorney of
24 any political subdivision thereof, if such attorney is authorized
25 by a statute of that State to make application to a State court
26 judge of competent jurisdiction for an order authorizing or ap-
27 proving the interception of wire, oral, or electronic communica-
28 tions, may apply to such judge for, and such judge may grant
29 in conformity with section 2518 of this chapter and with the
30 applicable State statute an order authorizing, or approving the
31 interception of wire, oral, or electronic communications by in-
32 vestigative or law enforcement officers having responsibility for
33 the investigation of the offense as to which the application is
34 made, when such interception may provide or has provided evi-
35 dence of the commission of the offense of murder, kidnapping,
36 gambling, robbery, bribery, extortion, or dealing in narcotic
37 drugs, marihuana or other dangerous drugs, or other crime

1 dangerous to life, limb, or property, and punishable by impris-
 2 onment for more than one year, designated in any applicable
 3 State statute authorizing such interception, or any conspiracy
 4 to commit any of the foregoing offenses.

5 (c) INTERCEPTION FOR EVIDENCE OF FEDERAL FELO-
 6 NIES.—Any attorney for the Government (as such term is de-
 7 fined for the purposes of the Federal Rules of Criminal Proce-
 8 dure) may authorize an application to a Federal judge of com-
 9 petent jurisdiction for, and such judge may grant, in con-
 10 formity with section 1498 of this title, an order authorizing or
 11 approving the interception of electronic communications by an
 12 investigative or law enforcement officer having responsibility for
 13 the investigation of the offense as to which the application is
 14 made, when such interception may provide or has provided evi-
 15 dence of any Federal felony.

16 **§ 1497. Authorization for disclosure and use of**
 17 **intercepted wire, oral, or electronic com-**
 18 **munications**

19 (a) DISCLOSURE TO INVESTIGATIVE OR LAW ENFORCE-
 20 MENT OFFICERS.— Any investigative or law enforcement offi-
 21 cer who, by any means authorized by this chapter, has obtained
 22 knowledge of the contents of any wire, oral, or electronic com-
 23 munication, or evidence derived therefrom, may disclose such
 24 contents to another investigative or law enforcement officer to
 25 the extent that such disclosure is appropriate to the proper per-
 26 formance of the official duties of the officer making or receiv-
 27 ing the disclosure.

28 (b) USE OF CONTENTS IN PERFORMANCE OF DUTIES.—
 29 Any investigative or law enforcement officer who, by any means
 30 authorized by this chapter, has obtained knowledge of the con-
 31 tents of any wire, oral, or electronic communication or evidence
 32 derived therefrom may use such contents to the extent such use
 33 is appropriate to the proper performance of his official duties.

34 (c) USE OF CONTENTS IN TESTIMONY.—Any person who
 35 has received, by any means authorized by this chapter, any in-
 36 formation concerning a wire, oral, or electronic communication,
 37 or evidence derived therefrom intercepted in accordance with

1 the provisions of this chapter may disclose the contents of that
2 communication or such derivative evidence while giving testi-
3 mony under oath or affirmation in any proceeding held under
4 the authority of the United States or of any State or political
5 subdivision thereof.

6 (d) PRIVILEGED CHARACTER.—No otherwise privileged
7 wire, oral, or electronic communication intercepted in accord-
8 ance with, or in violation of, this subchapter shall lose its privi-
9 leged character.

10 (e) OFFENSES OTHER THAN THOSE SPECIFIED IN THE
11 ORDER.—When an investigative or law enforcement officer,
12 while engaged in intercepting wire, oral, or electronic commu-
13 nications in the manner authorized herein, intercepts wire, oral,
14 or electronic communications relating to offenses other than
15 those specified in the order of authorization or approval, the
16 contents thereof, and evidence derived therefrom, may be dis-
17 closed or used as provided in subsections (a) and (b). Such con-
18 tents and any evidence derived therefrom may be used under
19 subsection (c) when authorized or approved by a judge of com-
20 petent jurisdiction where such judge finds on subsequent appli-
21 cation that the contents were otherwise intercepted in accord-
22 ance with this subchapter. Such application shall be made as
23 soon as practicable.

24 (f) DOMESTIC USE OF INTELLIGENCE AND COUNTER-
25 INTELLIGENCE INFORMATION.—Any investigative or law en-
26 forcement officer, or attorney for the Government, who by any
27 means authorized by this chapter, has obtained knowledge of
28 the contents of any wire, oral, or electronic communication, or
29 evidence derived therefrom, may disclose such contents to any
30 other Federal law enforcement, intelligence, protective, immi-
31 gration, national defense, or national security official to the ex-
32 tent that such contents include foreign intelligence or counter-
33 intelligence (as defined in section 3 of the National Security
34 Act of 1947 (50 U.S.C. 401a)), or foreign intelligence informa-
35 tion (as defined in subsection (19) of section 2510 of this title),
36 to assist the official who is to receive that information in the
37 performance of his official duties. Any Federal official who re-

1 ceives information pursuant to this provision may use that in-
2 formation only as necessary in the conduct of that person's of-
3 ficial duties subject to any limitations on the unauthorized dis-
4 closure of such information.

5 (g) FOREIGN USE OF INTELLIGENCE AND COUNTER-
6 INTELLIGENCE INFORMATION.— Any investigative or law en-
7 forcement officer, or other Federal official in carrying out offi-
8 cial duties as such Federal official, who by any means author-
9 ized by this chapter, has obtained knowledge of the contents of
10 any wire, oral, or electronic communication, or evidence derived
11 therefrom, may disclose such contents or derivative evidence to
12 a foreign investigative or law enforcement officer to the extent
13 that such disclosure is appropriate to the proper performance
14 of the official duties of the officer making or receiving the dis-
15 closure, and foreign investigative or law enforcement officers
16 may use or disclose such contents or derivative evidence to the
17 extent such use or disclosure is appropriate to the proper per-
18 formance of their official duties.

19 (h) DISCLOSURE FOR PUBLIC SAFETY PURPOSES.—Any
20 investigative or law enforcement officer, or other Federal offi-
21 cial in carrying out official duties as such Federal official, who
22 by any means authorized by this chapter, has obtained knowl-
23 edge of the contents of any wire, oral, or electronic communica-
24 tion, or evidence derived therefrom, may disclose such contents
25 or derivative evidence to any appropriate Federal, State, local,
26 or foreign government official to the extent that such contents
27 or derivative evidence reveals a threat of actual or potential at-
28 tack or other grave hostile acts of a foreign power or an agent
29 of a foreign power, domestic or international sabotage, domes-
30 tic or international terrorism, or clandestine intelligence gath-
31 ering activities by an intelligence service or network of a for-
32 eign power or by an agent of a foreign power, within the
33 United States or elsewhere, for the purpose of preventing or re-
34 sponding to such a threat. Any official who receives information
35 pursuant to this provision may use that information only as
36 necessary in the conduct of that person's official duties subject
37 to any limitations on the unauthorized disclosure of such infor-

1 mation, and any State, local, or foreign official who receives in-
2 formation pursuant to this provision may use that information
3 only consistent with such guidelines as the Attorney General
4 and Director of Central Intelligence shall jointly issue.

5 **§ 1498. Procedure for interception of wire, oral, or**
6 **electronic communications**

7 (a) APPLICATION.—Each application for an order author-
8 izing or approving the interception of a wire, oral, or electronic
9 communication under this chapter shall be made in writing
10 upon oath or affirmation to a judge of competent jurisdiction
11 and shall state the applicant’s authority to make such applica-
12 tion. Each application shall include the following information:

13 (1) the identity of the investigative or law enforcement
14 officer making the application, and the officer authorizing
15 the application;

16 (2) a full and complete statement of the facts and cir-
17 cumstances relied upon by the applicant, to justify his be-
18 lief that an order should be issued, including (i) details as
19 to the particular offense that has been, is being, or is about
20 to be committed, (ii) except as provided in subsection (11),
21 a particular description of the nature and location of the
22 facilities from which or the place where the communication
23 is to be intercepted, (iii) a particular description of the type
24 of communications sought to be intercepted, (iv) the iden-
25 tity of the person, if known, committing the offense and
26 whose communications are to be intercepted;

27 (3) a full and complete statement as to whether or not
28 other investigative procedures have been tried and failed or
29 why they reasonably appear to be unlikely to succeed if
30 tried or to be too dangerous;

31 (4) a statement of the period of time for which the
32 interception is required to be maintained. If the nature of
33 the investigation is such that the authorization for intercep-
34 tion should not automatically terminate when the described
35 type of communication has been first obtained, a particular
36 description of facts establishing probable cause to believe

1 that additional communications of the same type will occur
2 thereafter;

3 (5) a full and complete statement of the facts con-
4 cerning all previous applications known to the individual
5 authorizing and making the application, made to any judge
6 for authorization to intercept, or for approval of intercep-
7 tions of, wire, oral, or electronic communications involving
8 any of the same persons, facilities or places specified in the
9 application, and the action taken by the judge on each such
10 application; and

11 (6) where the application is for the extension of an
12 order, a statement setting forth the results thus far ob-
13 tained from the interception, or a reasonable explanation of
14 the failure to obtain such results.

15 (b) ADDITIONAL TESTIMONY OR DOCUMENTARY EVI-
16 DENCE.—The judge may require the applicant to furnish addi-
17 tional testimony or documentary evidence in support of the ap-
18 plication.

19 (c) EX PARTE ORDER.—Upon such application the judge
20 may enter an ex parte order, as requested or as modified, au-
21 thORIZING or approving interception of wire, oral, or electronic
22 communications within the territorial jurisdiction of the court
23 in which the judge is sitting (and outside that jurisdiction but
24 within the United States in the case of a mobile interception
25 device authorized by a Federal court within such jurisdiction),
26 if the judge determines on the basis of the facts submitted by
27 the applicant that—

28 (1) there is probable cause for belief that an individual
29 is committing, has committed, or is about to commit a par-
30 ticular offense enumerated in section 1496 of this chapter;

31 (2) there is probable cause for belief that particular
32 communications concerning that offense will be obtained
33 through such interception;

34 (3) normal investigative procedures have been tried
35 and have failed or reasonably appear to be unlikely to suc-
36 ceed if tried or to be too dangerous;

1 (4) except as provided in subsection (11), there is
2 probable cause for belief that the facilities from which, or
3 the place where, the wire, oral, or electronic communica-
4 tions are to be intercepted are being used, or are about to
5 be used, in connection with the commission of such offense,
6 or are leased to, listed in the name of, or commonly used
7 by such person.

8 (d) CONTENTS OF ORDER.—Each order authorizing or ap-
9 proving the interception of any wire, oral, or electronic commu-
10 nication under this chapter shall specify—

11 (1) the identity of the person, if known, whose commu-
12 nications are to be intercepted;

13 (2) the nature and location of the communications fa-
14 cilities as to which, or the place where, authority to inter-
15 cept is granted;

16 (3) a particular description of the type of communica-
17 tion sought to be intercepted, and a statement of the par-
18 ticular offense to which it relates;

19 (4) the identity of the agency authorized to intercept
20 the communications, and of the person authorizing the ap-
21 plication; and

22 (5) the period of time during which such interception
23 is authorized, including a statement as to whether or not
24 the interception shall automatically terminate when the de-
25 scribed communication has been first obtained.

26 An order authorizing the interception of a wire, oral, or elec-
27 tronic communication under this chapter shall, upon request of
28 the applicant, direct that a provider of wire or electronic com-
29 munication service, landlord, custodian or other person shall
30 furnish the applicant forthwith all information, facilities, and
31 technical assistance necessary to accomplish the interception
32 unobtrusively and with a minimum of interference with the
33 services that such service provider, landlord, custodian, or per-
34 son is according the person whose communications are to be
35 intercepted. Any provider of wire or electronic communication
36 service, landlord, custodian or other person furnishing such fa-
37 cilities or technical assistance shall be compensated therefor by

1 the applicant for reasonable expenses incurred in providing
2 such facilities or assistance. Pursuant to section 2522 of this
3 chapter, an order may also be issued to enforce the assistance
4 capability and capacity requirements under the Communica-
5 tions Assistance for Law Enforcement Act.

6 (e) LIMITATIONS ON ORDERS.—No order entered under
7 this section may authorize or approve the interception of any
8 wire, oral, or electronic communication for any period longer
9 than is necessary to achieve the objective of the authorization,
10 nor in any event longer than thirty days. Such thirty-day pe-
11 riod begins on the earlier of the day on which the investigative
12 or law enforcement officer first begins to conduct an intercep-
13 tion under the order or ten days after the order is entered. Ex-
14 tensions of an order may be granted, but only upon application
15 for an extension made in accordance with subsection (1) of this
16 section and the court making the findings required by sub-
17 section (3) of this section. The period of extension shall be no
18 longer than the authorizing judge deems necessary to achieve
19 the purposes for which it was granted and in no event for
20 longer than thirty days. Every order and extension thereof shall
21 contain a provision that the authorization to intercept shall be
22 executed as soon as practicable, shall be conducted in such a
23 way as to minimize the interception of communications not oth-
24 erwise subject to interception under this chapter, and must ter-
25 minate upon attainment of the authorized objective, or in any
26 event in thirty days. In the event the intercepted communica-
27 tion is in a code or foreign language, and an expert in that for-
28 eign language or code is not reasonably available during the
29 interception period, minimization may be accomplished as soon
30 as practicable after such interception. An interception under
31 this chapter may be conducted in whole or in part by Govern-
32 ment personnel, or by an individual operating under a contract
33 with the Government, acting under the supervision of an inves-
34 tigative or law enforcement officer authorized to conduct the
35 interception.

36 (f) REPORTS TO ISSUING JUDGE.—Whenever an order au-
37 thORIZING interception is entered pursuant to this chapter, the

1 order may require reports to be made to the judge who issued
2 the order showing what progress has been made toward
3 achievement of the authorized objective and the need for con-
4 tinued interception. Such reports shall be made at such inter-
5 vals as the judge may require.

6 (g) EMERGENCY SITUATIONS.—Notwithstanding any other
7 provision of this chapter, any investigative or law enforcement
8 officer, specially designated by the Attorney General, the Dep-
9 uty Attorney General, the Associate Attorney General, or by
10 the principal prosecuting attorney of any State or subdivision
11 thereof acting pursuant to a statute of that State, who reason-
12 ably determines that—

13 (1) an emergency situation exists that involves—

14 (A) immediate danger of death or serious physical
15 injury to any person,

16 (B) conspiratorial activities threatening the na-
17 tional security interest, or

18 (C) conspiratorial activities characteristic of orga-
19 nized crime,

20 that requires a wire, oral, or electronic communication to
21 be intercepted before an order authorizing such interception
22 can, with due diligence, be obtained, and

23 (2) there are grounds upon which an order could be
24 entered under this chapter to authorize such interception,
25 may intercept such wire, oral, or electronic communication if an
26 application for an order approving the interception is made in
27 accordance with this section within forty-eight hours after the
28 interception has occurred, or begins to occur. In the absence of
29 an order, such interception shall immediately terminate when
30 the communication sought is obtained or when the application
31 for the order is denied, whichever is earlier. In the event such
32 application for approval is denied, or in any other case where
33 the interception is terminated without an order having been
34 issued, the contents of any wire, oral, or electronic communica-
35 tion intercepted shall be treated as having been obtained in vio-
36 lation of this chapter, and an inventory shall be served as pro-

1 vided for in subsection (d) of this section on the person named
2 in the application.

3 (h) RECORDING OF INTERCEPTION.—(1) The contents of
4 any wire, oral, or electronic communication intercepted by any
5 means authorized by this chapter shall, if possible, be recorded
6 on tape or wire or other comparable device. The recording of
7 the contents of any wire, oral, or electronic communication
8 under this subsection shall be done in such a way as will pro-
9 tect the recording from editing or other alterations. Imme-
10 diately upon the expiration of the period of the order, or exten-
11 sions thereof, such recordings shall be made available to the
12 judge issuing such order and sealed under his directions. Cust-
13 ody of the recordings shall be wherever the judge orders. They
14 shall not be destroyed except upon an order of the issuing or
15 denying judge and in any event shall be kept for ten years. Du-
16 plicate recordings may be made for use or disclosure pursuant
17 to the provisions of subsections (1) and (2) of section 1497 of
18 this chapter for investigations. The presence of the seal pro-
19 vided for by this subsection, or a satisfactory explanation for
20 the absence thereof, shall be a prerequisite for the use or dis-
21 closure of the contents of any wire, oral, or electronic commu-
22 nication or evidence derived therefrom under subsection (3) of
23 section 1497.

24 (2) Applications made and orders granted under this chap-
25 ter shall be sealed by the judge. Custody of the applications
26 and orders shall be wherever the judge directs. Such applica-
27 tions and orders shall be disclosed only upon a showing of good
28 cause before a judge of competent jurisdiction and shall not be
29 destroyed except on order of the issuing or denying judge, and
30 in any event shall be kept for ten years.

31 (3) Any violation of the provisions of this subsection may
32 be punished as contempt of the issuing or denying judge.

33 (4) Within a reasonable time but not later than ninety
34 days after the filing of an application for an order of approval
35 under section 1498(7)(b) which is denied or the termination of
36 the period of an order or extensions thereof, the issuing or de-
37 nying judge shall cause to be served, on the persons named in

1 the order or the application, and such other parties to inter-
2 cepted communications as the judge may determine in his dis-
3 cretion that is in the interest of justice, an inventory which
4 shall include notice of—

5 (A) the fact of the entry of the order or the applica-
6 tion;

7 (B) the date of the entry and the period of authorized,
8 approved or disapproved interception, or the denial of the
9 application; and

10 (C) the fact that during the period wire, oral, or elec-
11 tronic communications were or were not intercepted.

12 The judge, upon the filing of a motion, may in his discre-
13 tion make available to such person or his counsel for in-
14 spection such portions of the intercepted communications,
15 applications and orders as the judge determines to be in
16 the interest of justice. On an ex parte showing of good
17 cause to a judge of competent jurisdiction the serving of
18 the inventory required by this subsection may be postponed.

19 (i) EXCLUSION AS EVIDENCE.—The contents of any wire,
20 oral, or electronic communication intercepted pursuant to this
21 chapter or evidence derived therefrom shall not be received in
22 evidence or otherwise disclosed in any trial, hearing, or other
23 proceeding in a Federal or State court unless each party, not
24 less than ten days before the trial, hearing, or proceeding, has
25 been furnished with a copy of the court order, and accom-
26 panying application, under which the interception was author-
27 ized or approved. This ten-day period may be waived by the
28 judge if he finds that it was not possible to furnish the party
29 with the above information ten days before the trial, hearing,
30 or proceeding and that the party will not be prejudiced by the
31 delay in receiving such information.

