

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 2118

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006, and to combat methamphetamine abuse.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 15, 2005

Mr. SUNUNU (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. OBAMA, Ms. MURKOWSKI, Mr. HAGEL, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the USA PATRIOT ACT to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006, and to combat methamphetamine abuse.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **TITLE I—EXTENSION OF SUNSET**  
 2 **OF CERTAIN PROVISIONS OF**  
 3 **THE USA PATRIOT ACT AND**  
 4 **THE LONE WOLF PROVISION**  
 5 **OF THE INTELLIGENCE RE-**  
 6 **FORM AND TERRORISM PRE-**  
 7 **VENTION ACT OF 2004**

8 **SECTION 101. EXTENSION OF SUNSET OF CERTAIN PROVI-**  
 9 **SIONS OF THE USA PATRIOT ACT AND THE**  
 10 **LONE WOLF PROVISION OF THE INTEL-**  
 11 **LIGENCE REFORM AND TERRORISM PREVEN-**  
 12 **TION ACT OF 2004.**

13 Section 224(a) of the Uniting and Strengthening  
 14 America by Providing Appropriate Tools Required to  
 15 Intercept and Obstruct Terrorism (USA PATRIOT ACT)  
 16 Act of 2001 (Public Law 107–56; 115 Stat. 295) is  
 17 amended by striking “December 31, 2005” and inserting  
 18 “March 31, 2006”.

19 **TITLE II—COMBAT METH-**  
 20 **AMPHETAMINE EPIDEMIC**  
 21 **ACT OF 2005**

22 **SEC. 201. SHORT TITLE.**

23 This title may be cited as the “Combat Methamphet-  
 24 amine Epidemic Act of 2005”.

1 **Subtitle A—Domestic Regulation of**  
2 **Precursor Chemicals**

3 **SEC. 211. SCHEDULED LISTED CHEMICAL PRODUCTS; RE-**  
4 **STRICTIONS ON SALES QUANTITY, BEHIND-**  
5 **THE-COUNTER ACCESS, AND OTHER SAFE-**  
6 **GUARDS.**

7 (a) SCHEDULED LISTED CHEMICAL PRODUCTS.—

8 (1) IN GENERAL.—Section 102 of the Con-  
9 trolled Substances Act (21 U.S.C. 802) is amend-  
10 ed—

11 (A) by redesignating paragraph (46) as  
12 paragraph (49); and

13 (B) by inserting after paragraph (44) the  
14 following paragraphs:

15 “(45)(A) The term ‘scheduled listed chemical prod-  
16 uct’ means, subject to subparagraph (B), a product that—

17 “(i) contains ephedrine, pseudoephedrine, or  
18 phenylpropanolamine; and

19 “(ii) may be marketed or distributed lawfully in  
20 the United States under the Federal, Food, Drug,  
21 and Cosmetic Act as a nonprescription drug.

22 Each reference in clause (i) to ephedrine,  
23 pseudoephedrine, or phenylpropanolamine includes  
24 each of the salts, optical isomers, and salts of optical  
25 isomers of such chemical.

1           “(B) Such term does not include a product described  
2 in subparagraph (A) if the product contains a chemical  
3 specified in such subparagraph that the Attorney General  
4 has under section 201(a) added to any of the schedules  
5 under section 202(c). In the absence of such scheduling  
6 by the Attorney General, a chemical specified in such sub-  
7 paragraph may not be considered to be a controlled sub-  
8 stance.

9           “(46) The term ‘regulated seller’ means a retail dis-  
10 tributor (including a pharmacy or a mobile retail vendor),  
11 except that such term does not include an employee or  
12 agent of such distributor.

13           “(47) The term ‘mobile retail vendor’ means a person  
14 or entity that makes sales at retail from a stand that is  
15 intended to be temporary, or is capable of being moved  
16 from one location to another, whether the stand is located  
17 within or on the premises of a fixed facility (such as a  
18 kiosk at a shopping center or an airport) or whether the  
19 stand is located on unimproved real estate (such as a lot  
20 or field leased for retail purposes).

21           “(48) The term ‘at retail’, with respect to the sale  
22 or purchase of a scheduled listed chemical product, means  
23 a sale or purchase for personal use, respectively.”.

1           (2) CONFORMING AMENDMENTS.—The Con-  
2           trolled Substances Act (21 U.S.C. 801 et seq.) is  
3           amended—

4                   (A) in section 102, in paragraph (49) (as  
5           redesignated by paragraph (1)(A) of this sub-  
6           section)—

7                           (i) in subparagraph (A), by striking  
8                           “pseudoephedrine or” and inserting  
9                           “ephedrine, pseudoephedrine, or”; and

10                           (ii) by striking subparagraph (B) and  
11                           redesignating subparagraph (C) as sub-  
12                           paragraph (B); and

13                           (B) in section 310(b)(3)(D)(ii), by striking  
14                           “102(46)” and inserting “102(49)”.

15           (b) RESTRICTIONS ON SALES QUANTITY; BEHIND-  
16           THE-COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAIN-  
17           ING OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

18                   (1) IN GENERAL.—Section 310 of the Con-  
19           trolled Substances Act (21 U.S.C. 830) is amended  
20           by adding at the end the following subsections:

21                   “(d) SCHEDULED LISTED CHEMICALS; RESTRIC-  
22           TIONS ON SALES QUANTITY; REQUIREMENTS REGARDING  
23           NONLIQUID FORMS.—With respect to ephedrine base,  
24           pseudoephedrine base, or phenylpropanolamine base in a  
25           scheduled listed chemical product—

1           “(1) the quantity of such base sold at retail in  
2 such a product by a regulated seller, or a distributor  
3 required to submit reports by subsection (b)(3) may  
4 not, for any purchaser, exceed a daily amount of 3.6  
5 grams, without regard to the number of trans-  
6 actions; and

7           “(2) such a seller or distributor may not sell  
8 such a product in nonliquid form (including gel  
9 caps) at retail unless the product is packaged in blis-  
10 ter packs, each blister containing not more than 2  
11 dosage units, or where the use of blister packs is  
12 technically infeasible, the product is packaged in  
13 unit dose packets or pouches.

14           “(e) SCHEDULED LISTED CHEMICALS; BEHIND-THE-  
15 COUNTER ACCESS; LOGBOOK REQUIREMENT; TRAINING  
16 OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

17           “(1) REQUIREMENTS REGARDING RETAIL  
18 TRANSACTIONS.—

19           “(A) IN GENERAL.—Each regulated seller  
20 shall ensure that, subject to subparagraph (F),  
21 sales by such seller of a scheduled listed chem-  
22 ical product at retail are made in accordance  
23 with the following:

24           “(i) In offering the product for sale,  
25 the seller places the product such that cus-

1           tomers do not have direct access to the  
2           product before the sale is made (in this  
3           paragraph referred to as ‘behind-the-  
4           counter’ placement). For purposes of this  
5           paragraph, a behind-the-counter placement  
6           of a product includes circumstances in  
7           which the product is stored in a locked  
8           cabinet that is located in an area of the fa-  
9           cility involved to which customers do have  
10          direct access.

11                 “(ii) The seller delivers the product  
12                 directly into the custody of the purchaser.

13                 “(iii) The seller maintains, in accord-  
14                 ance with criteria issued by the Attorney  
15                 General, a written or electronic list of such  
16                 sales that identifies the products by name,  
17                 the quantity sold, the names and addresses  
18                 of purchasers, and the dates and times of  
19                 the sales (which list is referred to in this  
20                 subsection as the ‘logbook’), except that  
21                 such requirement does not apply to any  
22                 purchase by an individual of a single sales  
23                 package if that package contains not more  
24                 than 60 milligrams of pseudoephedrine.

