

Union Calendar No. 385

112TH CONGRESS
2^D SESSION

H. R. 3668

[Report No. 112-537]

To prevent trafficking in counterfeit drugs.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2011

Mr. MEEHAN (for himself and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 18, 2012

Additional sponsors: Mr. SCHOCK, Mr. GENE GREEN of Texas, Mr. CRAVAACK, Mrs. LUMMIS, Mr. GERLACH, Mr. YODER, Mr. STIVERS, Mr. CULBERSON, Mr. SMITH of New Jersey, Mr. KING of New York, Mr. McCAUL, Mr. DANIEL E. LUNGREN of California, Mr. GOWDY, Mr. ROSKAM, Mr. TIPTON, Mr. WHITFIELD, Mr. MARINO, Mr. JOHNSON of Ohio, Mr. KELLY, Mr. BARLETTA, Mr. ISSA, Mr. YOUNG of Florida, Mr. KINZINGER of Illinois, Mr. GRIMM, Mr. GUTHRIE, Mr. BURGESS, Mr. BARROW, Mr. CARSON of Indiana, Mr. COURTNEY, Mrs. DAVIS of California, Mr. LUJÁN, and Mr. CROWLEY

JUNE 18, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To prevent trafficking in counterfeit drugs.

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 “Counterfeit Drug Pen-
 5 alty Enhancement Act of 2011”.

6 **SEC. 2. COUNTERFEIT DRUG PREVENTION.**

7 Section 2320(a) of title 18, United States Code, is
 8 amended—

9 (1) by redesignating paragraph (2) as para-
 10 graph (3);

11 (2) by inserting after paragraph (1) the fol-
 12 lowing:

13 “(2) COUNTERFEIT DRUGS.—

14 “(A) IN GENERAL.—Whoever commits an
 15 offense in violation of paragraph (1) with re-
 16 spect to a drug (as defined in section 201 of the
 17 Federal Food, Drug, and Cosmetic Act (21
 18 U.S.C. 321)) shall—

19 “(i) if an individual, be fined not more
 20 than \$4,000,000, imprisoned for not more
 21 than 20 years, or both; and

22 “(ii) if a person other than an indi-
 23 vidual, be fined not more than
 24 \$10,000,000.

1 “(B) MULTIPLE OFFENSES.—In the case
 2 of an offense by a person under this paragraph
 3 that occurs after that person is convicted of an-
 4 other offense under this paragraph, the person
 5 convicted—

6 “(i) if an individual, shall be fined not
 7 more than \$8,000,000, imprisoned for not
 8 more than 20 years, or both; and

9 “(ii) if other than an individual, shall
 10 be fined not more than \$20,000,000.”; and

11 (3) in paragraph (3)(B), as redesignated, by
 12 striking “paragraph (1)” and inserting “paragraph
 13 (1) or (2)”.

14 **SEC. 3. RULE OF CONSTRUCTION.**

15 Nothing in this Act, or the amendments made by this
 16 Act, shall be construed to apply to a drug (as defined in
 17 section 201 of the Federal Food, Drug, and Cosmetic Act
 18 (21 U.S.C. 321)) solely because the drug is manufactured
 19 in or imported from a foreign country.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Counterfeit Drug Pen-*
 22 *alty Enhancement Act of 2012”.*

23 **SEC. 2. COUNTERFEIT DRUG PENALTY ENHANCEMENT.**

24 (a) OFFENSE.—Section 2320(a) of title 18, United
 25 States Code, is amended—

1 (1) *by striking “or” at the end of paragraph (2);*

2 (2) *by inserting “or” at the end of paragraph*

3 (3);

4 (3) *by inserting after paragraph (3) the fol-*
5 *lowing:*

6 “(4) *imports, exports, or traffics in a counterfeit*
7 *drug,*”; and

8 (4) *by striking “through (3)” and inserting*
9 *“through (4)”.*

10 (b) *PENALTIES.—Section 2320(b)(3) of title 18, United*
11 *States Code, is amended—*

12 (1) *in the heading, by inserting “AND COUNTER-*
13 *FEIT DRUGS” after “SERVICES”; and*

14 (2) *by inserting “or counterfeit drug” after*
15 *“service”.*

16 (c) *DEFINITION.—Section 2320(f) of title 18, United*
17 *States Code, is amended—*

18 (1) *by striking “and” at the end of paragraph*
19 (4);

20 (2) *by striking the period at the end of para-*
21 *graph (5) and inserting “; and”; and*

22 (3) *by adding at the end the following:*

23 “(6) *the term ‘counterfeit drug’ has the meaning*
24 *given that term in section 201 of the Federal Food,*
25 *Drug, and Cosmetic Act.*”.

1 (d) *PRIORITY GIVEN TO CERTAIN INVESTIGATIONS*
2 *AND PROSECUTIONS.*—*The Attorney General shall give in-*
3 *creased priority to efforts to investigate and prosecute of-*
4 *fenses under section 2320 of title 18, United States Code,*
5 *that involve counterfeit drugs.*

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