32 (j) MOVE TO SUPPRESS.—(1) Any aggrieved person in any
33 trial, hearing, or proceeding in or before any court, department,
34 officer, agency, regulatory body, or other authority of the
35 United States, a State, or a political subdivision thereof, may
36 move to suppress the contents of any wire or oral communica-

1 tion intercepted pursuant to this chapter, or evidence derived
2 therefrom, on the grounds that—

3 (A) the communication was unlawfully intercepted;

4 (B) the order of authorization or approval under which
5 it was intercepted is insufficient on its face; or

6 (C) the interception was not made in conformity with
7 the order of authorization or approval.

8 Such motion shall be made before the trial, hearing, or pro-
9 ceeding unless there was no opportunity to make such mo-
10 tion or the person was not aware of the grounds of the mo-
11 tion. If the motion is granted, the contents of the inter-
12 cepted wire or oral communication, or evidence derived
13 therefrom, shall be treated as having been obtained in vio-
14 lation of this chapter. The judge, upon the filing of such
15 motion by the aggrieved person, may in his discretion make
16 available to the aggrieved person or his counsel for inspec-
17 tion such portions of the intercepted communication or evi-
18 dence derived therefrom as the judge determines to be in
19 the interests of justice.

20 (2) In addition to any other right to appeal, the United
21 States shall have the right to appeal from an order granting
22 a motion to suppress made under paragraph (1), or the denial
23 of an application for an order of approval, if the United States
24 attorney shall certify to the judge or other official granting
25 such motion or denying such application that the appeal is not
26 taken for purposes of delay. Such appeal shall be taken within
27 thirty days after the date the order was entered and shall be
28 diligently prosecuted.

29 (3) The remedies and sanctions described in this chapter
30 with respect to the interception of electronic communications
31 are the only judicial remedies and sanctions for nonconstitu-
32 tional violations of this chapter involving such communications.

33 (k) EXCEPTION TO SPECIFICATION OF FACILITY RE-
34 QUIREMENTS.—The requirements of subsections (a)(2)(B) and
35 (c)(4) relating to the specification of the facilities from which,
36 or the place where, the communication is to be intercepted do
37 not apply if—

1 (1) in the case of an application with respect to the
2 interception of an oral communication—

3 (A) the application is by a Federal investigative or
4 law enforcement officer and is approved by the Attor-
5 ney General, the Deputy Attorney General, the Asso-
6 ciate Attorney General, an Assistant Attorney General,
7 or an acting Assistant Attorney General;

8 (B) the application contains a full and complete
9 statement as to why such specification is not practical
10 and identifies the person committing the offense and
11 whose communications are to be intercepted; and

12 (C) the judge finds that such specification is not
13 practical; and

14 (2) in the case of an application with respect to a wire
15 or electronic communication—

16 (A) the application is by a Federal investigative or
17 law enforcement officer and is approved by the Attor-
18 ney General, the Deputy Attorney General, the Asso-
19 ciate Attorney General, an Assistant Attorney General,
20 or an acting Assistant Attorney General;

21 (B) the application identifies the person believed
22 to be committing the offense and whose communica-
23 tions are to be intercepted and the applicant makes a
24 showing that there is probable cause to believe that the
25 person's actions could have the effect of thwarting
26 interception from a specified facility;

27 (C) the judge finds that such showing has been
28 adequately made; and

29 (D) the order authorizing or approving the inter-
30 ception is limited to interception only for such time as
31 it is reasonable to presume that the person identified
32 in the application is or was reasonably proximate to the
33 instrument through which such communication will be
34 or was transmitted.

35 (l) BEGINNING OF CERTAIN INTERCEPTIONS.—An inter-
36 ception of a communication under an order with respect to
37 which the requirements of subsections (a)(2)(B) and (c)(4) of

1 this section do not apply by reason of subsection (k)(1) shall
2 not begin until the place where the communication is to be
3 intercepted is ascertained by the person implementing the inter-
4 ception order. A provider of wire or electronic communications
5 service that has received an order as provided for in subsection
6 (k)(2) may move the court to modify or quash the order on the
7 ground that its assistance with respect to the interception can-
8 not be performed in a timely or reasonable fashion. The court,
9 upon notice to the government, shall decide such a motion ex-
10 peditiously.

11 **§ 1499. Reports concerning intercepted wire, oral,**
12 **or electronic communications**

13 (a) 30 DAYS AFTER EXPIRATION OF ORDER.—Within 30
14 days after the expiration of an order (or each extension there-
15 of) entered under section 1498, or the denial of an order ap-
16 proving an interception, the issuing or denying judge shall re-
17 port to the Administrative Office of the United States Courts—

18 (1) the fact that an order or extension was applied for;

19 (2) the kind of order or extension applied for (includ-
20 ing whether or not the order was an order with respect to
21 which the requirements of sections 1498(1)(b)(ii) and
22 1498(3)(d) of this title did not apply by reason of section
23 1498(3)(d) of this title);

24 (3) the fact that the order or extension was granted
25 as applied for, was modified, or was denied;

26 (4) the period of interceptions authorized by the order,
27 and the number and duration of any extensions of the
28 order;

29 (5) the offense specified in the order or application, or
30 extension of an order;

31 (6) the identity of the applying investigative or law en-
32 forcement officer and agency making the application and
33 the person authorizing the application; and

34 (7) the nature of the facilities from which or the place
35 where communications were to be intercepted.

36 (b) ANNUAL JUSTICE DEPARTMENT REPORT.—In Janu-
37 ary of each year the Attorney General, an Assistant Attorney

1 General specially designated by the Attorney General, or the
2 principal prosecuting attorney of a State, or the principal pro-
3 secuting attorney for any political subdivision of a State, shall
4 report to the Administrative Office of the United States
5 Courts—

6 (1) the information required by paragraphs (a)
7 through (g) of subsection (1) of this section with respect
8 to each application for an order or extension made during
9 the preceding calendar year;

10 (2) a general description of the interceptions made
11 under such order or extension, including (i) the approxi-
12 mate nature and frequency of incriminating communica-
13 tions intercepted, (ii) the approximate nature and fre-
14 quency of other communications intercepted, (iii) the ap-
15 proximate number of persons whose communications were
16 intercepted, (iv) the number of orders in which encryption
17 was encountered and whether such encryption prevented
18 law enforcement from obtaining the plain text of commu-
19 nications intercepted pursuant to such order, and (v) the
20 approximate nature, amount, and cost of the manpower
21 and other resources used in the interceptions;

22 (3) the number of arrests resulting from interceptions
23 made under such order or extension, and the offenses for
24 which arrests were made;

25 (4) the number of trials resulting from such intercep-
26 tions;

27 (5) the number of motions to suppress made with re-
28 spect to such interceptions, and the number granted or de-
29 nied;

30 (6) the number of convictions resulting from such
31 interceptions and the offenses for which the convictions
32 were obtained and a general assessment of the importance
33 of the interceptions; and

34 (7) the information required by paragraphs (b)
35 through (f) of this subsection with respect to orders or ex-
36 tensions obtained in a preceding calendar year.

1 (c) REPORT TO CONGRESS.—In April of each year the Di-
2 rector of the Administrative Office of the United States Courts
3 shall transmit to the Congress a full and complete report con-
4 cerning the number of applications for orders authorizing or
5 approving the interception of wire, oral, or electronic commu-
6 nications pursuant to this subchapter and the number of orders
7 and extensions granted or denied pursuant to this chapter dur-
8 ing the preceding calendar year. Such report shall include a
9 summary and analysis of the data required to be filed with the
10 Administrative Office by subsections (a) and (b) of this section.
11 The Director of the Administrative Office of the United States
12 Courts is authorized to issue binding regulations dealing with
13 the content and form of the reports required to be filed by sub-
14 sections (a) and (b).

15 **§ 1500. Recovery of civil damages authorized**

16 (a) IN GENERAL.—Except as provided in section
17 1492(2)(a)(ii), any person whose wire, oral, or electronic com-
18 munication is intercepted, disclosed, or intentionally used in
19 violation of this chapter may in a civil action recover from the
20 person or entity, other than the United States, which engaged
21 in that violation such relief as may be appropriate.

22 (b) RELIEF.—In an action under this section, appropriate
23 relief includes—

24 (1) such preliminary and other equitable or declara-
25 tory relief as may be appropriate;

26 (2) damages under subsection (c) and punitive dam-
27 ages in appropriate cases; and

28 (3) a reasonable attorney's fee and other litigation
29 costs reasonably incurred.

30 (c) COMPUTATION OF DAMAGES.—(1) In an action under
31 this section, if the conduct in violation of this chapter is the
32 private viewing of a private satellite video communication that
33 is not scrambled or encrypted or if the communication is a
34 radio communication that is transmitted on frequencies allo-
35 cated under subpart D of part 74 of the rules of the Federal
36 Communications Commission that is not scrambled or
37 encrypted and the conduct is not for a tortious or illegal pur-

1 pose or for purposes of direct or indirect commercial advantage
2 or private commercial gain, then the court shall assess damages
3 as follows:

4 (A) If the person who engaged in that conduct has not
5 previously been enjoined under section 1492, and has not
6 been found liable in a prior civil action under this section,
7 the court shall assess the greater of the sum of actual dam-
8 ages suffered by the plaintiff, or statutory damages of not
9 less than \$50 and not more than \$500.

10 (B) If, on one prior occasion, the person who engaged
11 in that conduct has been enjoined under section 2511(5) or
12 has been found liable in a civil action under this section,
13 the court shall assess the greater of the sum of actual dam-
14 ages suffered by the plaintiff, or statutory damages of not
15 less than \$100 and not more than \$1000.

16 (2) In any other action under this section, the court may
17 assess as damages whichever is the greater of—

18 (A) the sum of the actual damages suffered by the
19 plaintiff and any profits made by the violator as a result
20 of the violation; or

21 (B) statutory damages of whichever is the greater of
22 \$100 a day for each day of violation or \$10,000.

23 (d) DEFENSE.—A good faith reliance on—

24 (1) a court warrant or order, a grand jury subpoena,
25 a legislative authorization, or a statutory authorization;

26 (2) a request of an investigative or law enforcement
27 officer under section 1498(7) of this title; or

28 (3) a good faith determination that section 1492(3) or
29 2511(2)(i) of this title permitted the conduct complained
30 of;

31 is a complete defense against any civil or criminal action
32 brought under this chapter or any other law.

33 (e) LIMITATION.—A civil action under this section may
34 not be commenced later than two years after the date upon
35 which the claimant first has a reasonable opportunity to dis-
36 cover the violation.

1 (f) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
2 priate department or agency determines that the United States
3 or any of its departments or agencies has violated any provision
4 of this chapter, and the court or appropriate department or
5 agency finds that the circumstances surrounding the violation
6 raise serious questions about whether or not an officer or em-
7 ployee of the United States acted willfully or intentionally with
8 respect to the violation, the department or agency shall, upon
9 receipt of a true and correct copy of the decision and findings
10 of the court or appropriate department or agency promptly ini-
11 tiate a proceeding to determine whether disciplinary action
12 against the officer or employee is warranted. If the head of the
13 department or agency involved determines that disciplinary ac-
14 tion is not warranted, he or she shall notify the Inspector Gen-
15 eral with jurisdiction over the department or agency concerned
16 and shall provide the Inspector General with the reasons for
17 such determination.

18 (g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful
19 disclosure or use by an investigative or law enforcement officer
20 or governmental entity of information beyond the extent per-
21 mitted by section 2517 is a violation of this chapter for pur-
22 poses of section 2520(a).

23 **§ 1501. Injunction against illegal interception**

24 Whenever it shall appear that any person is engaged or is
25 about to engage in any act which constitutes or will constitute
26 a felony violation of this chapter, the Attorney General may ini-
27 tiate a civil action in a district court of the United States to
28 enjoin such violation. The court shall proceed as soon as prac-
29 ticable to the hearing and determination of such an action, and
30 may, at any time before final determination, enter such a re-
31 straining order or prohibition, or take such other action, as is
32 warranted to prevent a continuing and substantial injury to the
33 United States or to any person or class of persons for whose
34 protection the action is brought. A proceeding under this sec-
35 tion is governed by the Federal Rules of Civil Procedure, except
36 that, if an indictment has been returned against the respond-

1 ent, discovery is governed by the Federal Rules of Criminal
2 Procedure.

3 **§ 1502. Enforcement of the Communications As-**
4 **sistance for Law Enforcement Act**

5 (a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE
6 ORDER.—If a court authorizing an interception under this
7 chapter, a State statute, or the Foreign Intelligence Surveil-
8 lance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use
9 of a pen register or a trap and trace device under chapter 206
10 or a State statute finds that a telecommunications carrier has
11 failed to comply with the requirements of the Communications
12 Assistance for Law Enforcement Act, the court may, in accord-
13 ance with section 108 of such Act, direct that the carrier com-
14 ply forthwith and may direct that a provider of support services
15 to the carrier or the manufacturer of the carrier's transmission
16 or switching equipment furnish forthwith modifications nec-
17 essary for the carrier to comply.

18 (b) ENFORCEMENT UPON APPLICATION BY ATTORNEY
19 GENERAL.—The Attorney General may, in a civil action in the
20 appropriate United States district court, obtain an order, in ac-
21 cordance with section 108 of the Communications Assistance
22 for Law Enforcement Act, directing that a telecommunications
23 carrier, a manufacturer of telecommunications transmission or
24 switching equipment, or a provider of telecommunications sup-
25 port services comply with such Act.

26 (c) CIVIL PENALTY.—

27 (1) IN GENERAL.—A court issuing an order under this
28 section against a telecommunications carrier, a manufac-
29 turer of telecommunications transmission or switching
30 equipment, or a provider of telecommunications support
31 services may impose a civil penalty of up to \$10,000 per
32 day for each day in violation after the issuance of the order
33 or after such future date as the court may specify.

34 (2) CONSIDERATIONS.—In determining whether to im-
35 pose a civil penalty and in determining its amount, the
36 court shall take into account—

1 (A) the nature, circumstances, and extent of the
2 violation;

3 (B) the violator's ability to pay, the violator's good
4 faith efforts to comply in a timely manner, any effect
5 on the violator's ability to continue to do business, the
6 degree of culpability, and the length of any delay in un-
7 dertaking efforts to comply; and

8 (C) such other matters as justice may require.

9 (d) DEFINITIONS.—As used in this section, the terms de-
10 fined in section 102 of the Communications Assistance for Law
11 Enforcement Act have the meanings provided, respectively, in
12 such section.

13 SUBCHAPTER C—STORED WIRE AND ELECTRONIC
14 COMMUNICATIONS AND TRANSACTIONAL
15 RECORDS ACCESS

Sec.

- 1521. Unlawful access to stored communications.
- 1522. Voluntary disclosure of customer communications or records.
- 1523. Required disclosure of customer communications or records.
- 1524. Backup preservation.
- 1525. Delayed notice.
- 1526. Cost reimbursement.
- 1527. Civil action.
- 1528. Exclusivity of remedies.
- 1529. Counterintelligence access to telephone toll and transactional records.
- 1530. Wrongful disclosure of video tape rental or sale records.
- 1531. Definitions for subchapter.
- 1532. Civil actions against the United States.

16 **§1521. Unlawful access to stored communications**

17 (a) OFFENSE.—Except as provided in subsection (c) of
18 this section whoever—

19 (1) intentionally accesses without authorization a facil-
20 ity through which an electronic communication service is
21 provided; or

22 (2) intentionally exceeds an authorization to access
23 that facility;

24 and thereby obtains, alters, or prevents authorized access to a
25 wire or electronic communication while it is in electronic stor-
26 age in such system shall be punished as provided in subsection
27 (b) of this section.

1 (b) PUNISHMENT.—The punishment for an offense under
2 subsection (a) of this section is—

3 (1) if the offense is committed for purposes of com-
4 mercial advantage, malicious destruction or damage, or pri-
5 vate commercial gain, or in furtherance of any criminal or
6 tortious act in violation of the Constitution or laws of the
7 United States or any State—

8 (A) a fine under this title or imprisonment for not
9 more than 5 years, or both, in the case of a first of-
10 fense under this subparagraph; and

11 (B) a fine under this title or imprisonment for not
12 more than 10 years, or both, for any subsequent of-
13 fense under this subparagraph; and

14 (2) in any other case—

15 (A) a fine under this title or imprisonment for not
16 more than 1 year or both, in the case of a first offense
17 under this paragraph; and

18 (B) a fine under this title or imprisonment for not
19 more than 5 years, or both, in the case of an offense
20 under this subparagraph that occurs after a conviction
21 of another offense under this section.

22 (c) EXCEPTIONS.—Subsection (a) of this section does not
23 apply with respect to conduct authorized—

24 (1) by the person or entity providing a wire or elec-
25 tronic communications service;

26 (2) by a user of that service with respect to a commu-
27 nication of or intended for that user; or

28 (3) in section 1523, 1524, or 1498 of this title.

29 **§ 1522. Voluntary disclosure of customer commu-
30 nications or records**

31 (a) PROHIBITIONS.—Except as provided in subsection
32 (b)—

33 (1) a person or entity providing an electronic commu-
34 nication service to the public shall not knowingly divulge to
35 any person or entity the contents of a communication while
36 in electronic storage by that service; and

1 (2) a person or entity providing remote computing
2 service to the public shall not knowingly divulge to any per-
3 son or entity the contents of any communication which is
4 carried or maintained on that service—

5 (A) on behalf of, and received by means of elec-
6 tronic transmission from (or created by means of com-
7 puter processing of communications received by means
8 of electronic transmission from), a subscriber or cus-
9 tomer of such service;

10 (B) solely for the purpose of providing storage or
11 computer processing services to such subscriber or cus-
12 tomer, if the provider is not authorized to access the
13 contents of any such communications for purposes of
14 providing any services other than storage or computer
15 processing; and

16 (3) a provider of remote computing service or elec-
17 tronic communication service to the public shall not know-
18 ingly divulge a record or other information pertaining to a
19 subscriber to or customer of such service (not including the
20 contents of communications covered by paragraph (1) or
21 (2)) to any governmental entity.

22 (b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICA-
23 TIONS.—A provider described in subsection (a) may divulge the
24 contents of a communication—

25 (1) to an addressee or intended recipient of such com-
26 munication or an agent of such addressee or intended re-
27 cipient;

28 (2) as otherwise authorized in section 1497, 1492, or
29 1523 of this title;

30 (3) with the lawful consent of the originator or an ad-
31 dressee or intended recipient of such communication, or the
32 subscriber in the case of remote computing service;

33 (4) to a person employed or authorized or whose facili-
34 ties are used to forward such communication to its destina-
35 tion;

1 (5) as may be necessarily incident to the rendition of
2 the service or to the protection of the rights or property of
3 the provider of that service;

4 (6) to the National Center for Missing and Exploited
5 Children, in connection with a report submitted thereto
6 under section 227 of the Victims of Child Abuse Act of
7 1990 (42 U.S.C. 13032);

8 (7) to a law enforcement agency if the contents—

9 (A) were inadvertently obtained by the service pro-
10 vider; and

11 (B) appear to pertain to the commission of a
12 crime;

13 (8) to a Federal, State, or local governmental entity,
14 if the provider, in good faith, believes that an emergency
15 involving danger of death or serious physical injury to any
16 person requires disclosure without delay of communications
17 relating to the emergency.