1           “(iv) In the case of a sale to which  
2 the requirement of clause (iii) applies, the  
3 seller does not sell such a product unless—

4           “(I) the prospective purchaser—

5           “(aa) presents an identifica-  
6 tion card that provides a photo-  
7 graph and is issued by a State or  
8 the Federal Government, or a  
9 document that, with respect to  
10 identification, is considered ac-  
11 ceptable for purposes of sections  
12 274a.2(b)(1)(v)(A)           and  
13 274a.2(b)(1)(v)(B) of title 8,  
14 Code of Federal Regulations (as  
15 in effect on or after the date of  
16 the enactment of the Combat  
17 Methamphetamine Epidemic Act  
18 of 2005); and

19           “(bb) signs the logbook and  
20 enters in the logbook his or her  
21 name, address, and the date and  
22 time of the sale; and

23           “(II) the seller—

24           “(aa) determines that the  
25 name entered in the logbook cor-



1 responds to the name provided on  
2 such identification and that the  
3 date and time entered are cor-  
4 rect; and

5 “(bb) enters in the logbook  
6 the name of the product and the  
7 quantity sold.

8 “(v) The logbook includes, in accord-  
9 ance with criteria of the Attorney General,  
10 a notice to purchasers that entering false  
11 statements or misrepresentations in the  
12 logbook may subject the purchasers to  
13 criminal penalties under section 1001 of  
14 title 18, United States Code, which notice  
15 specifies the maximum fine and term of  
16 imprisonment under such section.

17 “(vi) The seller maintains each entry  
18 in the logbook for not fewer than two years  
19 after the date on which the entry is made.

20 “(vii) In the case of individuals who  
21 are responsible for delivering such products  
22 into the custody of purchasers or who deal  
23 directly with purchasers by obtaining pay-  
24 ments for the products, the seller has sub-  
25 mitted to the Attorney General a self-cer-

1           tification that all such individuals have, in  
2           accordance with criteria under subpara-  
3           graph (B)(ii), undergone training provided  
4           by the seller to ensure that the individuals  
5           understand the requirements that apply  
6           under this subsection and subsection (d).

7           “(viii) The seller maintains a copy of  
8           such certification and records dem-  
9           onstrating that individuals referred to in  
10          clause (vii) have undergone the training.

11          “(ix) If the seller is a mobile retail  
12          vendor:

13                 “(I) The seller complies with  
14                 clause (i) by placing the product in a  
15                 locked cabinet.

16                 “(II) The seller does not sell  
17                 more than 7.5 grams of ephedrine  
18                 base, pseudoephedrine base, or phen-  
19                 ylpropanolamine base in such prod-  
20                 ucts per customer during a 30-day pe-  
21                 riod.

22                 “(B) ADDITIONAL PROVISIONS REGARDING  
23                 CERTIFICATIONS AND TRAINING.—

24                 “(i) IN GENERAL.—A regulated seller  
25                 may not sell any scheduled listed chemical

1 product at retail unless the seller has sub-  
2 mitted to the Attorney General the self-  
3 certification referred to in subparagraph  
4 (A)(vii). The certification is not effective  
5 for purposes of the preceding sentence un-  
6 less, in addition to provisions regarding the  
7 training of individuals referred to in such  
8 subparagraph, the certification includes a  
9 statement that the seller understands each  
10 of the requirements that apply under this  
11 paragraph and under subsection (d) and  
12 agrees to comply with the requirements.

13 “(ii) ISSUANCE OF CRITERIA; SELF-  
14 CERTIFICATION.—The Attorney General  
15 shall by regulation establish criteria for  
16 certifications under this paragraph. The  
17 criteria shall—

18 “(I) provide that the certifi-  
19 cations are self-certifications provided  
20 through the program under clause  
21 (iii);

22 “(II) provide that a separate cer-  
23 tification is required for each place of  
24 business at which a regulated seller

1 sells scheduled listed chemical prod-  
2 ucts at retail; and

3 “(III) include criteria for train-  
4 ing under subparagraph (A)(vii).

5 “(iii) PROGRAM FOR REGULATED  
6 SELLERS.—The Attorney General shall es-  
7 tablish a program regarding such certifi-  
8 cations and training in accordance with the  
9 following:

10 “(I) The program shall be car-  
11 ried out through an Internet site of  
12 the Department of Justice and such  
13 other means as the Attorney General  
14 determines to be appropriate.

15 “(II) The program shall inform  
16 regulated sellers that section 1001 of  
17 title 18, United States Code, applies  
18 to such certifications.

19 “(III) The program shall make  
20 available to such sellers an expla-  
21 nation of the criteria under clause (ii).

22 “(IV) The program shall be de-  
23 signed to permit the submission of the  
24 certifications through such Internet  
25 site.

1           “(V) The program shall be de-  
2           signed to automatically provide the  
3           explanation referred to in subclause  
4           (III), and an acknowledgement that  
5           the Department has received a certifi-  
6           cation, without requiring direct inter-  
7           actions of regulated sellers with staff  
8           of the Department (other than the  
9           provision of technical assistance, as  
10          appropriate).

11          “(iv) AVAILABILITY OF CERTIFI-  
12          CATION TO STATE AND LOCAL OFFI-  
13          CIALS.—Promptly after receiving a certifi-  
14          cation under subparagraph (A)(vii), the  
15          Attorney General shall make available a  
16          copy of the certification to the appropriate  
17          State and local officials.

18          “(C) PRIVACY PROTECTIONS.—In order to  
19          protect the privacy of individuals who purchase  
20          scheduled listed chemical products, the Attorney  
21          General shall by regulation establish restrictions  
22          on disclosure of information in logbooks under  
23          subparagraph (A)(iii). Such regulations shall—

24                 “(i) provide for the disclosure of the  
25                 information as appropriate to the Attorney

1           General and to State and local law enforce-  
2           ment agencies; and

3           “(ii) prohibit accessing, using, or  
4           sharing information in the logbooks for  
5           any purpose other than to ensure compli-  
6           ance with this title or to facilitate a prod-  
7           uct recall to protect public health and safe-  
8           ty.

9           “(D) FALSE STATEMENTS OR MISREPRE-  
10          SENTATIONS BY PURCHASERS.—For purposes  
11          of section 1001 of title 18, United States Code,  
12          entering information in the logbook under sub-  
13          paragraph (A)(iii) shall be considered a matter  
14          within the jurisdiction of the executive, legisla-  
15          tive, or judicial branch of the Government of  
16          the United States.

17          “(E) GOOD FAITH PROTECTION.—A regu-  
18          lated seller who in good faith releases informa-  
19          tion in a logbook under subparagraph (A)(iii) to  
20          Federal, State, or local law enforcement au-  
21          thorities is immune from civil liability for such  
22          release unless the release constitutes gross neg-  
23          ligence or intentional, wanton, or willful mis-  
24          conduct.

1           “(F) INAPPLICABILITY OF REQUIREMENTS  
2 TO CERTAIN SALES.—Subparagraph (A) does  
3 not apply to the sale at retail of a scheduled  
4 listed chemical product if a report on the sales  
5 transaction is required to be submitted to the  
6 Attorney General under subsection (b)(3).

7           “(G) CERTAIN MEASURES REGARDING  
8 THEFT AND DIVERSION.—A regulated seller  
9 may take reasonable measures to guard against  
10 employing individuals who may present a risk  
11 with respect to the theft and diversion of sched-  
12 uled listed chemical products, which may in-  
13 clude, notwithstanding State law, asking appli-  
14 cants for employment whether they have been  
15 convicted of any crime involving or related to  
16 such products or controlled substances.”.

17           (2) EFFECTIVE DATES.—With respect to sub-  
18 sections (d) and (e)(1) of section 310 of the Con-  
19 trolled Substances Act, as added by paragraph (1)  
20 of this subsection:

21           (A) Such subsection (d) applies on and  
22 after the expiration of the 30-day period begin-  
23 ning on the date of the enactment of this Act.

24           (B) Such subsection (e)(1) applies on and  
25 after September 30, 2006.

