

***In the House of Representatives, U. S.,***

*September 29, 2010.*

*Resolved*, That the bill from the Senate (S. 3397) entitled “An Act to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Secure and Responsible*  
3 *Drug Disposal Act of 2010”.*

4 ***SEC. 2. FINDINGS.***

5 *Congress finds the following:*

6 *(1) The nonmedical use of prescription drugs is*  
7 *a growing problem in the United States, particularly*  
8 *among teenagers.*

9 *(2) According to the Department of Justice’s*  
10 *2009 National Prescription Drug Threat Assess-*  
11 *ment—*

12 *(A) the number of deaths and treatment ad-*  
13 *missions for controlled prescription drugs*

1           *(CPDs) has increased significantly in recent*  
2           *years;*

3           *(B) unintentional overdose deaths involving*  
4           *prescription opioids, for example, increased 114*  
5           *percent from 2001 to 2005, and the number of*  
6           *treatment admissions for prescription opioids in-*  
7           *creased 74 percent from 2002 to 2006; and*

8           *(C) violent crime and property crime asso-*  
9           *ciated with abuse and diversion of CPDs has in-*  
10          *creased in all regions of the United States over*  
11          *the past 5 years.*

12          *(3) According to the Office of National Drug*  
13          *Control Policy's 2008 Report "Prescription for Dan-*  
14          *ger", prescription drug abuse is especially on the rise*  
15          *for teens—*

16                *(A) one-third of all new abusers of prescrip-*  
17                *tion drugs in 2006 were 12- to 17-year-olds;*

18                *(B) teens abuse prescription drugs more*  
19                *than any illicit drug except marijuana—more*  
20                *than cocaine, heroin, and methamphetamine*  
21                *combined; and*

22                *(C) responsible adults are in a unique posi-*  
23                *tion to reduce teen access to prescription drugs*  
24                *because the drugs often are found in the home.*

1           (4)(A) *Many State and local law enforcement*  
2 *agencies have established drug disposal programs*  
3 *(often called “take-back” programs) to facilitate the*  
4 *collection and destruction of unused, unwanted, or ex-*  
5 *pired medications. These programs help get outdated*  
6 *or unused medications off household shelves and out*  
7 *of the reach of children and teenagers.*

8           (B) *However, take-back programs often cannot*  
9 *dispose of the most dangerous pharmaceutical*  
10 *drugs—controlled substance medications—because*  
11 *Federal law does not permit take-back programs to*  
12 *accept controlled substances unless they get specific*  
13 *permission from the Drug Enforcement Administra-*  
14 *tion and arrange for full-time law enforcement offi-*  
15 *cers to receive the controlled substances directly from*  
16 *the member of the public who seeks to dispose of them.*

17           (C) *Individuals seeking to reduce the amount of*  
18 *unwanted controlled substances in their household*  
19 *consequently have few disposal options beyond dis-*  
20 *carding or flushing the substances, which may not be*  
21 *appropriate means of disposing of the substances.*  
22 *Drug take-back programs are also a convenient and*  
23 *effective means for individuals in various commu-*  
24 *nities to reduce the introduction of some potentially*

1        *harmful substances into the environment, particularly*  
2        *into water.*

3                *(D) Long-term care facilities face a distinct set*  
4        *of obstacles to the safe disposal of controlled sub-*  
5        *stances due to the increased volume of controlled sub-*  
6        *stances they handle.*

7                *(5) This Act gives the Attorney General author-*  
8        *ity to promulgate new regulations, within the frame-*  
9        *work of the Controlled Substances Act, that will allow*  
10       *patients to deliver unused pharmaceutical controlled*  
11       *substances to appropriate entities for disposal in a*  
12       *safe and effective manner consistent with effective*  
13       *controls against diversion.*

14               *(6) The goal of this Act is to encourage the Attor-*  
15       *ney General to set controlled substance diversion pre-*  
16       *vention parameters that will allow public and private*  
17       *entities to develop a variety of methods of collection*  
18       *and disposal of controlled substances, including some*  
19       *pharmaceuticals, in a secure, convenient, and respon-*  
20       *sible manner. This will also serve to reduce instances*  
21       *of diversion and introduction of some potentially*  
22       *harmful substances into the environment.*

1 **SEC. 3. DELIVERY OF CONTROLLED SUBSTANCES BY ULTI-**  
2 **MATE USERS FOR DISPOSAL.**

3 (a) *REGULATORY AUTHORITY.*—Section 302 of the  
4 *Controlled Substances Act (21 U.S.C. 822)* is amended by  
5 *adding at the end the following:*

6 “(g)(1) *An ultimate user who has lawfully obtained*  
7 *a controlled substance in accordance with this title may,*  
8 *without being registered, deliver the controlled substance to*  
9 *another person for the purpose of disposal of the controlled*  
10 *substance if—*

11 “(A) *the person receiving the controlled substance*  
12 *is authorized under this title to engage in such activ-*  
13 *ity; and*

14 “(B) *the disposal takes place in accordance with*  
15 *regulations issued by the Attorney General to prevent*  
16 *diversion of controlled substances.*

17 “(2) *In developing regulations under this subsection,*  
18 *the Attorney General shall take into consideration the pub-*  
19 *lic health and safety, as well as the ease and cost of program*  
20 *implementation and participation by various communities.*  
21 *Such regulations may not require any entity to establish*  
22 *or operate a delivery or disposal program.*

23 “(3) *The Attorney General may, by regulation, author-*  
24 *ize long-term care facilities, as defined by the Attorney Gen-*  
25 *eral by regulation, to dispose of controlled substances on*  
26 *behalf of ultimate users who reside, or have resided, at such*

1 *long-term care facilities in a manner that the Attorney Gen-*  
 2 *eral determines will provide effective controls against diver-*  
 3 *sion and be consistent with the public health and safety.*

4       “(4) *If a person dies while lawfully in possession of*  
 5 *a controlled substance for personal use, any person lawfully*  
 6 *entitled to dispose of the decedent’s property may deliver*  
 7 *the controlled substance to another person for the purpose*  
 8 *of disposal under the same conditions as provided in para-*  
 9 *graph (1) for an ultimate user.”.*

10       **(b) CONFORMING AMENDMENT.**—*Section 308(b) of the*  
 11 *Controlled Substances Act (21 U.S.C. 828(b)) is amended—*

12               (1) *by striking the period at the end of para-*  
 13 *graph (2) and inserting “; or”; and*

14               (2) *by adding at the end the following:*

15               “(3) *the delivery of such a substance for the pur-*  
 16 *pose of disposal by an ultimate user, long-term care*  
 17 *facility, or other person acting in accordance with*  
 18 *section 302(g).”.*

19 **SEC. 4. DIRECTIVE TO THE UNITED STATES SENTENCING**  
 20 **COMMISSION.**

21       *Pursuant to its authority under section 994 of title*  
 22 *28, United States Code, the United States Sentencing Com-*  
 23 *mission shall review and, if appropriate, amend the Federal*  
 24 *sentencing guidelines and policy statements to ensure that*  
 25 *the guidelines and policy statements provide an appro-*

1 *prate penalty increase of up to 2 offense levels above the*  
2 *sentence otherwise applicable in Part D of the Guidelines*  
3 *Manual if a person is convicted of a drug offense resulting*  
4 *from the authorization of that person to receive scheduled*  
5 *substances from an ultimate user or long-term care facility*  
6 *as set forth in the amendments made by section 3.*

Attest:

*Clerk.*

**S. 3397**

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**AMENDMENT**