18 (c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
19 RECORDS.—A provider described in subsection (a) may divulge
20 a record or other information pertaining to a subscriber to or
21 customer of such service (not including the contents of commu-
22 nications covered by subsection (a)(1) or (a)(2))—

23 (1) as otherwise authorized in section 1523;

24 (2) with the lawful consent of the customer or sub-
25 scriber;

26 (3) as may be necessarily incident to the rendition of
27 the service or to the protection of the rights or property of
28 the provider of that service;

29 (4) to a governmental entity, if the provider reason-
30 ably believes that an emergency involving immediate danger
31 of death or serious physical injury to any person justifies
32 disclosure of the information;

33 (5) to the National Center for Missing and Exploited
34 Children, in connection with a report submitted thereto
35 under section 227 of the Victims of Child Abuse Act of
36 1990 (42 U.S.C. 13032); or

37 (6) to any person other than a governmental entity.

1 **§ 1523. Required disclosure of customer commu-**
2 **nications or records**

3 (a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICA-
4 TIONS IN ELECTRONIC STORAGE.—A governmental entity may
5 require the disclosure by a provider of electronic communication
6 service of the contents of a wire or electronic communication,
7 that is in electronic storage in an electronic communications
8 system for one hundred and eighty days or less, only pursuant
9 to a warrant issued using the procedures described in the Fed-
10 eral Rules of Criminal Procedure by a court with jurisdiction
11 over the offense under investigation or equivalent State war-
12 rant. A governmental entity may require the disclosure by a
13 provider of electronic communications services of the contents
14 of a wire or electronic communication that has been in elec-
15 tronic storage in an electronic communications system for more
16 than one hundred and eighty days by the means available
17 under subsection (b) of this section.

18 (b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICA-
19 TIONS IN A REMOTE COMPUTING SERVICE.—(1) A govern-
20 mental entity may require a provider of remote computing serv-
21 ice to disclose the contents of any wire or electronic commu-
22 nication to which this paragraph is made applicable by para-
23 graph (2) of this subsection—

24 (A) without required notice to the subscriber or cus-
25 tomer, if the governmental entity obtains a warrant issued
26 using the procedures described in the Federal Rules of
27 Criminal Procedure by a court with jurisdiction over the of-
28 fense under investigation or equivalent State warrant; or

29 (B) with prior notice from the governmental entity to
30 the subscriber or customer if the governmental entity—

31 (i) uses an administrative subpoena authorized by a
32 Federal or State statute or a Federal or State grand jury
33 or trial subpoena; or

34 (ii) obtains a court order for such disclosure under
35 subsection (d) of this section;

36 except that delayed notice may be given pursuant to section
37 1525 of this title.

1 (2) Paragraph (1) is applicable with respect to any wire
2 or electronic communication that is held or maintained on that
3 service—

4 (A) on behalf of, and received by means of electronic
5 transmission from (or created by means of computer proc-
6 essing of communications received by means of electronic
7 transmission from), a subscriber or customer of such re-
8 mote computing service; and

9 (B) solely for the purpose of providing storage or com-
10 puter processing services to such subscriber or customer, if
11 the provider is not authorized to access the contents of any
12 such communications for purposes of providing any services
13 other than storage or computer processing.

14 (c) RECORDS CONCERNING ELECTRONIC COMMUNICATION
15 SERVICE OR REMOTE COMPUTING SERVICE.—(1) governmental
16 entity may require a provider of electronic communication serv-
17 ice or remote computing service to disclose a record or other
18 information pertaining to a subscriber to or customer of such
19 service (not including the contents of communications) only
20 when the governmental entity—

21 (A) obtains a warrant issued using the procedures de-
22 scribed in the Federal Rules of Criminal Procedure by a
23 court with jurisdiction over the offense under investigation
24 or equivalent State warrant;

25 (B) obtains a court order for such disclosure under
26 subsection (d) of this section;

27 (C) has the consent of the subscriber or customer to
28 such disclosure;

29 (D) submits a formal written request relevant to a law
30 enforcement investigation concerning telemarketing fraud
31 for the name, address, and place of business of a subscriber
32 or customer of such provider, which subscriber or customer
33 is engaged in telemarketing (as such term is defined in sec-
34 tion 2325 of this title); or

35 (E) seeks information under paragraph (2).

1 (2) A provider of electronic communication service or re-
2 mote computing service shall disclose to a governmental entity
3 the—

4 (A) name;

5 (B) address;

6 (C) local and long distance telephone connection
7 records, or records of session times and durations;

8 (D) length of service (including start date) and types
9 of service utilized;

10 (E) telephone or instrument number or other sub-
11 scriber number or identity, including any temporarily as-
12 signed network address; and

13 (F) means and source of payment for such service (in-
14 cluding any credit card or bank account number),

15 of a subscriber to or customer of such service when the govern-
16 mental entity uses an administrative subpoena authorized by a
17 Federal or State statute or a Federal or State grand jury or
18 trial subpoena or any means available under paragraph (1).

19 (3) A governmental entity receiving records or information
20 under this subsection is not required to provide notice to a sub-
21 scriber or customer.

22 (d) REQUIREMENTS FOR COURT ORDER.—A court order
23 for disclosure under subsection (b) or (c) may be issued by any
24 court that is a court of competent jurisdiction and shall issue
25 only if the governmental entity offers specific and articulable
26 facts showing that there are reasonable grounds to believe that
27 the contents of a wire or electronic communication, or the
28 records or other information sought, are relevant and material
29 to an ongoing criminal investigation. In the case of a State gov-
30 ernmental authority, such a court order shall not issue if pro-
31 hibited by the law of such State. A court issuing an order pur-
32 suant to this section, on a motion made promptly by the service
33 provider, may quash or modify such order, if the information
34 or records requested are unusually voluminous in nature or
35 compliance with such order otherwise would cause an undue
36 burden on such provider.

1 (e) NO CAUSE OF ACTION AGAINST A PROVIDER DIS-
 2 CLOSING INFORMATION UNDER THIS CHAPTER.—No cause of
 3 action shall lie in any court against any provider of wire or
 4 electronic communication service, its officers, employees,
 5 agents, or other specified persons for providing information, fa-
 6 cilities, or assistance in accordance with the terms of a court
 7 order, warrant, subpoena, statutory authorization, or certifi-
 8 cation under this chapter.

9 (f) REQUIREMENT TO PRESERVE EVIDENCE.—

10 (1) IN GENERAL.—A provider of wire or electronic
 11 communication services or a remote computing service,
 12 upon the request of a governmental entity, shall take all
 13 necessary steps to preserve records and other evidence in
 14 its possession pending the issuance of a court order or
 15 other process.

16 (2) PERIOD OF RETENTION.—Records referred to in
 17 paragraph (1) shall be retained for a period of 90 days,
 18 which shall be extended for an additional 90-day period
 19 upon a renewed request by the governmental entity.

20 (g) PRESENCE OF OFFICER NOT REQUIRED.—Notwith-
 21 standing section 3105 of this title, the presence of an officer
 22 shall not be required for service or execution of a search war-
 23 rant issued in accordance with this chapter requiring disclosure
 24 by a provider of electronic communications service or remote
 25 computing service of the contents of communications or records
 26 or other information pertaining to a subscriber to or customer
 27 of such service.

28 **§ 1524. Backup preservation**

29 (a) BACKUP PRESERVATION.—(1) A governmental entity
 30 acting under section 1523(b)(2) may include in its subpoena or
 31 court order a requirement that the service provider to whom
 32 the request is directed create a backup copy of the contents of
 33 the electronic communications sought in order to preserve those
 34 communications. Without notifying the subscriber or customer
 35 of such subpoena or court order, such service provider shall
 36 create such backup copy as soon as practicable consistent with
 37 its regular business practices and shall confirm to the govern-

1 mental entity that such backup copy has been made. Such
2 backup copy shall be created within two business days after re-
3 ceipt by the service provider of the subpoena or court order.

4 (2) Notice to the subscriber or customer shall be made by
5 the governmental entity within three days after receipt of such
6 confirmation, unless such notice is delayed pursuant to section
7 1525(a).

8 (3) The service provider shall not destroy such backup
9 copy until the later of—

10 (A) the delivery of the information; or

11 (B) the resolution of any proceedings (including ap-
12 peals of any proceeding) concerning the government's sub-
13 poena or court order.

14 (4) The service provider shall release such backup copy to
15 the requesting governmental entity no sooner than fourteen
16 days after the governmental entity's notice to the subscriber or
17 customer if such service provider—

18 (A) has not received notice from the subscriber or cus-
19 tomer that the subscriber or customer has challenged the
20 governmental entity's request; and

21 (B) has not initiated proceedings to challenge the re-
22 quest of the governmental entity.

23 (5) A governmental entity may seek to require the creation
24 of a backup copy under subsection (a)(1) of this section if in
25 its sole discretion such entity determines that there is reason
26 to believe that notification under section 1524 of this title of
27 the existence of the subpoena or court order may result in de-
28 struction of or tampering with evidence. This determination is
29 not subject to challenge by the subscriber or customer or serv-
30 ice provider.

31 (b) CUSTOMER CHALLENGES.—(1) Within 14 days after
32 notice by the governmental entity to the subscriber or customer
33 under subsection (a)(2) of this section, such subscriber or cus-
34 tomer may file a motion to quash such subpoena or vacate such
35 court order, with copies served upon the governmental entity
36 and with written notice of such challenge to the service pro-
37 vider. A motion to vacate a court order shall be filed in the

1 court which issued such order. A motion to quash a subpoena
2 shall be filed in the appropriate United States district court or
3 State court. Such motion or application shall contain an affi-
4 davit or sworn statement—

5 (A) stating that the applicant is a customer or sub-
6 scriber to the service from which the contents of electronic
7 communications maintained for him have been sought; and

8 (B) stating the applicant's reasons for believing that
9 the records sought are not relevant to a legitimate law en-
10 forcement inquiry or that there has not been substantial
11 compliance with the provisions of this chapter in some
12 other respect.

13 (2) Service shall be made under this section upon a gov-
14 ernmental entity by delivering or mailing by registered or cer-
15 tified mail a copy of the papers to the person, office, or depart-
16 ment specified in the notice which the customer has received
17 pursuant to this chapter. For the purposes of this section, the
18 term "delivery" has the meaning given that term in the Fed-
19 eral Rules of Civil Procedure.

20 (3) If the court finds that the customer has complied with
21 paragraphs (1) and (2) of this subsection, the court shall order
22 the governmental entity to file a sworn response, which may be
23 filed in camera if the governmental entity includes in its re-
24 sponse the reasons which make in camera review appropriate.
25 If the court is unable to determine the motion or application
26 on the basis of the parties' initial allegations and response, the
27 court may conduct such additional proceedings as it deems ap-
28 propriate. All such proceedings shall be completed and the mo-
29 tion or application decided as soon as practicable after the fil-
30 ing of the governmental entity's response.

31 (4) If the court finds that the applicant is not the sub-
32 scriber or customer for whom the communications sought by
33 the governmental entity are maintained, or that there is a rea-
34 son to believe that the law enforcement inquiry is legitimate
35 and that the communications sought are relevant to that in-
36 quiry, it shall deny the motion or application and order such
37 process enforced. If the court finds that the applicant is the

1 subscriber or customer for whom the communications sought by
2 the governmental entity are maintained, and that there is not
3 a reason to believe that the communications sought are relevant
4 to a legitimate law enforcement inquiry, or that there has not
5 been substantial compliance with the provisions of this chapter,
6 it shall order the process quashed.

7 (5) A court order denying a motion or application under
8 this section shall not be deemed a final order and no interlocu-
9 tory appeal may be taken therefrom by the customer.

10 **§ 1525. Delayed notice**

11 (a) DELAY OF NOTIFICATION.—(1) A governmental entity
12 acting under section 1523(b) of this title may—

13 (A) where a court order is sought, include in the appli-
14 cation a request, which the court shall grant, for an order
15 delaying the notification required under section 1523(b) of
16 this title for a period not to exceed ninety days, if the court
17 determines that there is reason to believe that notification
18 of the existence of the court order may have an adverse re-
19 sult described in paragraph (2) of this subsection; or

20 (B) where an administrative subpoena authorized by a
21 Federal or State statute or a Federal or State grand jury
22 subpoena is obtained, delay the notification required under
23 section 1523(b) of this title for a period not to exceed nine-
24 ty days upon the execution of a written certification of a
25 supervisory official that there is reason to believe that noti-
26 fication of the existence of the subpoena may have an ad-
27 verse result described in paragraph (2) of this subsection.

28 (2) An adverse result for the purposes of paragraph (1)
29 of this subsection is—

30 (A) endangering the life or physical safety of an indi-
31 vidual;

32 (B) flight from prosecution;

33 (C) destruction of or tampering with evidence;

34 (D) intimidation of potential witnesses; or

35 (E) otherwise seriously jeopardizing an investigation
36 or unduly delaying a trial.

1 (3) The governmental entity shall maintain a true copy of
2 certification under paragraph (1)(B).

3 (4) Extensions of the delay of notification provided in sec-
4 tion 1523 of up to ninety days each may be granted by the
5 court upon application, or by certification by a governmental
6 entity, but only in accordance with subsection (b) of this sec-
7 tion.

8 (5) Upon expiration of the period of delay of notification
9 under paragraph (1) or (4) of this subsection, the governmental
10 entity shall serve upon, or deliver by registered or first-class
11 mail to, the customer or subscriber a copy of the process or re-
12 quest together with notice that—

13 (A) states with reasonable specificity the nature of the
14 law enforcement inquiry; and

15 (B) informs such customer or subscriber—

16 (i) that information maintained for such customer
17 or subscriber by the service provider named in such
18 process or request was supplied to or requested by that
19 governmental authority and the date on which the sup-
20 plying or request took place;

21 (ii) that notification of such customer or sub-
22 scriber was delayed;

23 (iii) what governmental entity or court made the
24 certification or determination pursuant to which that
25 delay was made; and

26 (iv) which provision of this chapter allowed such
27 delay.

28 (6) As used in this subsection, the term “supervisory offi-
29 cial” means the investigative agent in charge or assistant inves-
30 tigative agent in charge or an equivalent of an investigating
31 agency’s headquarters or regional office, or the chief prose-
32 cuting attorney or the first assistant prosecuting attorney or
33 an equivalent of a prosecuting attorney’s headquarters or re-
34 gional office.

35 (b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERN-
36 MENTAL ACCESS.—A governmental entity acting under section
37 1523, when it is not required to notify the subscriber or cus-

1 tomer under section 1523(b)(1), or to the extent that it may
2 delay such notice pursuant to subsection (a) of this section,
3 may apply to a court for an order commanding a provider of
4 electronic communications service or remote computing service
5 to whom a warrant, subpoena, or court order is directed, for
6 such period as the court deems appropriate, not to notify any
7 other person of the existence of the warrant, subpoena, or court
8 order. The court shall enter such an order if it determines that
9 there is reason to believe that notification of the existence of
10 the warrant, subpoena, or court order will result in—

- 11 (1) endangering the life or physical safety of an indi-
12 vidual;
- 13 (2) flight from prosecution;
- 14 (3) destruction of or tampering with evidence;
- 15 (4) intimidation of potential witnesses; or
- 16 (5) otherwise seriously jeopardizing an investigation or
17 unduly delaying a trial.

18 **§ 1526. Cost reimbursement**

19 (a) PAYMENT.—Except as otherwise provided in sub-
20 section (c), a governmental entity obtaining the contents of
21 communications, records, or other information under section
22 1522, 1553, or 1524 shall pay to the person or entity assem-
23 bling or providing such information a fee for reimbursement for
24 such costs as are reasonably necessary and which have been di-
25 rectly incurred in searching for, assembling, reproducing, or
26 otherwise providing such information. Such reimbursable costs
27 shall include any costs due to necessary disruption of normal
28 operations of any electronic communication service or remote
29 computing service in which such information may be stored.

30 (b) AMOUNT.—The amount of the fee provided by sub-
31 section (a) shall be as mutually agreed by the governmental en-
32 tity and the person or entity providing the information, or, in
33 the absence of agreement, shall be as determined by the court
34 which issued the order for production of such information (or
35 the court before which a criminal prosecution relating to such
36 information would be brought, if no court order was issued for
37 production of the information).

1 (c) EXCEPTION.—The requirement of subsection (a) of
2 this section does not apply with respect to records or other in-
3 formation maintained by a communications common carrier
4 that relate to telephone toll records and telephone listings ob-
5 tained under section 2703 of this title. The court may, how-
6 ever, order a payment as described in subsection (a) if the
7 court determines the information required is unusually volumi-
8 nous in nature or otherwise caused an undue burden on the
9 provider.

10 **§ 1527. Civil action**

11 (a) CAUSE OF ACTION.—Except as provided in section
12 1523(e), any provider of electronic communication service, sub-
13 scriber, or other person aggrieved by any violation of this sub-
14 chapter in which the conduct constituting the violation is en-
15 gaged in with a knowing or intentional state of mind may, in
16 a civil action, recover from the person or entity, other than the
17 United States, which engaged in that violation such relief as
18 may be appropriate.

19 (b) RELIEF.—In a civil action under this section, appro-
20 priate relief includes—

21 (1) such preliminary and other equitable or declara-
22 tory relief as may be appropriate;

23 (2) damages under subsection (c); and

24 (3) a reasonable attorney's fee and other litigation
25 costs reasonably incurred.

26 (c) DAMAGES.—The court may assess as damages in a
27 civil action under this section the sum of the actual damages
28 suffered by the plaintiff and any profits made by the violator
29 as a result of the violation, but in no case shall a person enti-
30 tled to recover receive less than the sum of \$1,000. If the viola-
31 tion is willful or intentional, the court may assess punitive
32 damages. In the case of a successful action to enforce liability
33 under this section, the court may assess the costs of the action,
34 together with reasonable attorney fees determined by the court.

35 (d) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
36 priate department or agency determines that the United States
37 or any of its departments or agencies has violated any provision

1 of this chapter, and the court or appropriate department or
2 agency finds that the circumstances surrounding the violation
3 raise serious questions about whether or not an officer or em-
4 ployee of the United States acted willfully or intentionally with
5 respect to the violation, the department or agency shall, upon
6 receipt of a true and correct copy of the decision and findings
7 of the court or appropriate department or agency promptly ini-
8 tiate a proceeding to determine whether disciplinary action
9 against the officer or employee is warranted. If the head of the
10 department or agency involved determines that disciplinary ac-
11 tion is not warranted, he or she shall notify the Inspector Gen-
12 eral with jurisdiction over the department or agency concerned
13 and shall provide the Inspector General with the reasons for
14 such determination.