1 (c) MAIL-ORDER REPORTING.—

2 (1) IN GENERAL.—Section 310(e) of the Con-  
3 trolled Substances Act, as added by subsection  
4 (b)(1) of this section, is amended by adding at the  
5 end the following:

6 “(2) MAIL-ORDER REPORTING; VERIFICATION  
7 OF IDENTITY OF PURCHASER; 30-DAY RESTRICTION  
8 ON QUANTITIES FOR INDIVIDUAL PURCHASERS.—  
9 Each regulated person who makes a sale at retail of  
10 a scheduled listed chemical product and is required  
11 under subsection (b)(3) to submit a report of the  
12 sales transaction to the Attorney General is subject  
13 to the following:

14 “(A) The person shall, prior to shipping  
15 the product, confirm the identity of the pur-  
16 chaser in accordance with procedures estab-  
17 lished by the Attorney General. The Attorney  
18 General shall by regulation establish such pro-  
19 cedures.

20 “(B) The person may not sell more than  
21 7.5 grams of ephedrine base, pseudoephedrine  
22 base, or phenylpropanolamine base in such  
23 products per customer during a 30-day pe-  
24 riod.”.



1           (2) INAPPLICABILITY OF REPORTING EXEMP-  
2           TION FOR RETAIL DISTRIBUTORS.—Section  
3           310(b)(3)(D)(ii) of the Controlled Substances Act  
4           (21 U.S.C. 830(b)(3)(D)(ii)) is amended by insert-  
5           ing before the period the following: “, except that  
6           this clause does not apply to sales of scheduled listed  
7           chemical products at retail”.

8           (3) EFFECTIVE DATE.—The amendments made  
9           by paragraphs (1) and (2) apply on and after the ex-  
10          piration of the 30-day period beginning on the date  
11          of the enactment of this Act.

12          (d) EXEMPTIONS FOR CERTAIN PRODUCTS.—Section  
13          310(e) of the Controlled Substances Act, as added and  
14          amended by subsections (b) and (c) of this section, respec-  
15          tively, is amended by adding at the end the following para-  
16          graph:

17                 “(3) EXEMPTIONS FOR CERTAIN PRODUCTS.—  
18                 Upon the application of a manufacturer of a sched-  
19                 uled listed chemical product, the Attorney General  
20                 may by regulation provide that the product is ex-  
21                 empt from the provisions of subsection (d) and para-  
22                 graphs (1) and (2) of this subsection if the Attorney  
23                 General determines that the product cannot be used  
24                 in the illicit manufacture of methamphetamine.”.

1 (e) RESTRICTIONS ON QUANTITY PURCHASED DUR-  
2 ING 30-DAY PERIOD.—

3 (1) IN GENERAL.—Section 404(a) of the Con-  
4 trolled Substances Act (21 U.S.C. 844(a)) is amend-  
5 ed by inserting after the second sentence the fol-  
6 lowing: “It shall be unlawful for any person to know-  
7 ingly or intentionally purchase at retail during a 30  
8 day period more than 9 grams of ephedrine base,  
9 pseudoephedrine base, or phenylpropanolamine base  
10 in a scheduled listed chemical product, except that,  
11 of such 9 grams, not more than 7.5 grams may be  
12 imported by means of shipping through any private  
13 or commercial carrier or the Postal Service.”.

14 (2) EFFECTIVE DATE.—The amendment made  
15 by paragraph (1) applies on and after the expiration  
16 of the 30-day period beginning on the date of the  
17 enactment .

18 (f) ENFORCEMENT OF REQUIREMENTS FOR RETAIL  
19 SALES.—

20 (1) CIVIL AND CRIMINAL PENALTIES.—

21 (A) IN GENERAL.—Section 402(a) of the  
22 Controlled Substances Act (21 U.S.C. 842(a))  
23 is amended—

24 (i) in paragraph (10), by striking “or”  
25 after the semicolon;

1 (ii) in paragraph (11), by striking the  
2 period at the end and inserting a semi-  
3 colon; and

4 (iii) by inserting after paragraph (11)  
5 the following paragraphs:

6 “(12) who is a regulated seller, or a distributor  
7 required to submit reports under subsection (b)(3)  
8 of section 310—

9 “(A) to sell at retail a scheduled listed  
10 chemical product in violation of paragraph (1)  
11 of subsection (d) of such section, knowing at  
12 the time of the transaction involved (inde-  
13 pendent of consulting the logbook under sub-  
14 section (e)(1)(A)(iii) of such section) that the  
15 transaction is a violation; or

16 “(B) to knowingly or recklessly sell at re-  
17 tail such a product in violation of paragraph (2)  
18 of such subsection (d);

19 “(13) who is a regulated seller to knowingly or  
20 recklessly sell at retail a scheduled listed chemical  
21 product in violation of subsection (e) of such section;  
22 or

23 “(14) who is a regulated seller or an employee  
24 or agent of such seller to disclose, in violation of reg-  
25 ulations under subparagraph (C) of section

1 310(e)(1), information in logbooks under subpara-  
2 graph (A)(iii) of such section, or to refuse to provide  
3 such a logbook to Federal, State, or local law en-  
4 forcement authorities.”.

5 (B) CONFORMING AMENDMENT.—Section  
6 401(f)(1) of the Controlled Substances Act (21  
7 U.S.C. 841(f)(1)) is amended by inserting after  
8 “shall” the following: “, except to the extent  
9 that paragraph (12), (13), or (14) of section  
10 402(a) applies,”.

11 (2) AUTHORITY TO PROHIBIT SALES BY VIOLA-  
12 TORS.—Section 402(c) of the Controlled Substances  
13 Act (21 U.S.C. 842(c)) is amended by adding at the  
14 end the following paragraph:

15 “(4)(A) If a regulated seller, or a distributor required  
16 to submit reports under section 310(b)(3), violates para-  
17 graph (12) of subsection (a) of this section, or if a regu-  
18 lated seller violates paragraph (13) of such subsection, the  
19 Attorney General may by order prohibit such seller or dis-  
20 tributor (as the case may be) from selling any scheduled  
21 listed chemical product. Any sale of such a product in vio-  
22 lation of such an order is subject to the same penalties  
23 as apply under paragraph (2).

1 “(B) An order under subparagraph (A) may be im-  
2 posed only through the same procedures as apply under  
3 section 304(c) for an order to show cause.”.

4 (g) PRESERVATION OF STATE AUTHORITY TO REGU-  
5 LATE SCHEDULED LISTED CHEMICALS.—This section  
6 and the amendments made by this section may not be con-  
7 strued as having any legal effect on section 708 of the  
8 Controlled Substances Act as applied to the regulation of  
9 scheduled listed chemicals (as defined in section 102(45)  
10 of such Act).

11 **SEC. 212. REGULATED TRANSACTIONS.**

12 (a) CONFORMING AMENDMENTS REGARDING SCHED-  
13 ULED LISTED CHEMICALS.—The Controlled Substances  
14 Act (21 U.S.C. 801 et seq.) is amended—

15 (1) in section 102—

16 (A) in paragraph (39)(A)—

17 (i) by amending clause (iv) to read as  
18 follows:

19 “(iv) any transaction in a listed chemical  
20 that is contained in a drug that may be mar-  
21 keted or distributed lawfully in the United  
22 States under the Federal Food, Drug, and Cos-  
23 metic Act, subject to clause (v), unless—

24 “(I) the Attorney General has deter-  
25 mined under section 204 that the drug or

1 group of drugs is being diverted to obtain  
2 the listed chemical for use in the illicit pro-  
3 duction of a controlled substance; and

4 “(II) the quantity of the listed chem-  
5 ical contained in the drug included in the  
6 transaction or multiple transactions equals  
7 or exceeds the threshold established for  
8 that chemical by the Attorney General;”;

9 (ii) by redesignating clause (v) as  
10 clause (vi); and

11 (iii) by inserting after clause (iv) the  
12 following clause:

13 “(v) any transaction in a scheduled listed  
14 chemical product that is a sale at retail by a  
15 regulated seller or a distributor required to sub-  
16 mit reports under section 310(b)(3); or”; and

17 (B) by striking the paragraph (45) that re-  
18 lates to the term “ordinary over-the-counter  
19 pseudoephedrine or phenylpropanolamine prod-  
20 uct”;

21 (2) in section 204, by striking subsection (e);

22 and

23 (3) in section 303(h), in the second sentence, by  
24 striking “section 102(39)(A)(iv)” and inserting  
25 “clause (iv) or (v) of section 102(39)(A)”.

1 (b) PUBLIC LAW 104–237.—Section 401 of the Com-  
2 prehensive Methamphetamine Control Act of 1996 (21  
3 U.S.C. 802 note) (Public Law 104–237) is amended by  
4 striking subsections (d), (e), and (f).

5 **SEC. 213. AUTHORITY TO ESTABLISH PRODUCTION**  
6 **QUOTAS.**

7 Section 306 of the Controlled Substances Act (21  
8 U.S.C. 826) is amended—

9 (1) in subsection (a), by inserting “and for  
10 ephedrine, pseudoephedrine, and phenylpropanola-  
11 mine” after “for each basic class of controlled sub-  
12 stance in schedules I and II”;

13 (2) in subsection (b), by inserting “or for  
14 ephedrine, pseudoephedrine, or phenylpropanola-  
15 mine” after “for each basic class of controlled sub-  
16 stance in schedule I or II”;

17 (3) in subsection (c), in the first sentence, by  
18 inserting “and for ephedrine, pseudoephedrine, and  
19 phenylpropanolamine” after “for the basic classes of  
20 controlled substances in schedules I and II”;

21 (4) in subsection (d), by inserting “or ephed-  
22 rine, pseudoephedrine, or phenylpropanolamine”  
23 after “that basic class of controlled substance”;

24 (5) in subsection (e), by inserting “or for  
25 ephedrine, pseudoephedrine, or phenylpropanola-

1 mine” after “for a basic class of controlled sub-  
2 stance in schedule I or II”;

3 (6) in subsection (f)—

4 (A) by inserting “or ephedrine,  
5 pseudoephedrine, or phenylpropanolamine”  
6 after “controlled substances in schedules I and  
7 II”;

8 (B) by inserting “or of ephedrine,  
9 pseudoephedrine, or phenylpropanolamine”  
10 after “the manufacture of a controlled sub-  
11 stance”; and

12 (C) by inserting “or chemicals” after  
13 “such incidentally produced substances”; and

14 (7) by adding at the end the following sub-  
15 section:

16 “(g) Each reference in this section to ephedrine,  
17 pseudoephedrine, or phenylpropanolamine includes each of  
18 the salts, optical isomers, and salts of optical isomers of  
19 such chemical.”.

20 **SEC. 214. PENALTIES; AUTHORITY FOR MANUFACTURING;**  
21 **QUOTA.**

22 Section 402(b) of the Controlled Substances Act (21  
23 U.S.C. 842(b)) is amended by inserting after “manufac-  
24 ture a controlled substance in schedule I or II” the fol-  
25 lowing: “, or ephedrine, pseudoephedrine, or phenyl-



1 propanolamine or any of the salts, optical isomers, or salts  
2 of optical isomers of such chemical,”

3 **SEC. 215. RESTRICTIONS ON IMPORTATION; AUTHORITY TO**  
4 **PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC,**  
5 **OR OTHER LEGITIMATE PURPOSES.**

6 Section 1002 of the Controlled Substances Import  
7 and Export Act (21 U.S.C. 952) is amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1),  
10 by inserting “or ephedrine, pseudoephedrine, or  
11 phenylpropanolamine,” after “schedule III, IV,  
12 or V of title II,”; and

13 (B) in paragraph (1), by inserting “, and  
14 of ephedrine, pseudoephedrine, and phenyl-  
15 propanolamine, ” after “coca leaves”; and

16 (2) by adding at the end the following sub-  
17 sections:

18 “(d)(1) With respect to a registrant under section  
19 1008 who is authorized under subsection (a)(1) to import  
20 ephedrine, pseudoephedrine, or phenylpropanolamine, at  
21 any time during the year the registrant may apply for an  
22 increase in the amount of such chemical that the reg-  
23 istrant is authorized to import, and the Attorney General  
24 may approve the application if the Attorney General deter-  
25 mines that the approval is necessary to provide for med-

1 ical, scientific, or other legitimate purposes regarding the  
2 chemical.

3 “(2) With respect to the application under paragraph  
4 (1):

5 “(A) Not later than 60 days after receiving the  
6 application, the Attorney General shall approve or  
7 deny the application.

8 “(B) In approving the application, the Attorney  
9 General shall specify the period of time for which  
10 the approval is in effect, or shall provide that the  
11 approval is effective until the registrant involved is  
12 notified in writing by the Attorney General that the  
13 approval is terminated.

14 “(C) If the Attorney General does not approve  
15 or deny the application before the expiration of the  
16 60-day period under subparagraph (A), the applica-  
17 tion is deemed to be approved, and such approval re-  
18 mains in effect until the Attorney General notifies  
19 the registrant in writing that the approval is termi-  
20 nated.

21 “(e) Each reference in this section to ephedrine,  
22 pseudoephedrine, or phenylpropanolamine includes each of  
23 the salts, optical isomers, and salts of optical isomers of  
24 such chemical.”.

1 **SEC. 216. NOTICE OF IMPORTATION OR EXPORTATION; AP-**  
2 **PROVAL OF SALE OR TRANSFER BY IM-**  
3 **PORTER OR EXPORTER.**

4 (a) IN GENERAL.—Section 1018 of the Controlled  
5 Substances Import and Export Act (21 U.S.C. 971) is  
6 amended—

7 (1) in subsection (b)(1), in the first sentence,  
8 by striking “or to an importation by a regular im-  
9 porter” and inserting “or to a transaction that is an  
10 importation by a regular importer”;

11 (2) by redesignating subsections (d) and (e) as  
12 subsections (e) and (f), respectively;

13 (3) by inserting after subsection (c) the fol-  
14 lowing subsection:

15 “(d)(1)(A) Information provided in a notice under  
16 subsection (a) or (b) shall include the name of the person  
17 to whom the importer or exporter involved intends to  
18 transfer the listed chemical involved, and the quantity of  
19 such chemical to be transferred.

20 “(B) In the case of a notice under subsection (b) sub-  
21 mitted by a regular importer, if the transferee identified  
22 in the notice is not a regular customer, such importer may  
23 not transfer the listed chemical until after the expiration  
24 of the 15-day period beginning on the date on which the  
25 notice is submitted to the Attorney General.

1           “(C) After a notice under subsection (a) or (b) is sub-  
2 mitted to the Attorney General, if circumstances change  
3 and the importer or exporter will not be transferring the  
4 listed chemical to the transferee identified in the notice,  
5 or will be transferring a greater quantity of the chemical  
6 than specified in the notice, the importer or exporter shall  
7 update the notice to identify the most recent prospective  
8 transferee or the most recent quantity or both (as the case  
9 may be) and may not transfer the listed chemical until  
10 after the expiration of the 15-day period beginning on the  
11 date on which the update is submitted to the Attorney  
12 General, except that such 15-day restriction does not  
13 apply if the prospective transferee identified in the update  
14 is a regular customer. The preceding sentence applies with  
15 respect to changing circumstances regarding a transferee  
16 or quantity identified in an update to the same extent and  
17 in the same manner as such sentence applies with respect  
18 to changing circumstances regarding a transferee or quan-  
19 tity identified in the original notice under subsection (a)  
20 or (b).

21           “(D) In the case of a transfer of a listed chemical  
22 that is subject to a 15-day restriction under subparagraph  
23 (B) or (C), the transferee involved shall, upon the expira-  
24 tion of the 15-day period, be considered to qualify as a

1 regular customer, unless the Attorney General otherwise  
2 notifies the importer or exporter involved in writing.