15 (e) DEFENSE.—A good faith reliance on—

16 (1) a court warrant or order, a grand jury subpoena,
17 a legislative authorization, or a statutory authorization (in-
18 cluding a request of a governmental entity under section
19 1523(f) of this title);

20 (2) a request of an investigative or law enforcement
21 officer under section 1498(7) of this title; or

22 (3) a good faith determination that section 1492(3) of
23 this title permitted the conduct complained of;

24 is a complete defense to any civil or criminal action brought
25 under this chapter or any other law.

26 (f) LIMITATION.—A civil action under this section may not
27 be commenced later than two years after the date upon which
28 the claimant first discovered or had a reasonable opportunity
29 to discover the violation.

30 (g) IMPROPER DISCLOSURE.—Any willful disclosure of a
31 “record”, as that term is defined in section 552a(a) of title 5,
32 United States Code, obtained by an investigative or law en-
33 forcement officer, or a governmental entity, pursuant to section
34 1523 of this title, or from a device installed pursuant to section
35 3123 or 3125 of this title, that is not a disclosure made in the
36 proper performance of the official functions of the officer or
37 governmental entity making the disclosure, is a violation of this

1 chapter. This provision shall not apply to information pre-
2 viously lawfully disclosed (prior to the commencement of any
3 civil or administrative proceeding under this chapter) to the
4 public by a Federal, State, or local governmental entity or by
5 the plaintiff in a civil action under this chapter.

6 **§ 1528. Exclusivity of remedies**

7 The remedies and sanctions described in this subchapter
8 are the only judicial remedies and sanctions for nonconstitu-
9 tional violations of this subchapter.

10 **§ 1529. Counterintelligence access to telephone**
11 **toll and transactional records**

12 (a) DUTY TO PROVIDE.—A wire or electronic communica-
13 tion service provider shall comply with a request for subscriber
14 information and toll billing records information, or electronic
15 communication transactional records in its custody or posses-
16 sion made by the Director of the Federal Bureau of Investiga-
17 tion under subsection (b) of this section.

18 (b) REQUIRED CERTIFICATION.—The Director of the Fed-
19 eral Bureau of Investigation, or his designee in a position not
20 lower than Deputy Assistant Director at Bureau headquarters
21 or a Special Agent in Charge in a Bureau field office des-
22 ignated by the Director, may—

23 (1) request the name, address, length of service, and
24 local and long distance toll billing records of a person or
25 entity if the Director (or his designee) certifies in writing
26 to the wire or electronic communication service provider to
27 which the request is made that the name, address, length
28 of service, and toll billing records sought are relevant to an
29 authorized investigation to protect against international
30 terrorism or clandestine intelligence activities, provided that
31 such an investigation of a United States person is not con-
32 ducted solely on the basis of activities protected by the first
33 amendment to the Constitution of the United States; and

34 (2) request the name, address, and length of service
35 of a person or entity if the Director (or his designee) cer-
36 tifies in writing to the wire or electronic communication
37 service provider to which the request is made that the in-

1 formation sought is relevant to an authorized investigation
2 to protect against international terrorism or clandestine in-
3 telligence activities, provided that such an investigation of
4 a United States person is not conducted solely upon the
5 basis of activities protected by the first amendment to the
6 Constitution of the United States.

7 (c) PROHIBITION OF CERTAIN DISCLOSURE.—No wire or
8 electronic communication service provider, or officer, employee,
9 or agent thereof, shall disclose to any person that the Federal
10 Bureau of Investigation has sought or obtained access to infor-
11 mation or records under this section.

12 (d) DISSEMINATION BY BUREAU.—The Federal Bureau of
13 Investigation may disseminate information and records ob-
14 tained under this section only as provided in guidelines ap-
15 proved by the Attorney General for foreign intelligence collec-
16 tion and foreign counterintelligence investigations conducted by
17 the Federal Bureau of Investigation, and, with respect to dis-
18 semination to an agency of the United States, only if such in-
19 formation is clearly relevant to the authorized responsibilities
20 of such agency.

21 (e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BOD-
22 IES BE INFORMED.—On a semiannual basis the Director of the
23 Federal Bureau of Investigation shall fully inform the Perma-
24 nent Select Committee on Intelligence of the House of Rep-
25 resentatives and the Select Committee on Intelligence of the
26 Senate, and the Committee on the Judiciary of the House of
27 Representatives and the Committee on the Judiciary of the
28 Senate, concerning all requests made under subsection (b) of
29 this section.

30 **§ 1530. Wrongful disclosure of video tape rental or**
31 **sale records**

32 (a) DEFINITIONS.—For purposes of this section—

33 (1) the term “consumer” means any renter, purchaser,
34 or subscriber of goods or services from a video tape service
35 provider;

1 (2) the term “ordinary course of business” means only
2 debt collection activities, order fulfillment, request proc-
3 essing, and the transfer of ownership;

4 (3) the term “personally identifiable information” in-
5 cludes information which identifies a person as having re-
6 quested or obtained specific video materials or services
7 from a video tape service provider; and

8 (4) the term “video tape service provider” means any
9 person, engaged in the business, in or affecting interstate
10 or foreign commerce, of rental, sale, or delivery of
11 prerecorded video cassette tapes or similar audio visual ma-
12 terials, or any person or other entity to whom a disclosure
13 is made under subparagraph (D) or (E) of subsection
14 (b)(2), but only with respect to the information contained
15 in the disclosure.

16 (b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A
17 video tape service provider who knowingly discloses, to any per-
18 son, personally identifiable information concerning any con-
19 sumer of such provider shall be liable to the aggrieved person
20 for the relief provided in subsection (d).

21 (2) A video tape service provider may disclose personally
22 identifiable information concerning any consumer—

23 (A) to the consumer;

24 (B) to any person with the informed, written consent
25 of the consumer given at the time the disclosure is sought;

26 (C) to a law enforcement agency pursuant to a war-
27 rant issued under the Federal Rules of Criminal Procedure,
28 an equivalent State warrant, a grand jury subpoena, or a
29 court order;

30 (D) to any person if the disclosure is solely of the
31 names and addresses of consumers and if—

32 (i) the video tape service provider has provided the
33 consumer with the opportunity, in a clear and con-
34 spicuous manner, to prohibit such disclosure; and

35 (ii) the disclosure does not identify the title, de-
36 scription, or subject matter of any video tapes or other
37 audio visual material; however, the subject matter of

1 such materials may be disclosed if the disclosure is for
2 the exclusive use of marketing goods and services di-
3 rectly to the consumer;

4 (E) to any person if the disclosure is incident to the
5 ordinary course of business of the video tape service pro-
6 vider; or

7 (F) pursuant to a court order, in a civil proceeding
8 upon a showing of compelling need for the information that
9 cannot be accommodated by any other means, if—

10 (i) the consumer is given reasonable notice, by the
11 person seeking the disclosure, of the court proceeding
12 relevant to the issuance of the court order; and

13 (ii) the consumer is afforded the opportunity to
14 appear and contest the claim of the person seeking the
15 disclosure.

16 If an order is granted pursuant to subparagraph (C) or (F),
17 the court shall impose appropriate safeguards against unau-
18 thorized disclosure.

19 (3) Court orders authorizing disclosure under subpara-
20 graph (C) shall issue only with prior notice to the consumer
21 and only if the law enforcement agency shows that there is
22 probable cause to believe that the records or other information
23 sought are relevant to a legitimate law enforcement inquiry. In
24 the case of a State government authority, such a court order
25 shall not issue if prohibited by the law of such State. A court
26 issuing an order pursuant to this section, on a motion made
27 promptly by the video tape service provider, may quash or mod-
28 ify such order if the information or records requested are un-
29 reasonably voluminous in nature or if compliance with such
30 order otherwise would cause an unreasonable burden on such
31 provider.

32 (c) CIVIL ACTION.—(1) Any person aggrieved by any act
33 of a person in violation of this section may bring a civil action
34 in a United States district court.

35 (2) The court may award—

36 (A) actual damages but not less than liquidated dam-
37 ages in an amount of \$2,500;

1 (B) punitive damages;

2 (C) reasonable attorneys' fees and other litigation
3 costs reasonably incurred; and

4 (D) such other preliminary and equitable relief as the
5 court determines to be appropriate.

6 (3) No action may be brought under this subsection unless
7 such action is begun within 2 years from the date of the act
8 complained of or the date of discovery.

9 (4) No liability shall result from lawful disclosure per-
10 mitted by this section.

11 (d) **PERSONALLY IDENTIFIABLE INFORMATION.**—Person-
12 ally identifiable information obtained in any manner other than
13 as provided in this section shall not be received in evidence in
14 any trial, hearing, arbitration, or other proceeding in or before
15 any court, grand jury, department, officer, agency, regulatory
16 body, legislative committee, or other authority of the United
17 States, a State, or a political subdivision of a State.

18 (e) **DESTRUCTION OF OLD RECORDS.**—A person subject
19 to this section shall destroy personally identifiable information
20 as soon as practicable, but no later than one year from the date
21 the information is no longer necessary for the purpose for
22 which it was collected and there are no pending requests or or-
23 ders for access to such information under subsection (b)(2) or
24 (c)(2) or pursuant to a court order.

25 (f) **PREEMPTION.**—The provisions of this section preempt
26 only the provisions of State or local law that require disclosure
27 prohibited by this section.

28 **§ 1531. Definitions for subchapter**

29 As used in this subchapter—

30 (1) the terms defined in section 1491 have, respec-
31 tively, the definitions given such terms in that section;

32 (2) the term “remote computing service” means the
33 provision to the public of computer storage or processing
34 services by means of an electronic communications system;
35 and

36 (3) the term “court of competent jurisdiction” has the
37 meaning assigned by section 3127, and includes any Fed-

1 eral court within that definition, without geographic limita-
2 tion.

3 **§ 1532. Civil actions against the United States**

4 (a) IN GENERAL.—Any person who is aggrieved by any
5 willful violation of this chapter or subchapter B of chapter 37
6 of this title or of sections 106(a), 305(a), or 405(a) of the For-
7 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
8 seq.) may commence an action in United States District Court
9 against the United States to recover money damages. In any
10 such action, if a person who is aggrieved successfully estab-
11 lishes such a violation of this subchapter or subchapter B or
12 of the above specified provisions of title 50, the Court may as-
13 sess as damages—

14 (1) actual damages, but not less than \$10,000, which-
15 ever amount is greater; and

16 (2) litigation costs, reasonably incurred.

17 (b) PROCEDURES.—(1) Any action against the United
18 States under this section may be commenced only after a claim
19 is presented to the appropriate department or agency under the
20 procedures of the Federal Tort Claims Act, as set forth in title
21 28, United States Code.

22 (2) Any action against the United States under this sec-
23 tion shall be forever barred unless it is presented in writing to
24 the appropriate Federal agency within 2 years after such claim
25 accrues or unless action is begun within 6 months after the
26 date of mailing, by certified or registered mail, of notice of final
27 denial of the claim by the agency to which it was presented.
28 The claim shall accrue on the date upon which the claimant
29 first has a reasonable opportunity to discover the violation.

30 (3) Any action under this section shall be tried to the
31 court without a jury.

32 (4) Notwithstanding any other provision of law, the proce-
33 dures set forth in section 106(f), 305(g), or 405(f) of the For-
34 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
35 seq.) shall be the exclusive means by which materials governed
36 by those sections may be reviewed.

1 (5) An amount equal to any award against the United
2 States under this section shall be reimbursed by the depart-
3 ment or agency concerned to the fund described in section 1304
4 of title 31, United States Code, out of any appropriation, fund,
5 or other account (excluding any part of such appropriation,
6 fund, or account that is available for the enforcement of any
7 Federal law) that is available for the operating expenses of the
8 department or agency concerned.

9 (c) ADMINISTRATIVE DISCIPLINE.—If a court or appro-
10 priate department or agency determines that the United States
11 or any of its departments or agencies has violated any provision
12 of this chapter, and the court or appropriate department or
13 agency finds that the circumstances surrounding the violation
14 raise serious questions about whether or not an officer or em-
15 ployee of the United States acted willfully or intentionally with
16 respect to the violation, the department or agency shall, upon
17 receipt of a true and correct copy of the decision and findings
18 of the court or appropriate department or agency promptly ini-
19 tiate a proceeding to determine whether disciplinary action
20 against the officer or employee is warranted. If the head of the
21 department or agency involved determines that disciplinary ac-
22 tion is not warranted, he or she shall notify the Inspector Gen-
23 eral with jurisdiction over the department or agency concerned
24 and shall provide the Inspector General with the reasons for
25 such determination.

26 (d) EXCLUSIVE REMEDY.—Any action against the United
27 States under this subsection shall be the exclusive remedy
28 against the United States for any claims within the purview of
29 this section.

30 (e) STAY OF PROCEEDINGS.—(1) Upon the motion of the
31 United States, the court shall stay any action commenced
32 under this section if the court determines that civil discovery
33 will adversely affect the ability of the Government to conduct
34 a related investigation or the prosecution of a related criminal
35 case. Such a stay shall toll the limitations periods of paragraph
36 (2) of subsection (b).

1 (2) In this subsection, the terms “related criminal case”
 2 and “related investigation” mean an actual prosecution or in-
 3 vestigation in progress at the time at which the request for the
 4 stay or any subsequent motion to lift the stay is made. In de-
 5 termining whether an investigation or a criminal case is related
 6 to an action commenced under this section, the court shall con-
 7 sider the degree of similarity between the parties, witnesses,
 8 facts, and circumstances involved in the 2 proceedings, without
 9 requiring that any one or more factors be identical.

10 (3) In requesting a stay under paragraph (1), the Govern-
 11 ment may, in appropriate cases, submit evidence ex parte in
 12 order to avoid disclosing any matter that may adversely affect
 13 a related investigation or a related criminal case. If the Govern-
 14 ment makes such an ex parte submission, the plaintiff shall be
 15 given an opportunity to make a submission to the court, not
 16 ex parte, and the court may, in its discretion, request further
 17 information from either party.

18 SUBCHAPTER D—PROHIBITION ON RELEASE AND
 19 USE OF CERTAIN PERSONAL INFORMATION FROM
 20 STATE MOTOR VEHICLE RECORDS

Sec.

1541. Prohibition on release and use of certain personal information
 from State motor vehicle records.

1542. Additional unlawful acts.

1543. Penalties.

1544. Civil action.

1545. Definitions.

21 **§ 1541. Prohibition on release and use of certain**
 22 **personal information from State motor ve-**
 23 **hicle records**

24 (a) IN GENERAL.—A State department of motor vehicles,
 25 and any officer, employee, or contractor thereof, shall not
 26 knowingly disclose or otherwise make available to any person
 27 or entity:

28 (1) personal information about any individual obtained
 29 by the department in connection with a motor vehicle
 30 record, except as provided in subsection (b) of this section;
 31 or

1 (2) highly restricted personal information about any
2 individual obtained by the department in connection with a
3 motor vehicle record, without the express consent of the
4 person to whom such information applies, except uses per-
5 mitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9), but
6 this paragraph does not in any way affect the use of organ
7 donation information on an individual's driver's license or
8 affect the administration of organ donation initiatives in
9 the States.

10 (b) PERMISSIBLE USES.—Personal information referred to
11 in subsection (a) shall be disclosed for use in connection with
12 matters of motor vehicle or driver safety and theft, motor vehi-
13 cle emissions, motor vehicle product alterations, recalls, or
14 advisories, performance monitoring of motor vehicles and deal-
15 ers by motor vehicle manufacturers, and removal of non-owner
16 records from the original owner records of motor vehicle manu-
17 facturers to carry out the purposes of titles I and IV of the
18 Anti Car Theft Act of 1992, the Automobile Information Dis-
19 closure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42
20 U.S.C. 7401 et seq.), and chapters 301, 305, and 321–331 of
21 title 49, and, subject to subsection (a)(2), may be disclosed as
22 follows:

23 (1) For use by any government agency, including any
24 court or law enforcement agency, in carrying out its func-
25 tions, or any private person or entity acting on behalf of
26 a Federal, State, or local agency in carrying out its func-
27 tions.

28 (2) For use in connection with matters of motor vehi-
29 cle or driver safety and theft; motor vehicle emissions;
30 motor vehicle product alterations, recalls, or advisories; per-
31 formance monitoring of motor vehicles, motor vehicle parts
32 and dealers; motor vehicle market research activities, in-
33 cluding survey research; and removal of non-owner records
34 from the original owner records of motor vehicle manufac-
35 turers.

1 (3) For use in the normal course of business by a le-
2 gitimate business or its agents, employees, or contractors,
3 but only—

4 (A) to verify the accuracy of personal information
5 submitted by the individual to the business or its
6 agents, employees, or contractors; and

7 (B) if such information as so submitted is not cor-
8 rect or is no longer correct, to obtain the correct infor-
9 mation, but only for the purposes of preventing fraud
10 by, pursuing legal remedies against, or recovering on a
11 debt or security interest against, the individual.

12 (4) For use in connection with any civil, criminal, ad-
13 ministrative, or arbitral proceeding in any Federal, State,
14 or local court or agency or before any self-regulatory body,
15 including the service of process, investigation in anticipa-
16 tion of litigation, and the execution or enforcement of judg-
17 ments and orders, or pursuant to an order of a Federal,
18 State, or local court.

19 (5) For use in research activities, and for use in pro-
20 ducing statistical reports, so long as the personal informa-
21 tion is not published, redisclosed, or used to contact indi-
22 viduals.

23 (6) For use by any insurer or insurance support orga-
24 nization, or by a self-insured entity, or its agents, employ-
25 ees, or contractors, in connection with claims investigation
26 activities, antifraud activities, rating or underwriting.

27 (7) For use in providing notice to the owners of towed
28 or impounded vehicles.

29 (8) For use by any licensed private investigative agen-
30 cy or licensed security service for any purpose permitted
31 under this subsection.

32 (9) For use by an employer or its agent or insurer to
33 obtain or verify information relating to a holder of a com-
34 mercial driver's license that is required under chapter 313
35 of title 49.

36 (10) For use in connection with the operation of pri-
37 vate toll transportation facilities.

1 (11) For any other use in response to requests for in-
2 dividual motor vehicle records if the State has obtained the
3 express consent of the person to whom such personal infor-
4 mation pertains.

5 (12) For bulk distribution for surveys, marketing or
6 solicitations if the State has obtained the express consent
7 of the person to whom such personal information pertains.

8 (13) For use by any requester, if the requester dem-
9 onstrates it has obtained the written consent of the indi-
10 vidual to whom the information pertains.

11 (14) For any other use specifically authorized under
12 the law of the State that holds the record, if such use is
13 related to the operation of a motor vehicle or public safety.