3 “(2) With respect to a transfer of a listed chemical  
4 with which a notice or update referred to in paragraph  
5 (1) is concerned:

6 “(A) The Attorney General, in accordance with  
7 the same procedures as apply under subsection  
8 (c)(2)—

9 “(i) may order the suspension of the trans-  
10 fer of the listed chemical by the importer or ex-  
11 porter involved, except for a transfer to a reg-  
12 ular customer, on the ground that the chemical  
13 may be diverted to the clandestine manufacture  
14 of a controlled substance (without regard to the  
15 form of the chemical that may be diverted, in-  
16 cluding the diversion of a finished drug product  
17 to be manufactured from bulk chemicals to be  
18 transferred), subject to the Attorney General  
19 ordering such suspension before the expiration  
20 of the 15-day period referred to in paragraph  
21 (1) with respect to the importation or expor-  
22 tation (in any case in which such a period ap-  
23 plies); and

1           “(ii) may, for purposes of clause (i) and  
2           paragraph (1), disqualify a regular customer on  
3           such ground.

4           “(B) From and after the time when the Attor-  
5           ney General provides written notice of the order  
6           under subparagraph (A) (including a statement of  
7           the legal and factual basis for the order) to the im-  
8           porter or exporter, the importer or exporter may not  
9           carry out the transfer.

10          “(3) For purposes of this subsection:

11           “(A) The terms ‘importer’ and ‘exporter’ mean  
12           a regulated person who imports or exports a listed  
13           chemical, respectively.

14           “(B) The term ‘transfer’, with respect to a list-  
15           ed chemical, includes the sale of the chemical.

16           “(C) The term ‘transferee’ means a person to  
17           whom an importer or exporter transfers a listed  
18           chemical.”; and

19           (4) by adding at the end the following sub-  
20           section:

21           “(g) Within 30 days after a transaction covered by  
22           this section is completed, the importer or exporter shall  
23           send the Attorney General a return declaration containing  
24           particulars of the transaction, including the date, quan-  
25           tity, chemical, container, name of transferees, and such

1 other information as the Attorney General may specify in  
2 regulations. For importers, a single return declaration  
3 may include the particulars of both the importation and  
4 distribution. If the importer has not distributed all chemi-  
5 cals imported by the end of the initial 30-day period, the  
6 importer shall file supplemental return declarations no  
7 later than 30 days from the date of any further distribu-  
8 tion, until the distribution or other disposition of all  
9 chemicals imported pursuant to the import notification or  
10 any update are accounted for.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) CONTROLLED SUBSTANCES IMPORT AND  
13 EXPORT ACT.—The Controlled Substances Import  
14 and Export Act (21 U.S.C. 951 et seq.) is amend-  
15 ed—

16 (A) in section 1010(d)(5), by striking “sec-  
17 tion 1018(e)(2) or (3)” and inserting “para-  
18 graph (2) or (3) of section 1018(f)”;

19 (B) in section 1018(c)(1), in the first sen-  
20 tence, by inserting before the period the fol-  
21 lowing: “(without regard to the form of the  
22 chemical that may be diverted, including the di-  
23 version of a finished drug product to be manu-  
24 factured from bulk chemicals to be trans-  
25 ferred)”.

1           (2) CONTROLLED SUBSTANCES ACT.—Section  
2           310(b)(3)(D)(v) of the Controlled Substances Act  
3           (21 U.S.C. 830(b)(3)(D)(v)) is amended by striking  
4           “section 1018(e)(2)” and inserting “section  
5           1018(f)(2)”.

6 **SEC. 217. ENFORCEMENT OF RESTRICTIONS ON IMPORTA-**  
7                                   **TION AND OF REQUIREMENT OF NOTICE OF**  
8                                   **TRANSFER.**

9           Section 1010(d)(6) of the Controlled Substances Im-  
10          port and Export Act (21 U.S.C. 960(d)(6)) is amended  
11          to read as follows:

12                   “(6) imports a listed chemical in violation of  
13                   section 1002, imports or exports such a chemical in  
14                   violation of section 1007 or 1018, or transfers such  
15                   a chemical in violation of section 1018(d); or”.

16 **SEC. 218. COORDINATION WITH UNITED STATES TRADE**  
17                                   **REPRESENTATIVE.**

18          In implementing sections 713 through 717 and sec-  
19          tion 721 of this title, the Attorney General shall consult  
20          with the United States Trade Representative to ensure im-  
21          plementation complies with all applicable international  
22          treaties and obligations of the United States.



1                   **Subtitle B—International**  
2                   **Regulation of Precursor Chemicals**

3                   **SEC. 221. INFORMATION ON FOREIGN CHAIN OF DISTRIBUTION;**  
4                                   **IMPORT RESTRICTIONS REGARDING**  
5                                   **FAILURE OF DISTRIBUTORS TO COOPERATE.**

6                   Section 1018 of the Controlled Substances Import  
7 and Export Act (21 U.S.C. 971), as amended by section  
8 716(a)(4) of this title, is further amended by adding at  
9 the end the following subsection:

10                   “(h)(1) With respect to a regulated person importing  
11 ephedrine, pseudoephedrine, or phenylpropanolamine (re-  
12 ferred to in this section as an ‘importer’), a notice of im-  
13 portation under subsection (a) or (b) shall include all in-  
14 formation known to the importer on the chain of distribu-  
15 tion of such chemical from the manufacturer to the im-  
16 porter.

17                   “(2) For the purpose of preventing or responding to  
18 the diversion of ephedrine, pseudoephedrine, or phenyl-  
19 propanolamine for use in the illicit production of meth-  
20 amphetamine, the Attorney General may, in the case of  
21 any person who is a manufacturer or distributor of such  
22 chemical in the chain of distribution referred to in para-  
23 graph (1) (which person is referred to in this subsection  
24 as a ‘foreign-chain distributor’), request that such dis-  
25 tributor provide to the Attorney General information

1 known to the distributor on the distribution of the chem-  
2 ical, including sales.

3       “(3) If the Attorney General determines that a for-  
4 eign-chain distributor is refusing to cooperate with the At-  
5 torney General in obtaining the information referred to in  
6 paragraph (2), the Attorney General may, in accordance  
7 with procedures that apply under subsection (c), issue an  
8 order prohibiting the importation of ephedrine,  
9 pseudoephedrine, or phenylpropanolamine in any case in  
10 which such distributor is part of the chain of distribution  
11 for such chemical. Not later than 60 days prior to issuing  
12 the order, the Attorney General shall publish in the Fed-  
13 eral Register a notice of intent to issue the order. During  
14 such 60-day period, imports of the chemical with respect  
15 to such distributor may not be restricted under this para-  
16 graph.”.

17 **SEC. 222. REQUIREMENTS RELATING TO THE LARGEST EX-**  
18 **PORTING AND IMPORTING COUNTRIES OF**  
19 **CERTAIN PRECURSOR CHEMICALS.**

20       (a) REPORTING REQUIREMENTS.—Section 489(a) of  
21 the Foreign Assistance Act of 1961 (22 U.S.C. 2291h(a))  
22 is amended by adding at the end the following new para-  
23 graph:

24               “(8) A separate section that contains the fol-  
25       lowing:

1           “(A) An identification of the five countries  
2           that exported the largest amount of  
3           pseudoephedrine, ephedrine, and phenyl-  
4           propanolamine (including the salts, optical iso-  
5           mers, or salts of optical isomers of such chemi-  
6           cals, and also including any products or sub-  
7           stances containing such chemicals) during the  
8           preceding calendar year.

9           “(B) An identification of the five countries  
10          that imported the largest amount of the chemi-  
11          cals described in clause (i) during the preceding  
12          calendar year and have the highest rate of di-  
13          version of such chemicals for use in the illicit  
14          production of methamphetamine (either in that  
15          country or in another country).

16          “(C) An economic analysis of the total  
17          worldwide production of the chemicals described  
18          in clause (i) as compared to the legitimate de-  
19          mand for such chemicals worldwide.