14 (c) **RESALE OR REDISCLOSURE.**—An authorized recipient
15 of personal information (except a recipient under subsection
16 (b)(11) or (12)) may resell or redisclose the information only
17 for a use permitted under subsection (b) (but not for uses
18 under subsection (b)(11) or (12)). An authorized recipient
19 under subsection (b)(11) may resell or redisclose personal in-
20 formation for any purpose. An authorized recipient under sub-
21 section (b)(12) may resell or redisclose personal information
22 pursuant to subsection (b)(12). Any authorized recipient (ex-
23 cept a recipient under subsection (b)(11)) that resells or redis-
24 closes personal information covered by this chapter must keep
25 for a period of 5 years records identifying each person or entity
26 that receives information and the permitted purpose for which
27 the information will be used and must make such records avail-
28 able to the motor vehicle department upon request.

29 (d) **WAIVER PROCEDURES.**—A State motor vehicle depart-
30 ment may establish and carry out procedures under which the
31 department or its agents, upon receiving a request for personal
32 information that does not fall within one of the exceptions in
33 subsection (b), may mail a copy of the request to the individual
34 about whom the information was requested, informing such in-
35 dividual of the request, together with a statement to the effect
36 that the information will not be released unless the individual
37 waives such individual's right to privacy under this section.

1 (e) PROHIBITION ON CONDITIONS.—No State may condi-
2 tion or burden in any way the issuance of an individual’s motor
3 vehicle record to obtain express consent. Nothing in this para-
4 graph shall be construed to prohibit a State from charging an
5 administrative fee for issuance of a motor vehicle record.

6 **§ 1542. Additional unlawful acts**

7 (a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It shall
8 be unlawful for any person knowingly to obtain or disclose per-
9 sonal information, from a motor vehicle record, for any use not
10 permitted under section 1541(b) of this title.

11 (b) FALSE REPRESENTATION.—It shall be unlawful for
12 any person to make false representation to obtain any personal
13 information from an individual’s motor vehicle record.

14 **§ 1543. Penalties**

15 (a) CRIMINAL FINE.—A person who knowingly violates
16 this chapter shall be fined under this title.

17 (b) VIOLATIONS BY STATE DEPARTMENT OF MOTOR VE-
18 HICLES.—Any State department of motor vehicles that has a
19 policy or practice of substantial noncompliance with this chap-
20 ter shall be subject to a civil penalty imposed by the Attorney
21 General of not more than \$5,000 a day for each day of sub-
22 stantial noncompliance.

23 **§ 1544. Civil action**

24 (a) CAUSE OF ACTION.—A person who knowingly obtains,
25 discloses or uses personal information, from a motor vehicle
26 record, for a purpose not permitted under this chapter shall be
27 liable to the individual to whom the information pertains, who
28 may bring a civil action in a United States district court.

29 (b) REMEDIES.—The court may award—

30 (1) actual damages, but not less than liquidated dam-
31 ages in the amount of \$2,500;

32 (2) punitive damages upon proof of willful or reckless
33 disregard of the law;

34 (3) reasonable attorneys’ fees and other litigation costs
35 reasonably incurred; and

36 (4) such other preliminary and equitable relief as the
37 court determines to be appropriate.

1 **§ 1545. Definitions**

2 As used in this subchapter—

3 (1) the term “motor vehicle record” means any record
4 that pertains to a motor vehicle operator’s permit, motor
5 vehicle title, motor vehicle registration, or identification
6 card issued by a department of motor vehicles;

7 (2) the term “personal information” means informa-
8 tion that identifies an individual, including an individual’s
9 photograph, social security number, driver identification
10 number, name, address (but not the 5-digit zip code), tele-
11 phone number, and medical or disability information, but
12 does not include information on vehicular accidents, driving
13 violations, and driver’s status.

14 (3) the term “highly restricted personal information”
15 means an individual’s photograph or image, social security
16 number, medical or disability information; and

17 (4) the term “express consent” means consent in writ-
18 ing, including consent conveyed electronically that bears an
19 electronic signature as defined in section 106(5) of Public
20 Law 106–229.

21 **SUBCHAPTER E—IDENTITY THEFT**

Sec.

1551. Obtaining information under false pretenses.

1552. Unauthorized disclosures by officers or employees.

1553. Definitions for subchapter.

22 **§ 1551. Obtaining information under false pre-**
23 **tenses**

24 Whoever knowingly obtains information on a consumer
25 from a consumer reporting agency under false pretenses shall
26 be imprisoned for not more than 2 years.

27 **§ 1552. Unauthorized disclosures by officers or em-**
28 **ployees**

29 Any officer or employee of a consumer reporting agency
30 who knowingly provides information concerning an individual
31 from the agency’s files to a person not authorized to receive
32 that information shall be imprisoned for not more than 2 years.

1 **§ 1553. Definitions for subchapter**

2 A term defined in the Fair Credit Reporting Act shall
3 have the same meaning when used in the subchapter.

4 **CHAPTER 50—FORFEITURE**

Subchapter	Sec.
A. Property subject to forfeiture	2501
B. Civil forfeiture	2551
C. Criminal forfeiture	2561

SUBCHAPTER A—PROPERTY SUBJECT TO FORFEITURE

Sec.

2501. Forfeitable property.

5 **§ 2501. Forfeitable property**

6 (a) DEFINITIONS.—As used in this chapter—

7 (1) the term “forfeitable property” means any property,
8 real or personal, tangible or intangible, that is—

9 (A) used or intended to be used to commit or fa-
10 cilitate the offense;

11 (B) constituting, derived from, or traceable to pro-
12 ceeds of the offense; or

13 (C) substitute assets for property described in sub-
14 paragraph (1) or (B); and

15 (2) the term “proceeds” means all property obtained
16 directly or indirectly from the offense. .

17 (b) SPECIAL RULE FOR TERRORIST OFFENSES.—In the
18 case of an act of domestic or international terrorism, as defined
19 in section 283, there shall be deemed to be involved in the of-
20 fense all assets, foreign and domestic—

21 (A) of any individual, entity, or organization en-
22 gaged in planning or perpetrating the act, and all as-
23 sets, foreign or domestic, affording any person a source
24 of influence over any such entity or organization;

25 (B) acquired or maintained by any person with the
26 intent and for the purpose of supporting, planning,
27 conducting, or concealing the act; or

28 (C) derived from, involved in, or used or intended
29 to be used to commit the act of domestic or inter-
30 national terrorism.

1 SUBCHAPTER B—CIVIL FORFEITURE

Sec.

2551. Offenses giving rise to civil forfeiture.

2552. Procedure generally.

2553. General rules for civil forfeiture proceedings.

2554. Civil forfeiture of fungible property.

2555. Civil forfeiture of real property.

2556. Subpoenas for bank records.

2 **§ 2551. Offenses giving rise to civil forfeiture**

3 (a) CRIMINALLY RELATED PROPERTY SUBJECT TO FOR-
4 FEITURE.—All right, title, and interest in forfeitable property
5 relating to an offense described in subsection (b) shall vest in
6 the United States upon commission of that offense.

7 (b) OFFENSES GIVING RISE TO CIVIL FORFEITURE.—The
8 following offenses give rise to civil forfeiture under this section:

9 (1) A violation of section 612, 614, 692-695, 697-702,
10 712, 773-775, 779, 783, 786, 787, 789, 804, 862-865, or
11 1003 or any offense constituting “specified unlawful activ-
12 ity” (as defined in section 1451).

13 (2) An offense against a foreign nation, or any prop-
14 erty used to facilitate such an offense, if the offense—

15 (A) involves the manufacture, importation, sale, or
16 distribution of a controlled substance (as that term is
17 defined for purposes of the controlled substances act),
18 or any other conduct described in section 1451;

19 (B) would be punishable within the jurisdiction of
20 the foreign nation by death or imprisonment for a term
21 exceeding one year; and

22 (C) would be punishable under the laws of the
23 United States by imprisonment for a term exceeding
24 one year, if the conduct constituting the offense had oc-
25 curred within the jurisdiction of the United States.

26 (3) A violation of—

27 (A) section 654 (relating to Federal program
28 fraud);

29 (B) section 772 (relating to fraud and false state-
30 ments);

1 (C) section 788 (relating to major fraud against
2 the United States);

3 (D) section 789 (relating to concealment of assets
4 from conservator or receiver of insured financial insti-
5 tution);

6 (E) section 801 (relating to mail fraud); or

7 (F) section 803 (relating to wire fraud),

8 if such violation relates to the sale of assets acquired or
9 held by the Resolution Trust Corporation, the Federal De-
10 posit Insurance Corporation, as conservator or receiver for
11 a financial institution, or any other conservator for a finan-
12 cial institution appointed by the Office of the Comptroller
13 of the Currency or the Office of Thrift Supervision or the
14 National Credit Union Administration, as conservator or
15 liquidating agent for a financial institution.

16 (4) A violation of—

17 (A) section 718 (altering or removing motor vehi-
18 cle identification numbers);

19 (B) section 866 (importing or exporting stolen
20 motor vehicles);

21 (C) section 671 (transporting stolen motor vehicles
22 in interstate commerce); or

23 (D) section 672 (possessing or selling a stolen
24 motor vehicle that has moved in interstate commerce).

25 (5) Any act of domestic or international terrorism (as
26 defined in section 283) against the United States, citizens
27 or residents of the United States, or their property.

28 (6) A violation, of section 280.

29 (c) APPLICATION TO OTHER CIVIL FORFEITURES.—Un-
30 less otherwise specified, whenever a law of the United States
31 provides for civil forfeiture, this subchapter shall apply to that
32 forfeiture.

33 § 2552. Procedure generally

34 (a) SEIZURE AND PRELIMINARY MATTERS.—

35 (1) Except as provided in section 2555, any property
36 subject to forfeiture to the United States under section
37 2551 may be seized by the Attorney General and, in the

1 case of property involved in a violation investigated by the
2 Secretary of the Treasury or the United States Postal
3 Service, the property may also be seized by the Secretary
4 of the Treasury or the Postal Service, respectively.

5 (2) Seizures under this section shall be made pursuant
6 to a warrant obtained in the same manner as provided for
7 a search warrant under the Federal Rules of Criminal Pro-
8 cedure, except that a seizure may be made without a war-
9 rant if—

10 (A) a complaint for forfeiture has been filed in the
11 United States district court and the court issued an arrest
12 warrant in rem pursuant to the Supplemental Rules for
13 Certain Admiralty and Maritime Claims;

14 (B) there is probable cause to believe that the property
15 is subject to forfeiture and—

16 (i) the seizure is made pursuant to a lawful arrest
17 or search; or

18 (ii) another exception to the Fourth Amendment
19 warrant requirement would apply; or

20 (C) the property was lawfully seized by a State or local
21 law enforcement agency and transferred to a Federal agen-
22 cy.

23 (3) Notwithstanding rule 41(a) of the Federal Rules
24 of Criminal Procedure, a seizure warrant may be issued
25 pursuant to this subsection by a judicial officer in any dis-
26 trict in which a forfeiture action against the property may
27 be filed under section 1355(b) of title 28, and may be exe-
28 cuted in any district in which the property is found, or
29 transmitted to the central authority of any foreign state for
30 service in accordance with any treaty or other international
31 agreement. Any motion for the return of property seized
32 under this section shall be filed in the district court in
33 which the seizure warrant was issued or in the district
34 court for the district in which the property was seized.

35 (4)(A) If any person is arrested or charged in a for-
36 eign country in connection with an offense that would give
37 rise to the forfeiture of property in the United States under

1 this section or under the Controlled Substances Act, the
2 Attorney General may apply to any Federal judge or mag-
3 istrate judge in the district in which the property is located
4 for an ex parte order restraining the property subject to
5 forfeiture for not more than 30 days, except that the time
6 may be extended for good cause shown at a hearing con-
7 ducted in the manner provided in rule 43(e) of the Federal
8 Rules of Civil Procedure.

9 (B) The application for the restraining order shall set
10 forth the nature and circumstances of the foreign charges
11 and the basis for belief that the person arrested or charged
12 has property in the United States that would be subject to
13 forfeiture, and shall contain a statement that the restrain-
14 ing order is needed to preserve the availability of property
15 for such time as is necessary to receive evidence from the
16 foreign country or elsewhere in support of probable cause
17 for the seizure of the property under this subsection.

18 (b) SECURING OF PROPERTY.—Property taken or detained
19 under this section shall not be repleviable, but shall be deemed
20 to be in the custody of the Attorney General, the Secretary of
21 the Treasury, or the Postal Service, as the case may be, subject
22 only to the orders and decrees of the court or the official hav-
23 ing jurisdiction thereof. Whenever property is seized under this
24 subsection, the Attorney General, the Secretary of the Treas-
25 ury, or the Postal Service, as the case may be, may—

26 (1) place the property under seal;

27 (2) remove the property to a place designated by him;

28 or

29 (3) require that the General Services Administration
30 take custody of the property and remove it, if practicable,
31 to an appropriate location for disposition in accordance
32 with law.

33 (c) APPLICATION OF CUSTOMS LAWS.—For purposes of
34 this section, the provisions of the customs laws relating to the
35 seizure, summary and judicial forfeiture, condemnation of prop-
36 erty for violation of the customs laws, the disposition of such
37 property or the proceeds from the sale of such property under

1 this section, the remission or mitigation of such forfeitures, and
2 the compromise of claims (19 U.S.C. 1602 et seq.), insofar as
3 they are applicable and not inconsistent with the provisions of
4 this section, shall apply to seizures and forfeitures incurred, or
5 alleged to have been incurred, under this section, except that
6 such duties as are imposed upon the customs officer or any
7 other person with respect to the seizure and forfeiture of prop-
8 erty under the customs laws shall be performed with respect to
9 seizures and forfeitures of property under this section by such
10 officers, agents, or other persons as may be authorized or des-
11 ignated for that purpose by the Attorney General, the Secretary
12 of the Treasury, or the Postal Service, as the case may be. The
13 Attorney General shall have sole responsibility for disposing of
14 petitions for remission or mitigation with respect to property
15 involved in a judicial forfeiture proceeding.

16 (d) RETENTION OR TRANSFER OF FORFEITED PROP-
17 erty.—Notwithstanding any other provision of the law, except
18 section 3 of the Anti Drug Abuse Act of 1986, the Attorney
19 General, the Secretary of the Treasury, or the Postal Service,
20 as the case may be, is authorized to retain property forfeited
21 pursuant to this section, or to transfer such property on such
22 terms and conditions as the Attorney General may determine—

- 23 (1) to any other Federal agency;
- 24 (2) to any State or local law enforcement agency
25 which participated directly in any of the acts which led to
26 the seizure or forfeiture of the property;
- 27 (3) in the case of property referred to in subsection
28 (a)(1)(C), to any Federal financial institution regulatory
29 agency—
- 30 (A) to reimburse the agency for payments to
31 claimants or creditors of the institution; and
- 32 (B) to reimburse the insurance fund of the agency
33 for losses suffered by the fund as a result of the receiv-
34 ership or liquidation;
- 35 (4) in the case of property referred to in subsection
36 (a)(1)(C), upon the order of the appropriate Federal finan-
37 cial institution regulatory agency, to the financial institu-

1 tion as restitution, with the value of the property so trans-
2 ferred to be set off against any amount later recovered by
3 the financial institution as compensatory damages in any
4 State or Federal proceeding;

5 (5) in the case of property referred to in subsection
6 (a)(1)(C), to any Federal financial institution regulatory
7 agency, to the extent of the agency's contribution of re-
8 sources to, or expenses involved in, the seizure and for-
9 feiture, and the investigation leading directly to the seizure
10 and forfeiture, of such property;

11 (6) as restoration to any victim of the offense giving
12 rise to the forfeiture, including, in the case of a money
13 laundering offense, any offense constituting the underlying
14 specified unlawful activity; or

15 (7) In the case of property referred to in subsection
16 (a)(1)(D), to the Resolution Trust Corporation, the Federal
17 Deposit Insurance Corporation, or any other Federal finan-
18 cial institution regulatory agency (as defined in section
19 8(e)(7)(D) of the Federal Deposit Insurance Act).

20 The Attorney General, the Secretary of the Treasury, or the
21 Postal Service, as the case may be, shall ensure the equitable
22 transfer pursuant to paragraph (2) of any forfeited property to
23 the appropriate State or local law enforcement agency so as to
24 reflect generally the contribution of any such agency partici-
25 pating directly in any of the acts which led to the seizure or
26 forfeiture of such property. A decision by the Attorney General,
27 the Secretary of the Treasury, or the Postal Service pursuant
28 to paragraph (2) shall not be subject to review. The United
29 States shall not be liable in any action arising out of the use
30 of any property the custody of which was transferred pursuant
31 to this section to any non-Federal agency. The Attorney Gen-
32 eral, the Secretary of the Treasury, or the Postal Service may
33 order the discontinuance of any forfeiture proceedings under
34 this section in favor of the institution of forfeiture proceedings
35 by State or local authorities under an appropriate State or local
36 statute. After the filing of a complaint for forfeiture under this
37 section, the Attorney General may seek dismissal of the com-

1 plaint in favor of forfeiture proceedings under State or local
2 law. Whenever forfeiture proceedings are discontinued by the
3 United States in favor of State or local proceedings, the United
4 States may transfer custody and possession of the seized prop-
5 erty to the appropriate State or local official immediately upon
6 the initiation of the proper actions by such officials. Whenever
7 forfeiture proceedings are discontinued by the United States in
8 favor of State or local proceedings, notice shall be sent to all
9 known interested parties advising them of the discontinuance or
10 dismissal. The United States shall not be liable in any action
11 arising out of the seizure, detention, and transfer of seized
12 property to State or local officials. The United States shall not
13 be liable in any action arising out of a transfer under para-
14 graph (3), (4), or (5) of this subsection.

15 (e) STAYS.—

16 (1) Upon the motion of the United States, the court
17 shall stay the civil forfeiture proceeding if the court deter-
18 mines that civil discovery will adversely affect the ability of
19 the Government to conduct a related criminal investigation
20 or the prosecution of a related criminal case.

21 (2) Upon the motion of a claimant, the court shall
22 stay the civil forfeiture proceeding with respect to that
23 claimant if the court determines that—

24 (A) the claimant is the subject of a related crimi-
25 nal investigation or case;

26 (B) the claimant has standing to assert a claim in
27 the civil forfeiture proceeding; and

28 (C) continuation of the forfeiture proceeding will
29 burden the right of the claimant against self-incrimina-
30 tion in the related investigation or case.

31 (3) With respect to the impact of civil discovery de-
32 scribed in paragraphs (1) and (2), the court may determine
33 that a stay is unnecessary if a protective order limiting dis-
34 covery would protect the interest of one party without un-
35 fairly limiting the ability of the opposing party to pursue
36 the civil case. In no case, however, shall the court impose
37 a protective order as an alternative to a stay if the effect

1 of such protective order would be to allow one party to pur-
2 sue discovery while the other party is substantially unable
3 to do so.

4 (4) In this subsection, the terms “related criminal
5 case” and “related criminal investigation” mean an actual
6 prosecution or investigation in progress at the time at
7 which the request for the stay, or any subsequent motion
8 to lift the stay is made. In determining whether a criminal
9 case or investigation is “related” to a civil forfeiture pro-
10 ceeding, the court shall consider the degree of similarity be-
11 tween the parties, witnesses, facts, and circumstances in-
12 volved in the two proceedings, without requiring an identity
13 with respect to any one or more factors.

14 (5) In requesting a stay under paragraph (1), the Gov-
15 ernment may, in appropriate cases, submit evidence ex
16 parte in order to avoid disclosing any matter that may ad-
17 versely affect an ongoing criminal investigation or pending
18 criminal trial.

19 (6) Whenever a civil forfeiture proceeding is stayed
20 pursuant to this subsection, the court shall enter any order
21 necessary to preserve the value of the property or to protect
22 the rights of lienholders or other persons with an interest
23 in the property while the stay is in effect.

24 (7) A determination by the court that the claimant has
25 standing to request a stay pursuant to paragraph (2) shall
26 apply only to this subsection and shall not preclude the
27 Government from objecting to the standing of the claimant
28 by dispositive motion or at the time of trial.

29 (f) VENUE.—In addition to the venue provided for in sec-
30 tion 1395 of title 28 or any other provision of law, in the case
31 of property of a defendant charged with a violation that is the
32 basis for forfeiture of the property under this section, a pro-
33 ceeding for forfeiture under this section may be brought in the
34 judicial district in which the defendant owning such property
35 is found or in the judicial district in which the criminal pros-
36 ecution is brought.

37 (g) DISPOSITION.—

1 (1) Whenever property is civilly or criminally forfeited
2 under this subchapter, the Attorney General or the Sec-
3 retary of the Treasury, as the case may be, may transfer
4 the forfeited personal property or the proceeds of the sale
5 of any forfeited personal or real property to any foreign
6 country which participated directly or indirectly in the sei-
7 zure or forfeiture of the property, if such a transfer—

8 (A) has been agreed to by the Secretary of State;

9 (B) is authorized in an international agreement
10 between the United States and the foreign country; and

11 (C) is made to a country which, if applicable, has
12 been certified under section 481(h) of the Foreign As-
13 sistance Act of 1961.

14 A decision by the Attorney General or the Secretary of the
15 Treasury pursuant to this paragraph shall not be subject
16 to review. The foreign country shall, in the event of a
17 transfer of property or proceeds of sale of property under
18 this subsection, bear all expenses incurred by the United
19 States in the seizure, maintenance, inventory, storage, for-
20 feiture, and disposition of the property, and all transfer
21 costs. The payment of all such expenses, and the transfer
22 of assets pursuant to this paragraph, shall be upon such
23 terms and conditions as the Attorney General or the Sec-
24 retary of the Treasury may, in his discretion, set.

25 (2) This section does not limit or supersede any other
26 authority of the United States to provide assistance to a
27 foreign country in obtaining property related to a crime
28 committed in the foreign country, including property which
29 is sought as evidence of a crime committed in the foreign
30 country.

31 (3) A certified order or judgment of forfeiture by a
32 court of competent jurisdiction of a foreign country con-
33 cerning property which is the subject of forfeiture under
34 this section and was determined by such court to be the
35 type of property described in subsection (a)(1)(B) of this
36 section, and any certified recordings or transcripts of testi-
37 mony taken in a foreign judicial proceeding concerning

1 such order or judgment of forfeiture, shall be admissible in
2 evidence in a proceeding brought pursuant to this section.
3 Such certified order or judgment of forfeiture, when admit-
4 ted into evidence, shall constitute probable cause that the
5 property forfeited by such order or judgment of forfeiture
6 is subject to forfeiture under this section and creates a re-
7 buttable presumption of the forfeitability of such property
8 under this section.

9 (4) A certified order or judgment of conviction by a
10 court of competent jurisdiction of a foreign country con-
11 cerning an unlawful drug activity which gives rise to for-
12 feiture under this section and any certified recordings or
13 transcripts of testimony taken in a foreign judicial pro-
14 ceeding concerning such order or judgment of conviction
15 shall be admissible in evidence in a proceeding brought pur-
16 suant to this section. Such certified order or judgment of
17 conviction, when admitted into evidence, creates a rebut-
18 table presumption that the unlawful drug activity giving
19 rise to forfeiture under this section has occurred.

20 (5) Paragraphs (3) and (4) do not limit the admissi-
21 bility of any evidence otherwise admissible, or the ability of
22 the United States to establish probable cause that property
23 is subject to forfeiture by any evidence otherwise admis-
24 sible.

25 (h) DEFINITIONS.—As used in this section—

26 (1) the term “Attorney General” means the Attorney
27 General or his delegate; and

28 (2) the term “Secretary of the Treasury” means the
29 Secretary of the Treasury or his delegate.

30 (i) INTERBANK ACCOUNTS.—

31 (1) IN GENERAL.—

32 (A) IN GENERAL.—For the purpose of a forfeiture
33 under this section or under the Controlled Substances
34 Act (21 U.S.C. 801 et seq.), if funds are deposited into
35 an account at a foreign bank, and that foreign bank
36 has an interbank account in the United States with a
37 covered financial institution (as defined in section

1 5318(j)(1) of title 31), the funds shall be deemed to
2 have been deposited into the interbank account in the
3 United States, and any restraining order, seizure war-
4 rant, or arrest warrant in rem regarding the funds may
5 be served on the covered financial institution, and
6 funds in the interbank account, up to the value of the
7 funds deposited into the account at the foreign bank,
8 may be restrained, seized, or arrested.

9 (B) AUTHORITY TO SUSPEND.—The Attorney
10 General, in consultation with the Secretary of the
11 Treasury, may suspend or terminate a forfeiture under
12 this section if the Attorney General determines that a
13 conflict of law exists between the laws of the jurisdic-
14 tion in which the foreign bank is located and the laws
15 of the United States with respect to liabilities arising
16 from the restraint, seizure, or arrest of such funds, and
17 that such suspension or termination would be in the in-
18 terest of justice and would not harm the national inter-
19 ests of the United States.

20 (2) NO REQUIREMENT FOR GOVERNMENT TO TRACE
21 FUNDS.—If a forfeiture action is brought against funds
22 that are restrained, seized, or arrested under paragraph
23 (1), it shall not be necessary for the Government to estab-
24 lish that the funds are directly traceable to the funds that
25 were deposited into the foreign bank, nor shall it be nec-
26 essary for the Government to rely on the application of sec-
27 tion 2554.

28 (3) CLAIMS BROUGHT BY OWNER OF THE FUNDS.—If
29 a forfeiture action is instituted against funds restrained,
30 seized, or arrested under paragraph (1), the owner of the
31 funds deposited into the account at the foreign bank may
32 contest the forfeiture by filing a claim under section 2553.

33 (4) DEFINITIONS.—For purposes of this subsection,
34 the following definitions shall apply:

35 (A) INTERBANK ACCOUNT.—The term “interbank
36 account” has the same meaning as in section
37 2554(c)(2)(B).

1 (B) OWNER.—

2 (i) IN GENERAL.—Except as provided in
3 clause (ii), the term “owner”—

4 (I) means the person who was the owner,
5 as that term is defined in section 2553(d)(6),
6 of the funds that were deposited into the for-
7 eign bank at the time such funds were depos-
8 ited; and

9 (II) does not include either the foreign
10 bank or any financial institution acting as an
11 intermediary in the transfer of the funds into
12 the interbank account.

13 (ii) EXCEPTION.—The foreign bank may be
14 considered the “owner” of the funds (and no other
15 person shall qualify as the owner of such funds)
16 only if—

17 (I) the basis for the forfeiture action is
18 wrongdoing committed by the foreign bank; or

19 (II) the foreign bank establishes, by a pre-
20 ponderance of the evidence, that prior to the
21 restraint, seizure, or arrest of the funds, the
22 foreign bank had discharged all or part of its
23 obligation to the prior owner of the funds, in
24 which case the foreign bank shall be deemed
25 the owner of the funds to the extent of such
26 discharged obligation.

27 **§ 2553. General rules for civil forfeiture pro-**
28 **ceedings**

29 (a) NOTICE; CLAIM; COMPLAINT.—

30 (1)(A)(i) Except as provided in clauses (ii) through
31 (v), in any nonjudicial civil forfeiture proceeding under a
32 civil forfeiture statute, with respect to which the Govern-
33 ment is required to send written notice to interested par-
34 ties, such notice shall be sent in a manner to achieve prop-
35 er notice as soon as practicable, and in no case more than
36 60 days after the date of the seizure.

1 (ii) No notice is required if, before the 60-day period
2 expires, the Government files a civil judicial forfeiture ac-
3 tion against the property and provides notice of that action
4 as required by law.

5 (iii) If, before the 60-day period expires, the Govern-
6 ment does not file a civil judicial forfeiture action, but does
7 obtain a criminal indictment containing an allegation that
8 the property is subject to forfeiture, the Government shall
9 either—

10 (I) send notice within the 60 days and continue
11 the nonjudicial civil forfeiture proceeding under this
12 section; or

13 (II) terminate the nonjudicial civil forfeiture pro-
14 ceeding, and take the steps necessary to preserve its
15 right to maintain custody of the property as provided
16 in the applicable criminal forfeiture statute.

17 (iv) In a case in which the property is seized by a
18 State or local law enforcement agency and turned over to
19 a Federal law enforcement agency for the purpose of for-
20 feiture under Federal law, notice shall be sent not more
21 than 90 days after the date of seizure by the State or local
22 law enforcement agency.

23 (v) If the identity or interest of a party is not deter-
24 mined until after the seizure or turnover but is determined
25 before a declaration of forfeiture is entered, notice shall be
26 sent to such interested party not later than 60 days after
27 the determination by the Government of the identity of the
28 party or the party's interest.

29 (B) A supervisory official in the headquarters office of
30 the seizing agency may extend the period for sending notice
31 under subparagraph (A) for a period not to exceed 30 days
32 (which period may not be further extended except by a
33 court), if the official determines that the conditions in sub-
34 paragraph (D) are present.

35 (C) Upon motion by the Government, a court may ex-
36 tend the period for sending notice under subparagraph (A)
37 for a period not to exceed 60 days, which period may be

1 further extended by the court for 60-day periods, as nec-
2 cessary, if the court determines, based on a written certifi-
3 cation of a supervisory official in the headquarters office of
4 the seizing agency, that the conditions in subparagraph (D)
5 are present.

6 (D) The period for sending notice under this para-
7 graph may be extended only if there is reason to believe
8 that notice may have an adverse result, including—

- 9 (i) endangering the life or physical safety of an in-
10 dividual;
- 11 (ii) flight from prosecution;
- 12 (iii) destruction of or tampering with evidence;
- 13 (iv) intimidation of potential witnesses; or
- 14 (v) otherwise seriously jeopardizing an investiga-
15 tion or unduly delaying a trial.

16 (E) Each of the Federal seizing agencies conducting
17 nonjudicial forfeitures under this section shall report peri-
18 odically to the Committees on the Judiciary of the House
19 of Representatives and the Senate the number of occasions
20 when an extension of time is granted under subparagraph
21 (B).

22 (F) If the Government does not send notice of a sei-
23 zure of property in accordance with subparagraph (A) to
24 the person from whom the property was seized, and no ex-
25 tension of time is granted, the Government shall return the
26 property to that person without prejudice to the right of
27 the Government to commence a forfeiture proceeding at a
28 later time. The Government shall not be required to return
29 contraband or other property that the person from whom
30 the property was seized may not legally possess.

31 (2)(A) Any person claiming property seized in a non-
32 judicial civil forfeiture proceeding under a civil forfeiture
33 statute may file a claim with the appropriate official after
34 the seizure.

35 (B) A claim under subparagraph (A) may be filed not
36 later than the deadline set forth in a personal notice letter
37 (which deadline may be not earlier than 35 days after the

1 date the letter is mailed), except that if that letter is not
2 received, then a claim may be filed not later than 30 days
3 after the date of final publication of notice of seizure.

4 (C) A claim shall—

5 (i) identify the specific property being claimed;

6 (ii) state the claimant's interest in such property;

7 and

8 (iii) be made under oath, subject to penalty of per-
9 jury.

10 (D) A claim need not be made in any particular form.
11 Each Federal agency conducting nonjudicial forfeitures
12 under this section shall make claim forms generally avail-
13 able on request, which forms shall be written in easily un-
14 derstandable language.

15 (E) Any person may make a claim under subpara-
16 graph (A) without posting bond with respect to the prop-
17 erty which is the subject of the claim.

18 (3)(A) Not later than 90 days after a claim has been
19 filed, the Government shall file a complaint for forfeiture
20 in the manner set forth in the Supplemental Rules for Cer-
21 tain Admiralty and Maritime Claims or return the property
22 pending the filing of a complaint, except that a court in the
23 district in which the complaint will be filed may extend the
24 period for filing a complaint for good cause shown or upon
25 agreement of the parties.

26 (B) If the Government does not—

27 (i) file a complaint for forfeiture or return the
28 property, in accordance with subparagraph (A); or

29 (ii) before the time for filing a complaint has ex-
30 pired—

31 (I) obtain a criminal indictment containing an
32 allegation that the property is subject to forfeiture;
33 and

34 (II) take the steps necessary to preserve its
35 right to maintain custody of the property as pro-
36 vided in the applicable criminal forfeiture statute,

1 the Government shall promptly release the property pursu-
2 ant to regulations promulgated by the Attorney General,
3 and may not take any further action to effect the civil for-
4 feiture of such property in connection with the underlying
5 offense.

6 (C) In lieu of, or in addition to, filing a civil forfeiture
7 complaint, the Government may include a forfeiture allega-
8 tion in a criminal indictment. If criminal forfeiture is the
9 only forfeiture proceeding commenced by the Government,
10 the Government's right to continued possession of the prop-
11 erty shall be governed by the applicable criminal forfeiture
12 statute.

13 (D) No complaint may be dismissed on the ground
14 that the Government did not have adequate evidence at the
15 time the complaint was filed to establish the forfeitability
16 of the property.

17 (4)(A) In any case in which the Government files in
18 the appropriate United States district court a complaint for
19 forfeiture of property, any person claiming an interest in
20 the seized property may file a claim asserting such person's
21 interest in the property in the manner set forth in the Sup-
22 plemental Rules for Certain Admiralty and Maritime
23 Claims, except that such claim may be filed not later than
24 30 days after the date of service of the Government's com-
25 plaint or, as applicable, not later than 30 days after the
26 date of final publication of notice of the filing of the com-
27 plaint.

28 (B) A person asserting an interest in seized property,
29 in accordance with subparagraph (A), shall file an answer
30 to the Government's complaint for forfeiture not later than
31 20 days after the date of the filing of the claim.

32 (b) REPRESENTATION.—

33 (1)(A) If a person with standing to contest the for-
34 feiture of property in a judicial civil forfeiture proceeding
35 under a civil forfeiture statute is financially unable to ob-
36 tain representation by counsel, and the person is rep-
37 resented by counsel appointed under section 3006A of this

1 title in connection with a related criminal case, the court
2 may authorize counsel to represent that person with respect
3 to the claim.

4 (B) In determining whether to authorize counsel to
5 represent a person under subparagraph (A), the court shall
6 take into account such factors as—

7 (i) the person’s standing to contest the forfeiture;

8 and

9 (ii) whether the claim appears to be made in good
10 faith.

11 (2)(A) If a person with standing to contest the for-
12 feiture of property in a judicial civil forfeiture proceeding
13 under a civil forfeiture statute is financially unable to ob-
14 tain representation by counsel, and the property subject to
15 forfeiture is real property that is being used by the person
16 as a primary residence, the court, at the request of the per-
17 son, shall insure that the person is represented by an attor-
18 ney for the Legal Services Corporation with respect to the
19 claim.

20 (B)(i) At appropriate times during a representation
21 under subparagraph (A), the Legal Services Corporation
22 shall submit a statement of reasonable attorney fees and
23 costs to the court.

24 (ii) The court shall enter a judgment in favor of the
25 Legal Services Corporation for reasonable attorney fees and
26 costs submitted pursuant to clause (i) and treat such judg-
27 ment as payable under section 2465 of title 28, United
28 States Code, regardless of the outcome of the case.

29 (3) The court shall set the compensation for represen-
30 tation under this subsection, which shall be equivalent to
31 that provided for court-appointed representation under sec-
32 tion 3006A of this title.

33 (c) BURDEN OF PROOF.—In a suit or action brought
34 under any civil forfeiture statute for the civil forfeiture of any
35 property—

1 (1) the burden of proof is on the Government to estab-
2 lish, by a preponderance of the evidence, that the property
3 is subject to forfeiture;

4 (2) the Government may use evidence gathered after
5 the filing of a complaint for forfeiture to establish, by a
6 preponderance of the evidence, that property is subject to
7 forfeiture; and

8 (3) if the Government's theory of forfeiture is that the
9 property was used to commit or facilitate the commission
10 of a criminal offense, or was involved in the commission of
11 a criminal offense, the Government shall establish that
12 there was a substantial connection between the property
13 and the offense.

14 (d) INNOCENT OWNER DEFENSE.—

15 (1) An innocent owner's interest in property shall not
16 be forfeited under any civil forfeiture statute. The claimant
17 shall have the burden of proving that the claimant is an in-
18 nocent owner by a preponderance of the evidence.

19 (2)(A) With respect to a property interest in existence
20 at the time the illegal conduct giving rise to forfeiture took
21 place, the term "innocent owner" means an owner who—

22 (i) did not know of the conduct giving rise to for-
23 feiture; or

24 (ii) upon learning of the conduct giving rise to the
25 forfeiture, did all that reasonably could be expected
26 under the circumstances to terminate such use of the
27 property.

28 (B)(i) For the purposes of this paragraph, ways in
29 which a person may show that such person did all that rea-
30 sonably could be expected may include demonstrating that
31 such person, to the extent permitted by law—

32 (I) gave timely notice to an appropriate law en-
33 forcement agency of information that led the person to
34 know the conduct giving rise to a forfeiture would
35 occur or has occurred; and

36 (II) in a timely fashion revoked or made a good
37 faith attempt to revoke permission for those engaging

1 in such conduct to use the property or took reasonable
2 actions in consultation with a law enforcement agency
3 to discourage or prevent the illegal use of the property.

4 (ii) A person is not required by this subparagraph to
5 take steps that the person reasonably believes would be
6 likely to subject any person (other than the person whose
7 conduct gave rise to the forfeiture) to physical danger.

8 (3)(A) With respect to a property interest acquired
9 after the conduct giving rise to the forfeiture has taken
10 place, the term “innocent owner” means a person who, at
11 the time that person acquired the interest in the prop-
12 erty—

13 (i) was a bona fide purchaser or seller for value
14 (including a purchaser or seller of goods or services for
15 value); and

16 (ii) did not know and was reasonably without
17 cause to believe that the property was subject to for-
18 feiture.