20          “(9) The identification of countries that im-  
21          ported the largest amount of chemicals under sub-  
22          paragraph (A)(ii) shall be based on the following:

23                 “(A) An economic analysis that estimates  
24                 the legitimate demand for such chemicals in  
25                 such countries as compared to the actual or es-

1           timated amount of such chemicals that is im-  
2           ported into such countries.

3           “(B) The best available data and other in-  
4           formation regarding the production of meth-  
5           amphetamine in such countries and the diver-  
6           sion of such chemicals for use in the production  
7           of methamphetamine.”.

8           (b) ANNUAL CERTIFICATION PROCEDURES.—Section  
9           490(a) of the Foreign Assistance Act of 1961 (22 U.S.C.  
10          2291j(a)) is amended—

11           (1) in paragraph (1), by striking “major illicit  
12          drug producing country or major drug-transit coun-  
13          try” and inserting “major illicit drug producing  
14          country, major drug-transit country, or country  
15          identified pursuant to clause (i) or (ii) of section  
16          489(a)(8)(A) of this Act”; and

17           (2) in paragraph (2), by inserting after “(as de-  
18          termined under subsection (h))” the following: “or  
19          country identified pursuant to clause (i) or (ii) of  
20          section 489(a)(8)(A) of this Act”.

21           (c) CONFORMING AMENDMENT.—Section 706 of the  
22          Foreign Relations Authorization Act, Fiscal Year 2003  
23          (22 U.S.C. 2291j–1) is amended in paragraph (5) by add-  
24          ing at the end the following:

1           “(C) Nothing in this section shall affect the re-  
2           quirements of section 490 of the Foreign Assistance  
3           Act of 1961 (22 U.S.C. 2291j) with respect to coun-  
4           tries identified pursuant to section clause (i) or (ii)  
5           of 489(a)(8)(A) of the Foreign Assistance Act of  
6           1961.”.

7           (d) PLAN TO ADDRESS DIVERSION OF PRECURSOR  
8           CHEMICALS.—In the case of each country identified pur-  
9           suant to clause (i) or (ii) of section 489(a)(8)(A) of the  
10          Foreign Assistance Act of 1961 (as added by subsection  
11          (a)) with respect to which the President has not trans-  
12          mitted to Congress a certification under section 490(b) of  
13          such Act (22 U.S.C. 2291j(b)), the Secretary of State, in  
14          consultation with the Attorney General, shall, not later  
15          than 180 days after the date on which the President trans-  
16          mits the report required by section 489(a) of such Act (22  
17          U.S.C. 2291h(a)), submit to Congress a comprehensive  
18          plan to address the diversion of the chemicals described  
19          in section 489(a)(8)(A)(i) of such Act to the illicit produc-  
20          tion of methamphetamine in such country or in another  
21          country, including the establishment, expansion, and en-  
22          hancement of regulatory, law enforcement, and other in-  
23          vestigative efforts to prevent such diversion.

24          (e) AUTHORIZATION OF APPROPRIATIONS.—There  
25          are authorized to be appropriated to the Secretary of State

1 to carry out this section \$1,000,000 for each of the fiscal  
2 years 2006 and 2007.

3 **SEC. 223. PREVENTION OF SMUGGLING OF METHAMPHET-**  
4 **AMINE INTO THE UNITED STATES FROM MEX-**  
5 **ICO.**

6 (a) IN GENERAL.—The Secretary of State, acting  
7 through the Assistant Secretary of the Bureau for Inter-  
8 national Narcotics and Law Enforcement Affairs, shall  
9 take such actions as are necessary to prevent the smug-  
10 gling of methamphetamine into the United States from  
11 Mexico.

12 (b) SPECIFIC ACTIONS.—In carrying out subsection  
13 (a), the Secretary shall—

14 (1) improve bilateral efforts at the United  
15 States-Mexico border to prevent the smuggling of  
16 methamphetamine into the United States from Mex-  
17 ico;

18 (2) seek to work with Mexican law enforcement  
19 authorities to improve the ability of such authorities  
20 to combat the production and trafficking of meth-  
21 amphetamine, including by providing equipment and  
22 technical assistance, as appropriate; and

23 (3) encourage the Government of Mexico to  
24 take immediate action to reduce the diversion of  
25 pseudoephedrine by drug trafficking organizations

1 for the production and trafficking of methamphet-  
2 amine.

3 (c) REPORT.—Not later than one year after the date  
4 of the enactment of this Act, and annually thereafter, the  
5 Secretary shall submit to the appropriate congressional  
6 committees a report on the implementation of this section  
7 for the prior year.

8 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated to the Secretary to carry  
10 out this section \$4,000,000 for each of the fiscal years  
11 2006 and 2007.

12 **Subtitle C—Enhanced Criminal**  
13 **Penalties for Methamphetamine**  
14 **Production and Trafficking**

15 **SEC. 231. SMUGGLING METHAMPHETAMINE OR METH-**  
16 **AMPHETAMINE PRECURSOR CHEMICALS**  
17 **INTO THE UNITED STATES WHILE USING FA-**  
18 **CILITATED ENTRY PROGRAMS.**

19 (a) ENHANCED PRISON SENTENCE.—The sentence  
20 of imprisonment imposed on a person convicted of an of-  
21 fense under the Controlled Substances Act (21 U.S.C. 801  
22 et seq.) or the Controlled Substances Import and Export  
23 Act (21 U.S.C. 951 et seq.), involving methamphetamine  
24 or any listed chemical that is defined in section 102(33)  
25 of the Controlled Substances Act (21 U.S.C. 802(33)),

1 shall, if the offense is committed under the circumstance  
2 described in subsection (b), be increased by a consecutive  
3 term of imprisonment of not more than 15 years.

4 (b) CIRCUMSTANCES.—For purposes of subsection  
5 (a), the circumstance described in this subsection is that  
6 the offense described in subsection (a) was committed by  
7 a person who—

8 (1) was enrolled in, or who was acting on behalf  
9 of any person or entity enrolled in, any dedicated  
10 commuter lane, alternative or accelerated inspection  
11 system, or other facilitated entry program adminis-  
12 tered or approved by the Federal Government for  
13 use in entering the United States; and

14 (2) committed the offense while entering the  
15 United States, using such lane, system, or program.

16 (c) PERMANENT INELIGIBILITY.—Any person whose  
17 term of imprisonment is increased under subsection (a)  
18 shall be permanently and irrevocably barred from being  
19 eligible for or using any lane, system, or program de-  
20 scribed in subsection (b)(1).

21 **SEC. 232. MANUFACTURING CONTROLLED SUBSTANCES ON**  
22 **FEDERAL PROPERTY.**

23 Subsection (b) of section 401 of the Controlled Sub-  
24 stances Act (21 U.S.C. 841(b)) is amended in paragraph  
25 (5) by inserting “or manufacturing” after “cultivating”.



1 **SEC. 233. INCREASED PUNISHMENT FOR METHAMPHET-**  
 2 **AMINE KINGPINS.**

3 Section 408 of the Controlled Substances Act (21  
 4 U.S.C. 848) is amended by adding at the end the fol-  
 5 lowing:

6 “(s) SPECIAL PROVISION FOR METHAMPHET-  
 7 AMINE.—For the purposes of subsection (b), in the case  
 8 of continuing criminal enterprise involving methamphet-  
 9 amine or its salts, isomers, or salts of isomers, paragraph  
 10 (2)(A) shall be applied by substituting ‘200’ for ‘300’, and  
 11 paragraph (2)(B) shall be applied by substituting  
 12 ‘\$5,000,000’ for ‘\$10 million dollars.’”.