19 (B) An otherwise valid claim under subparagraph (A)
20 shall not be denied on the ground that the claimant gave
21 nothing of value in exchange for the property if—

22 (i) the property is the primary residence of the
23 claimant;

24 (ii) depriving the claimant of the property would
25 deprive the claimant of the means to maintain reason-
26 able shelter in the community for the claimant and all
27 dependents residing with the claimant;

28 (iii) the property is not, and is not traceable to,
29 the proceeds of any criminal offense; and

30 (iv) the claimant acquired his or her interest in
31 the property through marriage, divorce, or legal separa-
32 tion, or the claimant was the spouse or legal dependent
33 of a person whose death resulted in the transfer of the
34 property to the claimant through inheritance or pro-
35 bate,

36 except that the court shall limit the value of any real prop-
37 erty interest for which innocent ownership is recognized

1 under this subparagraph to the value necessary to maintain
2 reasonable shelter in the community for such claimant and
3 all dependents residing with the claimant.

4 (4) Notwithstanding any provision of this subsection,
5 no person may assert an ownership interest under this sub-
6 section in contraband or other property that it is illegal to
7 possess.

8 (5) If the court determines, in accordance with this
9 section, that an innocent owner has a partial interest in
10 property otherwise subject to forfeiture, or a joint tenancy
11 or tenancy by the entirety in such property, the court may
12 enter an appropriate order—

13 (A) severing the property;

14 (B) transferring the property to the Government
15 with a provision that the Government compensate the
16 innocent owner to the extent of his or her ownership
17 interest once a final order of forfeiture has been en-
18 tered and the property has been reduced to liquid as-
19 sets; or

20 (C) permitting the innocent owner to retain the
21 property subject to a lien in favor of the Government
22 to the extent of the forfeitable interest in the property.

23 (6) In this subsection, the term “owner”—

24 (A) means a person with an ownership interest in
25 the specific property sought to be forfeited, including a
26 leasehold, lien, mortgage, recorded security interest, or
27 valid assignment of an ownership interest; and

28 (B) does not include—

29 (i) a person with only a general unsecured in-
30 terest in, or claim against, the property or estate
31 of another;

32 (ii) a bailee unless the bailor is identified and
33 the bailee shows a colorable legitimate interest in
34 the property seized; or

35 (iii) a nominee who exercises no dominion or
36 control over the property.

37 (e) MOTION TO SET ASIDE FORFEITURE.—

1 (1) Any person entitled to written notice in any non-
2 judicial civil forfeiture proceeding under a civil forfeiture
3 statute who does not receive such notice may file a motion
4 to set aside a declaration of forfeiture with respect to that
5 person's interest in the property, which motion shall be
6 granted if—

7 (A) the Government knew, or reasonably should
8 have known, of the moving party's interest and failed
9 to take reasonable steps to provide such party with no-
10 tice; and

11 (B) the moving party did not know or have reason
12 to know of the seizure within sufficient time to file a
13 timely claim.

14 (2)(A) Notwithstanding the expiration of any applica-
15 ble statute of limitations, if the court grants a motion
16 under paragraph (1), the court shall set aside the declara-
17 tion of forfeiture as to the interest of the moving party
18 without prejudice to the right of the Government to com-
19 mence a subsequent forfeiture proceeding as to the interest
20 of the moving party.

21 (B) Any proceeding described in subparagraph (A)
22 shall be commenced—

23 (i) if nonjudicial, within 60 days of the entry of
24 the order granting the motion; or

25 (ii) if judicial, within 6 months of the entry of the
26 order granting the motion.

27 (3) A motion under paragraph (1) may be filed not
28 later than 5 years after the date of final publication of no-
29 tice of seizure of the property.

30 (4) If, at the time a motion made under paragraph (1)
31 is granted, the forfeited property has been disposed of by
32 the Government in accordance with law, the Government
33 may institute proceedings against a substitute sum of
34 money equal to the value of the moving party's interest in
35 the property at the time the property was disposed of.

1 (5) A motion filed under this subsection shall be the
2 exclusive remedy for seeking to set aside a declaration of
3 forfeiture under a civil forfeiture statute.

4 (f) RELEASE OF SEIZED PROPERTY.—

5 (1) A claimant under subsection (a) is entitled to im-
6 mediate release of seized property if—

7 (A) the claimant has a possessory interest in the
8 property;

9 (B) the claimant has sufficient ties to the commu-
10 nity to provide assurance that the property will be
11 available at the time of the trial;

12 (C) the continued possession by the Government
13 pending the final disposition of forfeiture proceedings
14 will cause substantial hardship to the claimant, such as
15 preventing the functioning of a business, preventing an
16 individual from working, or leaving an individual home-
17 less;

18 (D) the claimant's likely hardship from the contin-
19 ued possession by the Government of the seized prop-
20 erty outweighs the risk that the property will be de-
21 stroyed, damaged, lost, concealed, or transferred if it is
22 returned to the claimant during the pendency of the
23 proceeding; and

24 (E) none of the conditions set forth in paragraph
25 (8) applies.

26 (2) A claimant seeking release of property under this
27 subsection must request possession of the property from
28 the appropriate official, and the request must set forth the
29 basis on which the requirements of paragraph (1) are met.

30 (3)(A) If not later than 15 days after the date of a
31 request under paragraph (2) the property has not been re-
32 leased, the claimant may file a petition in the district court
33 in which the complaint has been filed or, if no complaint
34 has been filed, in the district court in which the seizure
35 warrant was issued or in the district court for the district
36 in which the property was seized.

1 (B) The petition described in subparagraph (A) shall
2 set forth—

3 (i) the basis on which the requirements of para-
4 graph (1) are met; and

5 (ii) the steps the claimant has taken to secure re-
6 lease of the property from the appropriate official.

7 (4) If the Government establishes that the claimant's
8 claim is frivolous, the court shall deny the petition. In re-
9 sponding to a petition under this subsection on other
10 grounds, the Government may in appropriate cases submit
11 evidence ex parte in order to avoid disclosing any matter
12 that may adversely affect an ongoing criminal investigation
13 or pending criminal trial.

14 (5) The court shall render a decision on a petition
15 filed under paragraph (3) not later than 30 days after the
16 date of the filing, unless such 30-day limitation is extended
17 by consent of the parties or by the court for good cause
18 shown.

19 (6) If—

20 (A) a petition is filed under paragraph (3); and

21 (B) the claimant demonstrates that the require-
22 ments of paragraph (1) have been met,

23 the district court shall order that the property be returned
24 to the claimant, pending completion of proceedings by the
25 Government to obtain forfeiture of the property.

26 (7) If the court grants a petition under paragraph
27 (3)—

28 (A) the court may enter any order necessary to en-
29 sure that the value of the property is maintained while
30 the forfeiture action is pending, including—

31 (i) permitting the inspection, photographing,
32 and inventory of the property;

33 (ii) fixing a bond in accordance with rule E(5)
34 of the Supplemental Rules for Certain Admiralty
35 and Maritime Claims; and

36 (iii) requiring the claimant to obtain or main-
37 tain insurance on the subject property; and

1 (B) the Government may place a lien against the
2 property or file a lis pendens to ensure that the prop-
3 erty is not transferred to another person.

4 (8) This subsection shall not apply if the seized prop-
5 erty—

6 (A) is contraband, currency, or other monetary in-
7 strument, or electronic funds unless such currency or
8 other monetary instrument or electronic funds con-
9 stitutes the assets of a legitimate business which has
10 been seized;

11 (B) is to be used as evidence of a violation of the
12 law;

13 (C) by reason of design or other characteristic, is
14 particularly suited for use in illegal activities; or

15 (D) is likely to be used to commit additional crimi-
16 nal acts if returned to the claimant.

17 (g) PROPORTIONALITY.—

18 (1) The claimant under subsection (a)(4) may petition
19 the court to determine whether the forfeiture was constitu-
20 tionally excessive.

21 (2) In making this determination, the court shall com-
22 pare the forfeiture to the gravity of the offense giving rise
23 to the forfeiture.

24 (3) The claimant shall have the burden of establishing
25 that the forfeiture is grossly disproportional by a prepon-
26 derance of the evidence at a hearing conducted by the court
27 without a jury.

28 (4) If the court finds that the forfeiture is grossly dis-
29 proportional to the offense it shall reduce or eliminate the
30 forfeiture as necessary to avoid a violation of the Excessive
31 Fines Clause of the Eighth Amendment of the Constitu-
32 tion.

33 (h) CIVIL FINE.—

34 (1) In any civil forfeiture proceeding under a civil for-
35 feiture statute in which the Government prevails, if the
36 court finds that the claimant's assertion of an interest in
37 the property was frivolous, the court may impose a civil

1 fine on the claimant of an amount equal to 10 percent of
2 the value of the forfeited property, but in no event shall the
3 fine be less than \$250 or greater than \$5,000.

4 (2) Any civil fine imposed under this subsection shall
5 not preclude the court from imposing sanctions under rule
6 11 of the Federal Rules of Civil Procedure.

7 (3) In addition to the limitations of section 1915 of
8 title 28, United States Code, in no event shall a prisoner
9 file a claim under a civil forfeiture statute or appeal a judg-
10 ment in a civil action or proceeding based on a civil for-
11 feiture statute if the prisoner has, on three or more prior
12 occasions, while incarcerated or detained in any facility,
13 brought an action or appeal in a court of the United States
14 that was dismissed on the grounds that it is frivolous or
15 malicious, unless the prisoner shows extraordinary and ex-
16 ceptional circumstances.

17 (i) CIVIL FORFEITURE STATUTE DEFINED.—In this sec-
18 tion, the term “civil forfeiture statute”—

19 (1) means any provision of Federal law providing for
20 the forfeiture of property other than as a sentence imposed
21 upon conviction of a criminal offense; and

22 (2) does not include—

23 (A) the Tariff Act of 1930 or any other provision
24 of law codified in title 19;

25 (B) the Internal Revenue Code of 1986;

26 (C) the Federal Food, Drug, and Cosmetic Act
27 (21 U.S.C. 301 et seq.);

28 (D) the Trading with the Enemy Act (50 U.S.C.
29 App. 1 et seq.) or the International Emergency Eco-
30 nomic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.);
31 or

32 (E) section 1 of title VI of the Act of June 15,
33 1917 (40 Stat. 233; 22 U.S.C. 401).

34 (j) RESTRAINING ORDERS; PROTECTIVE ORDERS.—

35 (1) Upon application of the United States, the court
36 may enter a restraining order or injunction, require the
37 execution of satisfactory performance bonds, create receiv-

1 erships, appoint conservators, custodians, appraisers, ac-
2 countants, or trustees, or take any other action to seize, se-
3 cure, maintain, or preserve the availability of property sub-
4 ject to civil forfeiture—

5 (A) upon the filing of a civil forfeiture complaint
6 alleging that the property with respect to which the
7 order is sought is subject to civil forfeiture; or

8 (B) prior to the filing of such a complaint, if, after
9 notice to persons appearing to have an interest in the
10 property and opportunity for a hearing, the court de-
11 termines that—

12 (i) there is a substantial probability that the
13 United States will prevail on the issue of forfeiture
14 and that failure to enter the order will result in the
15 property being destroyed, removed from the juris-
16 diction of the court, or otherwise made unavailable
17 for forfeiture; and

18 (ii) the need to preserve the availability of the
19 property through the entry of the requested order
20 outweighs the hardship on any party against whom
21 the order is to be entered.

22 (2) An order entered pursuant to paragraph (1)(B)
23 shall be effective for not more than 90 days, unless ex-
24 tended by the court for good cause shown, or unless a com-
25 plaint described in paragraph (1)(A) has been filed.

26 (3) A temporary restraining order under this sub-
27 section may be entered upon application of the United
28 States without notice or opportunity for a hearing when a
29 complaint has not yet been filed with respect to the prop-
30 erty, if the United States demonstrates that there is prob-
31 able cause to believe that the property with respect to
32 which the order is sought is subject to civil forfeiture and
33 that provision of notice will jeopardize the availability of
34 the property for forfeiture. Such a temporary order shall
35 expire not more than 10 days after the date on which it
36 is entered, unless extended for good cause shown or unless
37 the party against whom it is entered consents to an exten-

1 sion for a longer period. A hearing requested concerning an
2 order entered under this paragraph shall be held at the ear-
3 liest possible time and prior to the expiration of the tem-
4 porary order.

5 (4) The court may receive and consider, at a hearing
6 held pursuant to this subsection, evidence and information
7 that would be inadmissible under the Federal Rules of Evi-
8 dence.

9 **§ 2554. Civil forfeiture of fungible property**

10 (a) GENERALLY.—

11 (1) In any forfeiture action in rem in which the sub-
12 ject property is cash, monetary instruments in bearer form,
13 funds deposited in an account in a financial institution or
14 precious metals—

15 (A) it shall not be necessary for the Government
16 to identify the specific property involved in the offense
17 that is the basis for the forfeiture; and

18 (B) it shall not be a defense that the property in-
19 volved in such an offense has been removed and re-
20 placed by identical property.

21 (2) Except as provided in subsection (b), any identical
22 property found in the same place or account as the property
23 involved in the offense that is the basis for the forfeiture shall
24 be subject to forfeiture under this section.

25 (b) LIMITATION.—No action pursuant to this section to
26 forfeit property not traceable directly to the offense that is the
27 basis for the forfeiture may be commenced more than 1 year
28 from the date of the offense.

29 (c) EXCEPTION.—

30 (1) Subsection (a) does not apply to an action against
31 funds held by a financial institution in an interbank ac-
32 count unless the account holder knowingly engaged in the
33 offense that is the basis for the forfeiture.

34 (2) In this subsection—

35 (A) the term “financial institution” includes a for-
36 eign bank (as defined in section 1(b)(7) of the Inter-

1 national Banking Act of 1978 (12 U.S.C. 3101(b)(7));
2 and

3 (B) the term “interbank account” means an ac-
4 count held by one financial institution at another finan-
5 cial institution primarily for the purpose of facilitating
6 customer transactions.

7 (d) DISCLAIMER.—Nothing in this section limits the abil-
8 ity of the Government to forfeit property under any provision
9 of law if the property involved in the offense giving rise to the
10 forfeiture or property traceable thereto is available for for-
11 feiture.

12 § 2555. Civil forfeiture of real property

13 (a) JUDICIAL FORFEITURES.—Notwithstanding any other
14 provision of law, all civil forfeitures of real property and inter-
15 ests in real property shall proceed as judicial forfeitures.

16 (b) PRELIMINARY MATTERS.—

17 (1) Except as provided in this section—

18 (A) real property that is the subject of a civil for-
19 feiture action shall not be seized before entry of an
20 order of forfeiture; and

21 (B) the owners or occupants of the real property
22 shall not be evicted from, or otherwise deprived of the
23 use and enjoyment of, real property that is the subject
24 of a pending forfeiture action.

25 (2) The filing of a lis pendens and the execution of a
26 writ of entry for the purpose of conducting an inspection
27 and inventory of the property shall not be considered a sei-
28 zure under this subsection.

29 (c) INITIATION.—

30 (1) The Government shall initiate a civil forfeiture ac-
31 tion against real property by—

32 (A) filing a complaint for forfeiture;

33 (B) posting a notice of the complaint on the prop-
34 erty; and

35 (C) serving notice on the property owner, along
36 with a copy of the complaint.

1 (2) If the property owner cannot be served with the
2 notice under paragraph (1) because the owner—

3 (A) is a fugitive;

4 (B) resides outside the United States and efforts
5 at service pursuant to rule 4 of the Federal Rules of
6 Civil Procedure are unavailing; or

7 (C) cannot be located despite the exercise of due
8 diligence,

9 constructive service may be made in accordance with the
10 laws of the State in which the property is located.

11 (3) If real property has been posted in accordance
12 with this subsection, it shall not be necessary for the court
13 to issue an arrest warrant in rem, or to take any other ac-
14 tion to establish in rem jurisdiction over the property.

15 (d) SEIZURE PRIOR TO ENTRY OF ORDER.—

16 (1) Real property may be seized prior to the entry of
17 an order of forfeiture if—

18 (A) the Government notifies the court that it in-
19 tends to seize the property before trial; and

20 (B) the court—

21 (i) issues a notice of application for warrant,
22 causes the notice to be served on the property
23 owner and posted on the property, and conducts a
24 hearing in which the property owner has a mean-
25 ingful opportunity to be heard; or

26 (ii) makes an ex parte determination that
27 there is probable cause for the forfeiture and that
28 there are exigent circumstances that permit the
29 Government to seize the property without prior no-
30 tice and an opportunity for the property owner to
31 be heard.

32 (2) For purposes of paragraph (1)(B)(ii), to establish
33 exigent circumstances, the Government shall show that less
34 restrictive measures such as a lis pendens, restraining
35 order, or bond would not suffice to protect the Govern-
36 ment's interests in preventing the sale, destruction, or con-
37 tinued unlawful use of the real property.

1 (e) POST-SEIZURE HEARING.—If the court authorizes a
2 seizure of real property under subsection (d)(1)(B)(ii), it shall
3 conduct a prompt post-seizure hearing during which the prop-
4 erty owner shall have an opportunity to contest the basis for
5 the seizure.

6 (f) APPLICATION.—This section—

7 (1) applies only to civil forfeitures of real property and
8 interests in real property;

9 (2) does not apply to forfeitures of the proceeds of the
10 sale of such property or interests, or of money or other as-
11 sets intended to be used to acquire such property or inter-
12 ests; and

13 (3) shall not affect the authority of the court to enter
14 a restraining order relating to real property.

15 **§ 2556. Subpoenas for bank records**

16 (a) IN GENERAL.—At any time after the commencement
17 of any action for forfeiture in rem brought by the United
18 States under section 1451, 1452, and 508 of this title, section
19 5322 or 5324 of title 31, United States Code, or the Controlled
20 Substances Act, any party may request the Clerk of the Court
21 in the district in which the proceeding is pending to issue a
22 subpoena duces tecum to any financial institution, as defined
23 in section 5312(a) of title 31, United States Code, to produce
24 books, records and any other documents at any place des-
25 ignated by the requesting party. All parties to the proceeding
26 shall be notified of the issuance of any such subpoena. The pro-
27 cedures and limitations set forth in section 2555 of this title
28 shall apply to subpoenas issued under this section.

29 (b) SERVICE.—Service of a subpoena issued pursuant to
30 this section shall be by certified mail. Records produced in re-
31 sponse to such a subpoena may be produced in person or by
32 mail, common carrier, or such other method as may be agreed
33 upon by the party requesting the subpoena and the custodian
34 of records. The party requesting the subpoena may require the
35 custodian of records to submit an affidavit certifying the au-
36 thenticity and completeness of the records and explaining the
37 omission of any record called for in the subpoena.