13 **SEC. 234. NEW CHILD-PROTECTION CRIMINAL ENHANCE-**  
 14 **MENT.**

15 (a) IN GENERAL.—The Controlled Substances Act is  
 16 amended by inserting after section 419 (21 U.S.C. 860)  
 17 the following:

18 “CONSECUTIVE SENTENCE FOR MANUFACTURING OR DIS-  
 19 TRIBUTING, OR POSSESSING WITH INTENT TO MANU-  
 20 FACTURE OR DISTRIBUTE, METHAMPHETAMINE ON  
 21 PREMISES WHERE CHILDREN ARE PRESENT OR RE-  
 22 SIDE

23 “SEC. 419. Whoever violates section 401(a)(1) by  
 24 manufacturing or distributing, or possessing with intent  
 25 to manufacture or distribute, methamphetamine or its  
 26 salts, isomers or salts of isomers on premises in which an

1 individual who is under the age of 18 years is present or  
 2 resides, shall, in addition to any other sentence imposed,  
 3 be imprisoned for a period of any term of years but not  
 4 more than 20 years, subject to a fine, or both.”.

5 (b) CLERICAL AMENDMENT.—The table of contents  
 6 of the Comprehensive Drug Abuse Prevention and Control  
 7 Act of 1970 is amended by inserting after the item relat-  
 8 ing to section 419 the following new item:

“Sec. 419a. Consecutive sentence for manufacturing or distributing, or pos-  
 sessing with intent to manufacture or distribute, methamphet-  
 amine on premises where children are present or reside.”.

9 **SEC. 235. AMENDMENTS TO CERTAIN SENTENCING COURT**  
 10 **REPORTING REQUIREMENTS.**

11 Section 994(w) of title 28, United States Code, is  
 12 amended—

13 (1) in paragraph (1)—

14 (A) by inserting “, in a format approved  
 15 and required by the Commission,” after “sub-  
 16 mits to the Commission”;

17 (B) in subparagraph (B)—

18 (i) by inserting “written” before  
 19 “statement of reasons”; and

20 (ii) by inserting “and which shall be  
 21 stated on the written statement of reasons  
 22 form issued by the Judicial Conference and  
 23 approved by the United States Sentencing

1 Commission” after “applicable guideline  
2 range”; and

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

4 “The information referred to in subparagraphs (A)  
5 through (F) shall be submitted by the sentencing court  
6 in a format approved and required by the Commission.”;  
7 and

8 (2) in paragraph (4), by striking “may assem-  
9 ble or maintain in electronic form that include any”  
10 and inserting “itself may assemble or maintain in  
11 electronic form as a result of the”.

12 **SEC. 236. SEMIANNUAL REPORTS TO CONGRESS.**

13 (a) IN GENERAL.—The Attorney General shall, on a  
14 semiannual basis, submit to the congressional committees  
15 and organizations specified in subsection (b) reports  
16 that—

17 (1) describe the allocation of the resources of  
18 the Drug Enforcement Administration and the Fed-  
19 eral Bureau of Investigation for the investigation  
20 and prosecution of alleged violations of the Con-  
21 trolled Substances Act involving methamphetamine;  
22 and

23 (2) the measures being taken to give priority in  
24 the allocation of such resources to such violations in-  
25 volving—

1           (A) persons alleged to have imported into  
2           the United States substantial quantities of  
3           methamphetamine or scheduled listed chemicals  
4           (as defined pursuant to the amendment made  
5           by section 711(a)(1));

6           (B) persons alleged to have manufactured  
7           methamphetamine; and

8           (C) circumstances in which the violations  
9           have endangered children.

10       (b) CONGRESSIONAL COMMITTEES.—The congres-  
11       sional committees and organizations referred to in sub-  
12       section (a) are—

13           (1) in the House of Representatives, the Com-  
14           mittee on the Judiciary, the Committee on Energy  
15           and Commerce, and the Committee on Government  
16           Reform; and

17           (2) in the Senate, the Committee on the Judici-  
18           ary, the Committee on Commerce, Science, and  
19           Transportation, and the Caucus on International  
20           Narcotics Control.

1 **Subtitle D—Enhanced Environ-**  
2 **mental Regulation of Meth-**  
3 **amphetamine Byproducts**

4 **SEC. 241. BIENNIAL REPORT TO CONGRESS ON AGENCY**  
5 **DESIGNATIONS OF BY-PRODUCTS OF METH-**  
6 **AMPHETAMINE LABORATORIES AS HAZ-**  
7 **ARDOUS MATERIALS.**

8 Section 5103 of title 49, Unites States Code, is  
9 amended by adding at the end the following:

10 “(d) BIENNIAL REPORT.—The Secretary of Trans-  
11 portation shall submit to the Committee on Transpor-  
12 tation and Infrastructure of the House of Representatives  
13 and the Senate Committee on Commerce, Science, and  
14 Transportation a biennial report providing information on  
15 whether the Secretary has designated as hazardous mate-  
16 rials for purposes of chapter 51 of such title all by-prod-  
17 ucts of the methamphetamine-production process that are  
18 known by the Secretary to pose an unreasonable risk to  
19 health and safety or property when transported in com-  
20 merce in a particular amount and form.”.

21 **SEC. 242. METHAMPHETAMINE PRODUCTION REPORT.**

22 Section 3001 of the Solid Waste Disposal Act (42  
23 U.S.C. 6921) is amended at the end by adding the fol-  
24 lowing:

1       “(j) METHAMPHETAMINE PRODUCTION.—Not later  
2 than every 24 months, the Administrator shall submit to  
3 the Committee on Energy and Commerce of the House  
4 of Representatives and the Committee on Environment  
5 and Public Works of the Senate a report setting forth in-  
6 formation collected by the Administrator from law enforce-  
7 ment agencies, States, and other relevant stakeholders  
8 that identifies the byproducts of the methamphetamine  
9 production process and whether the Administrator con-  
10 sideres each of the byproducts to be a hazardous waste pur-  
11 suant to this section and relevant regulations.”.

12 **SEC. 243. CLEANUP COSTS.**

13       (a) IN GENERAL.—Section 413(q) of the Controlled  
14 Substances Act (21 U.S.C. 853(q)) is amended—

15               (1) in the matter preceding paragraph (1), by  
16 inserting “, the possession, or the possession with in-  
17 tent to distribute, ” after “manufacture”; and

18               (2) in paragraph (2), by inserting “, or on  
19 premises or in property that the defendant owns, re-  
20 sides, or does business in” after “by the defendant”.

21       (b) SAVINGS CLAUSE.—Nothing in this section shall  
22 be interpreted or construed to amend, alter, or otherwise  
23 affect the obligations, liabilities and other responsibilities  
24 of any person under any Federal or State environmental  
25 laws.

1     **Subtitle E—Additional Programs**  
2                     **and Activities**

3     **SEC. 251. IMPROVEMENTS TO DEPARTMENT OF JUSTICE**  
4                     **DRUG COURT GRANT PROGRAM.**

5             Section 2951 of the Omnibus Crime Control and Safe  
6     Streets Act of 1968 (42 U.S.C. 3797u) is amended by  
7     adding at the end the following new subsection:

8             “(c) MANDATORY DRUG TESTING AND MANDATORY  
9     SANCTIONS.—

10             “(1) MANDATORY TESTING.—Grant amounts  
11     under this part may be used for a drug court only  
12     if the drug court has mandatory periodic testing as  
13     described in subsection (a)(3)(A). The Attorney  
14     General shall, by prescribing guidelines or regula-  
15     tions, specify standards for the timing and manner  
16     of complying with such requirements. The stand-  
17     ards—

18             “(A) shall ensure that—

19             “(i) each participant is tested for  
20     every controlled substance that the partici-  
21     pant has been known to abuse, and for any  
22     other controlled substance the Attorney  
23     General or the court may require; and

24             “(ii) the testing is accurate and prac-  
25     ticable; and

1           “(B) may require approval of the drug  
2           testing regime to ensure that adequate testing  
3           occurs.

4           “(2) MANDATORY SANCTIONS.—The Attorney  
5           General shall, by prescribing guidelines or regula-  
6           tions, specify that grant amounts under this part  
7           may be used for a drug court only if the drug court  
8           imposes graduated sanctions that increase punitive  
9           measures, therapeutic measures, or both whenever a  
10          participant fails a drug test. Such sanctions and  
11          measures may include, but are not limited to, one or  
12          more of the following:

13                 “(A) Incarceration.