1 (c) DISCOVERY.—Nothing in this section shall preclude
2 any party from pursuing any form of discovery pursuant to the
3 Federal Rules of Civil Procedure.

4 (d) ACCESS TO RECORDS IN BANK SECRECY JURISDIC-
5 TIONS.—

6 (1) IN GENERAL.—In any civil forfeiture case, or in
7 any ancillary proceeding in any criminal forfeiture case
8 governed by section 413(n) of the Controlled Substances
9 Act (21 U.S.C. 853(n)), in which—

10 (A) financial records located in a foreign country
11 may be material—

12 (i) to any claim or to the ability of the Govern-
13 ment to respond to such claim; or

14 (ii) in a civil forfeiture case, to the ability of
15 the Government to establish the forfeitability of the
16 property; and

17 (B) it is within the capacity of the claimant to
18 waive the claimant's rights under applicable financial
19 secrecy laws, or to obtain the records so that such
20 records can be made available notwithstanding such se-
21 crecy laws,

22 the refusal of the claimant to provide the records in re-
23 sponse to a discovery request or to take the action nec-
24 essary otherwise to make the records available shall be
25 grounds for judicial sanctions, up to and including dis-
26 missal of the claim with prejudice.

27 (2) PRIVILEGE.—This subsection shall not affect the
28 right of the claimant to refuse production on the basis of
29 any privilege guaranteed by the Constitution of the United
30 States or any other provision of Federal law.

31 SUBCHAPTER C—CRIMINAL FORFEITURE

Sec.

2561. Offenses giving rise to criminal forfeiture.

2562. Procedures for criminal forfeiture.

32 § 2561. Offenses giving rise to criminal forfeiture

33 (a) PROPERTY FORFEITED AT TIME OF SENTENCE.—The
34 court, when imposing a sentence on a defendant convicted of

1 an offense described in subsection (b), shall order the defend-
2 ant forfeit to the United States all forfeitable property (as de-
3 fined in section 37) related to the offense.

4 (b) OFFENSES FOR WHICH CRIMINAL FORFEITURE IS TO
5 BE ORDERED.—The offenses for which criminal forfeiture shall
6 occur under this section are the following:

7 (1) a violation of section 508, 1451, or 1452.

8 (2) a violation of, or a conspiracy to violate—

9 (A) section 644, 645, 773-775, 779, 801, 803,
10 804, or 1003, affecting a financial institution, or

11 (B) section 614, 692-695, 697-702, 712, 717,
12 781, 783, 784, 861, 862, or 863;

13 (C) section 654(a)(1) (relating to Federal program
14 fraud);

15 (D) section 772 (relating to fraud and false state-
16 ments);

17 (E) section 788 (relating to major fraud against
18 the United States);

19 (F) section 789 (relating to concealment of assets
20 from conservator, receiver, or liquidating agent of in-
21 sured financial institution);

22 (G) section 801 (relating to mail fraud); or

23 (H) section 803 (relating to wire fraud),

24 involving the sale of assets acquired or held by the Resolu-
25 tion Trust Corporation, the Federal Deposit Insurance Cor-
26 poration, as conservator or receiver for a financial institu-
27 tion or any other conservator for a financial institution ap-
28 pointed by the Office of the Comptroller of the Currency
29 or the Office of Thrift Supervision, or the National Credit
30 Union Administration, as conservator or liquidating agent
31 for a financial institution, shall order that the person for-
32 feit to the United States any property, real or personal,
33 which represents or is traceable to the gross receipts ob-
34 tained, directly or indirectly, as a result of such violation.

35 (5) a violation of—

36 (A) section 718 (altering or removing motor vehi-
37 cle identification numbers);

1 (B) section 866 (importing or exporting stolen
2 motor vehicles);

3 (C) section 671 (transporting stolen motor vehicles
4 in interstate commerce); or

5 (D) section 672 (possessing or selling a stolen
6 motor vehicle that has moved in interstate commerce);

7 (6) a violation of, or conspiracy to violate, section
8 274(a), 274A(a)(1), or 274A(a)(2) of the Immigration and
9 Nationality Act or sections 311-316 of this title, or a viola-
10 tion of, or conspiracy to violate, section 783 of this title if
11 committed in connection with passport or visa issuance or
12 use

13 (7) a Federal health care offense.

14 (8) an offense under section 783, 786, 801, 802, 807,
15 or 804.

16 (9) an offense under section 213, 221 or 222.

17 (10) a violation of section 301, 302, 303, or 320.

18 (11) a violation of chapter 17.

19 (12) a violation of section 631.

20 (13) a violation of section 783, 786, or 794.

21 (14) a violation of section 1307.

22 (15) a violation of subchapter C of chapter 35.

23 **§ 2562. Procedures for criminal forfeiture**

24 (a) APPLICATION OF PROCEDURES.—Unless otherwise
25 provided by law, the procedures set forth in this section govern
26 any criminal forfeiture under a law of the United States.

27 (b) THIRD PARTY TRANSFERS.—All right, title, and inter-
28 est in forfeitable vests in the United States upon the commis-
29 sion of the act giving rise to forfeiture under this subchapter.
30 Any such property that is subsequently transferred to a person
31 other than the defendant may be the subject of a special verdict
32 of forfeiture and thereafter shall be ordered forfeited to the
33 United States, unless the transferee establishes in a hearing
34 pursuant to subsection (n) that the transferee is a bona fide
35 purchaser for value of such property who at the time of pur-
36 chase was reasonably without cause to believe that the property
37 was subject to forfeiture under this section.

1 (c) REBUTTABLE PRESUMPTION.—There is a rebuttable
2 presumption at trial that any property of a person convicted of
3 a felony under chapter 17 is subject to forfeiture under this
4 section if the United States establishes by a preponderance of
5 the evidence that—

6 (1) such property was acquired by such person during
7 the period of the violation or within a reasonable time after
8 such period; and

9 (2) there was no likely source for such property other
10 than the violation

11 (d) PROTECTIVE ORDERS.—

12 (1) WHEN ISSUED.—Upon application of the United
13 States, the court may enter a restraining order or injunc-
14 tion, require the execution of a satisfactory performance
15 bond, or take any other action to preserve the availability
16 of property for forfeiture under this section—

17 (A) upon the filing of an indictment or information
18 charging a violation for which criminal forfeiture may be
19 ordered under this section and alleging that the property
20 with respect to which the order is sought would, in the
21 event of conviction, be subject to forfeiture under this sec-
22 tion; or

23 (B) prior to the filing of such an indictment or infor-
24 mation, if, after notice to persons appearing to have an in-
25 terest in the property and opportunity for a hearing, the
26 court determines that—

27 (i) there is a substantial probability that the
28 United States will prevail on the issue of forfeiture and
29 that failure to enter the order will result in the prop-
30 erty being destroyed, removed from the jurisdiction of
31 the court, or otherwise made unavailable for forfeiture;
32 and

33 (ii) the need to preserve the availability of the
34 property through the entry of the requested order out-
35 weighs the hardship on any party against whom the
36 order is to be entered.

1 (2) LENGTH.—An order entered pursuant to paragraph
2 (1)(B) shall be effective for not more than 90 days, unless ex-
3 tended by the court for good cause shown or unless an indict-
4 ment or information described in paragraph (1)(A) has been
5 filed.

6 (3) EX PARTE.—A temporary restraining order under this
7 subsection may be entered upon application of the United
8 States without notice or opportunity for a hearing when an in-
9 formation or indictment has not yet been filed with respect to
10 the property, if the United States demonstrates that there is
11 probable cause to believe that the property with respect to
12 which the order is sought would, in the event of conviction, be
13 subject to forfeiture under this section and that provision of
14 notice will jeopardize the availability of the property for for-
15 feiture. Such a temporary order shall expire not more than ten
16 days after the date on which it is entered, unless extended for
17 good cause shown or unless the party against whom it is en-
18 tered consents to an extension for a longer period. A hearing
19 requested concerning an order entered under this paragraph
20 shall be held at the earliest possible time and prior to the expi-
21 ration of the temporary order.

22 (4) EVIDENCE.—The court may receive and consider, at a
23 hearing held pursuant to this subsection, evidence and informa-
24 tion that would be inadmissible under the Federal Rules of Evi-
25 dence.

26 (5) ORDER TO REPATRIATE AND DEPOSIT.—

27 (A) IN GENERAL.—Pursuant to its authority to
28 enter a pretrial restraining order under this section, the
29 court may order a defendant to repatriate any property
30 that may be seized and forfeited, and to deposit that
31 property pending trial in the registry of the court, or
32 with the United States Marshals Service or the Sec-
33 retary of the Treasury, in an interest-bearing account,
34 if appropriate.

35 (B) FAILURE TO COMPLY.—Failure to comply
36 with an order under this subsection, or an order to re-
37 patriate property under subsection (o), shall be punish-

1 able as a civil or criminal contempt of court, and may
2 also result in an enhancement of the sentence of the
3 defendant under the obstruction of justice provision of
4 the Federal Sentencing Guidelines.

5 (e) WARRANT OF SEIZURE.—The Government may re-
6 quest the issuance of a warrant authorizing the seizure of prop-
7 erty subject to forfeiture under this section in the same manner
8 as provided for a search warrant. If the court determines that
9 there is probable cause to believe that the property to be seized
10 would, in the event of conviction, be subject to forfeiture and
11 that an order under subsection (d) may not be sufficient to as-
12 sure the availability of the property for forfeiture, the court
13 shall issue a warrant authorizing the seizure of such property.

14 (f) EXECUTION.—Upon entry of an order of forfeiture
15 under this section, the court shall authorize the Attorney Gen-
16 eral to seize all property ordered forfeited upon such terms and
17 conditions as the court shall deem proper. Following entry of
18 an order declaring the property forfeited, the court may, upon
19 application of the United States, enter such appropriate re-
20 straining orders or injunctions, require the execution of satis-
21 factory performance bonds, appoint receivers, conservators, ap-
22 praisers, accountants, or trustees, or take any other action to
23 protect the interest of the United States in the property or-
24 dered forfeited. Any income accruing to or derived from prop-
25 erty ordered forfeited under this section may be used to offset
26 ordinary and necessary expenses to the property which are re-
27 quired by law, or which are necessary to protect the interests
28 of the United States or third parties.

29 (g) DISPOSITION OF PROPERTY.—Following the seizure of
30 property ordered forfeited under this section, the Attorney Gen-
31 eral shall direct the disposition of the property by sale of any
32 other any other commercially feasible means, making due provi-
33 sion for the rights of any innocent persons. Any property right
34 or interest not exercisable by, or transferable for value to, the
35 United States shall expire and shall not revert to the defend-
36 ant, nor shall the defendant or any person acting in concert
37 with or on the behalf of the defendant be eligible to purchase

1 forfeited property at any sale held by the United States. Upon
2 application of a person, other than the defendant or a person
3 acting in concert with or on the behalf of the defendant, the
4 court may restrain or stay the sale or disposition of the prop-
5 erty pending the conclusion of any appeal of the criminal case
6 giving rise to the forfeiture, if the applicant demonstrates that
7 proceeding with the sale or disposition of the property will re-
8 sult in irreparable injury, harm, or loss to the applicant.

9 (h) AUTHORITY OF THE ATTORNEY GENERAL.—With re-
10 spect to property ordered forfeited under this section, the At-
11 torney General is authorized to—

12 (1) grant petitions for mitigation or remission of for-
13 feiture, restore forfeited property to victims of a violation,
14 or take any other action to protect the rights of innocent
15 persons which is in the interest of justice and which is not
16 inconsistent with the provisions of this section;

17 (2) compromise claims arising under this section;

18 (3) award compensation to persons providing informa-
19 tion resulting in a forfeiture under this section;

20 (4) direct the disposition by the United States, in ac-
21 cordance with section 511(e) of the Controlled Substances
22 Act, of all property ordered forfeited under this section by
23 public sale or any other commercially feasible means, mak-
24 ing due provision for the rights of innocent persons; and

25 (5) take appropriate measures necessary to safeguard
26 and maintain property ordered forfeited under this section
27 pending its disposition.

28 (i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—
29 Except to the extent that they are inconsistent with this sec-
30 tion, section 511(d) of the Controlled Substances Act applies
31 to a criminal forfeiture under this section.

32 (j) BAR ON INTERVENTION.—Except as provided in sub-
33 section (m), no party claiming an interest in property subject
34 to forfeiture under this section may—

35 (1) intervene in a trial or appeal of a criminal case in-
36 volving the forfeiture of such property under this section;
37 or

1 (2) commence an action at law or equity against the
2 United States concerning the validity of his alleged interest
3 in the property subsequent to the filing of an indictment
4 or information alleging that the property in subject to for-
5 feiture under this section.

6 (k) JURISDICTION TO ENTER ORDERS.—The district
7 courts of the United States shall have jurisdiction to enter or-
8 ders as provided in this section without regard to the location
9 of any property which may be subject to forfeiture under this
10 section or which has been ordered forfeited under this section.

11 (l) DEPOSITIONS.—In order to facilitate the identification
12 and location of property declared forfeited and to facilitate the
13 disposition of petitions for remission or mitigation of forfeiture,
14 after the entry of an order declaring property forfeited to the
15 United States, the court may, upon application of the United
16 States, order that the testimony of any witness relating to the
17 property forfeited be taken by deposition and that any des-
18 ignated book, paper, document, record, recording, or other ma-
19 terial not privileged be produced at the same time any place,
20 in the same manner as provided for the taking of depositions
21 under Rule 15 of the Federal Rules of Criminal Procedure.

22 (m) THIRD PARTY INTERESTS.—(1) Following the entry
23 of an order of forfeiture under this section, the United States
24 shall publish notice of the order and of its intent to dispose of
25 the property in such manner as the Attorney General may di-
26 rect. The Government may also, to the extent practicable, pro-
27 vide direct written notice to any person known to have alleged
28 an interest in the property that is the subject of the order of
29 forfeiture as a substitute for published notice as to those per-
30 sons so notified.

31 (2) Any person, other than the defendant, asserting a legal
32 interest in property which has been ordered forfeited to the
33 United States pursuant to this section may, within thirty days
34 of the final publication of notice or his receipt of notice under
35 paragraph (1), whichever is earlier, petition the court for a
36 hearing to adjudicate the validity of his alleged interest in the

1 property. The hearing shall be held before the court alone,
2 without a jury.

3 (3) The petition shall be signed by the petitioner under
4 penalty of perjury and shall set forth the nature and extent of
5 the petitioner's right, title, or interest in the property, the time
6 and circumstances of the petitioner's acquisition of the right,
7 title, or interest in the property, and additional facts sup-
8 porting the petitioner's claim, and the relief sought.

9 (4) The hearing on the petition shall, to the extent prac-
10 ticable and consistent with the interests of justice, be held with-
11 in thirty days of the filing of the petition. The court may con-
12 solidate the hearing on the petition with a hearing on any other
13 petition filed by a person other than the defendant under this
14 subsection.

15 (5) At the hearing, the petitioner may testify and present
16 evidence and witnesses on his own behalf, and cross-examine
17 witnesses who appear at the hearing. The United States may
18 present evidence and witnesses in rebuttal and in defense of
19 this claim to the property and cross-examine witnesses who ap-
20 pear at the hearing, the court shall consider the relevant por-
21 tions of the record of the criminal case which resulted in the
22 order of forfeiture.

23 (6) If, after the hearing, the court determines that the pe-
24 titioner has established by a preponderance of the evidence
25 that—

26 (A) the petitioner has a legal right, title, or interest
27 in the property, and such right, title, or interest renders
28 the order of forfeiture invalid in whole or in part because
29 the right, title, or interest was vested in the petitioner rath-
30 er than the defendant or was superior to any right, title,
31 or interest of the defendant at the time of the commission
32 of the acts which gave rise to the forfeiture of the property
33 under the section; or

34 (B) the petitioner is a bona fide purchaser for value
35 of the right, title, or interest in the property and was at
36 the time of purchase reasonably without cause to believe

1 that the property was subject to forfeiture under this sec-
2 tion;
3 the court shall amend the order of forfeiture in accordance with
4 its determination.

5 (7) Following the court's disposition of all petitions filed
6 under this subsection, or if no such petitions are filed following
7 the expiration of the period provided in paragraph (2) for the
8 filing of such petitions, the United States shall have clear title
9 to property that is the subject of the order of forfeiture and
10 may warrant good title to any subsequent purchaser or trans-
11 feree.

12 (n) RULE OF CONSTRUCTION.—This section shall be lib-
13 erally construed to effectuate its remedial purposes.

14 (o) FORFEITURE OF SUBSTITUTE PROPERTY.—

15 (1) IN GENERAL.—Paragraph (2) of this subsection
16 shall apply, if any property described in subsection (a), as
17 a result of any act or omission of the defendant—

18 (A) cannot be located upon the exercise of due dili-
19 gence;

20 (B) has been transferred or sold to, or deposited
21 with, a third party;

22 (C) has been placed beyond the jurisdiction of the
23 court;

24 (D) has been substantially diminished in value; or

25 (E) has been commingled with other property
26 which cannot be divided without difficulty.

27 (2) SUBSTITUTE PROPERTY.—In any case described in
28 any of subparagraphs (A) through (E) of paragraph (1),
29 the court shall order the forfeiture of any other property
30 of the defendant, up to the value of any property described
31 in subparagraphs (A) through (E) of paragraph (1), as ap-
32 plicable.

33 (3) RETURN OF PROPERTY TO JURISDICTION.—In the
34 case of property described in paragraph (1)(C), the court
35 may, in addition to any other action authorized by this sub-
36 section, order the defendant to return the property to the

1 jurisdiction of the court so that the property may be seized
2 and forfeited.

3 (4) LIMITATION.—This subsection shall not be used to
4 order a defendant to forfeit assets in place of the actual
5 property laundered where such defendant acted merely as
6 an intermediary who handled but did not retain the prop-
7 erty in the course of the money laundering offense unless
8 the defendant, in committing the offense or offenses giving
9 rise to the forfeiture, conducted three or more separate
10 transactions involving a total of \$100,000 or more in any
11 twelve month period.

12 (p) SPECIAL RESTITUTION.—The court, when sentencing
13 a defendant convicted of an offense under chapter 17 involving
14 the manufacture, the possession, or the possession with intent
15 to distribute, of amphetamine or methamphetamine, shall—

16 (1) order restitution as provided in sections 3612 and
17 3664;

18 (2) order the defendant to reimburse the United
19 States, the State or local government concerned, or both
20 the United States and the State or local government con-
21 cerned for the costs incurred by the United States or the
22 State or local government concerned, as the case may be,
23 for the cleanup associated with the manufacture of amphet-
24 amine or methamphetamine by the defendant, or on prem-
25 ises or in property that the defendant owns, resides, or
26 does business in; and

27 (3) order restitution to any person injured as a result
28 of the offense as provided in section 3663A.

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