14                 “(B) Detoxification treatment.

15                 “(C) Residential treatment.

16                 “(D) Increased time in program.

17                 “(E) Termination from the program.

18                 “(F) Increased drug screening require-  
19          ments.

20                 “(G) Increased court appearances.

21                 “(H) Increased counseling.

22                 “(I) Increased supervision.

23                 “(J) Electronic monitoring.

24                 “(K) In-home restriction.

25                 “(L) Community service.



1                   “(M) Family counseling.

2                   “(N) Anger management classes.”.

3 **SEC. 252. DRUG COURTS FUNDING.**

4           Section 1001(25)(A) of title I of the Omnibus Crime  
5 Control and Safe Streets Act of 1968 (42 U.S.C.  
6 2591(25)(A)) is amended by adding at the end the fol-  
7 lowing:

8                               “(v) \$70,000,000 for fiscal year  
9                               2006.”.

10 **SEC. 253. FEASIBILITY STUDY ON FEDERAL DRUG COURTS.**

11           The Attorney General shall, conduct a feasibility  
12 study on the desirability of a drug court program for Fed-  
13 eral offenders who are addicted to controlled substances.  
14 The Attorney General lower-level, non-violate report the  
15 results of that study to Congress not later than June 30,  
16 2006.

17 **SEC. 254. GRANTS TO HOT SPOT AREAS TO REDUCE AVAIL-**  
18 **ABILITY OF METHAMPHETAMINE.**

19           Title I of the Omnibus Crime Control and Safe  
20 Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended  
21 by adding at the end the following:

1                   **“PART II—CONFRONTING USE OF**  
2                   **METHAMPHETAMINE**

3   **“SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS**  
4                   **PUBLIC SAFETY AND METHAMPHETAMINE**  
5                   **MANUFACTURING, SALE, AND USE IN HOT**  
6                   **SPOTS.**

7           “(a) PURPOSE AND PROGRAM AUTHORITY.—

8                   “(1) PURPOSE.—It is the purpose of this part  
9           to assist States—

10                   “(A) to carry out programs to address the  
11           manufacture, sale, and use of methamphet-  
12           amine drugs; and

13                   “(B) to improve the ability of State and  
14           local government institutions of to carry out  
15           such programs.

16                   “(2) GRANT AUTHORIZATION.—The Attorney  
17           General, through the Bureau of Justice Assistance  
18           in the Office of Justice Programs may make grants  
19           to States to address the manufacture, sale, and use  
20           of methamphetamine to enhance public safety.

21                   “(3) GRANT PROJECTS TO ADDRESS METH-  
22           AMPHETAMINE MANUFACTURE SALE AND USE.—  
23           Grants made under subsection (a) may be used for  
24           programs, projects, and other activities to—

1           “(A) investigate, arrest and prosecute indi-  
2           viduals violating laws related to the use, manu-  
3           facture, or sale of methamphetamine;

4           “(B) reimburse the Drug Enforcement Ad-  
5           ministration for expenses related to the clean  
6           up of methamphetamine clandestine labs;

7           “(C) support State and local health depart-  
8           ment and environmental agency services de-  
9           ployed to address methamphetamine; and

10           “(D) procure equipment, technology, or  
11           support systems, or pay for resources, if the ap-  
12           plicant for such a grant demonstrates to the  
13           satisfaction of the Attorney General that ex-  
14           penditures for such purposes would result in  
15           the reduction in the use, sale, and manufacture  
16           of methamphetamine.

17 **“SEC. 2997. FUNDING.**

18           “There are authorized to be appropriated to carry out  
19           this part \$99,000,000 for each fiscal year 2006, 2007,  
20           2008, 2009, and 2010.”.

21 **SEC. 255. GRANTS FOR PROGRAMS FOR DRUG-ENDAN-**  
22 **GERED CHILDREN.**

23           (a) **IN GENERAL.**—The Attorney General shall make  
24           grants to States for the purpose of carrying out programs  
25           to provide comprehensive services to aid children who are

1 living in a home in which methamphetamine or other con-  
2 trolled substances are unlawfully manufactured, distrib-  
3 uted, dispensed, or used.

4 (b) CERTAIN REQUIREMENTS.—The Attorney Gen-  
5 eral shall ensure that the services carried out with grants  
6 under subsection (a) include the following:

7 (1) Coordination among law enforcement agen-  
8 cies, prosecutors, child protective services, social  
9 services, health care services, and any other services  
10 determined to be appropriate by the Attorney Gen-  
11 eral to provide assistance regarding the problems of  
12 children described in subsection (a).

13 (2) Transition of children from toxic or drug-  
14 endangering environments to appropriate residential  
15 environments.

16 (c) AUTHORIZATION OF APPROPRIATIONS.—For the  
17 purpose of carrying out this section, there are authorized  
18 to be appropriated \$20,000,000 for each of the fiscal years  
19 2006 and 2007. Amounts appropriated under the pre-  
20 ceding sentence shall remain available until expended.

21 **SEC. 256. AUTHORITY TO AWARD COMPETITIVE GRANTS TO**  
22 **ADDRESS METHAMPHETAMINE USE BY PREG-**  
23 **NANT AND PARENTING WOMEN OFFENDERS.**

24 (a) PURPOSE AND PROGRAM AUTHORITY.—

1           (1) GRANT AUTHORIZATION.—The Attorney  
2           General may award competitive grants to address  
3           the use of methamphetamine among pregnant and  
4           parenting women offenders to promote public safety,  
5           public health, family permanence and well being.

6           (2) PURPOSES AND PROGRAM AUTHORITY.—  
7           Grants awarded under this section shall be used to  
8           facilitate or enhance and collaboration between the  
9           criminal justice, child welfare, and State substance  
10          abuse systems in order to carry out programs to ad-  
11          dress the use of methamphetamine drugs by preg-  
12          nant and parenting women offenders.

13          (b) DEFINITIONS.—In this section, the following defi-  
14          nitions shall apply:

15           (1) CHILD WELFARE AGENCY.—The term  
16           “child welfare agency” means the State agency re-  
17           sponsible for child and/or family services and wel-  
18           fare.

19           (2) CRIMINAL JUSTICE AGENCY.—The term  
20           “criminal justice agency” means an agency of the  
21           State or local government or its contracted agency  
22           that is responsible for detection, arrest, enforcement,  
23           prosecution, defense, adjudication, incarceration,  
24           probation, or parole relating to the violation of the  
25           criminal laws of that State or local government.

1 (c) APPLICATIONS.—

2 (1) IN GENERAL.—No grant may be awarded  
3 under this section unless an application has been  
4 submitted to, and approved by, the Attorney Gen-  
5 eral.

6 (2) APPLICATION.—An application for a grant  
7 under this section shall be submitted in such form,  
8 and contain such information, as the Attorney Gen-  
9 eral, may prescribe by regulation or guidelines.

10 (3) ELIGIBLE ENTITIES.—The Attorney Gen-  
11 eral shall make grants to States, territories, and In-  
12 dian Tribes. Applicants must demonstrate extensive  
13 collaboration with the State criminal justice agency  
14 and child welfare agency in the planning and imple-  
15 mentation of the program.

16 (4) CONTENTS.—In accordance with the regula-  
17 tions or guidelines established by the Attorney Gen-  
18 eral in consultation with the Secretary of Health and  
19 Human Services, each application for a grant under  
20 this section shall contain a plan to expand the  
21 State's services for pregnant and parenting women  
22 offenders who are pregnant women and/or women  
23 with dependent children for the use of methamphet-  
24 amine or methamphetamine and other drugs and in-  
25 clude the following in the plan:

1 (A) A description of how the applicant will  
2 work jointly with the State criminal justice and  
3 child welfare agencies needs associated with the  
4 use of methamphetamine or methamphetamine  
5 and other drugs by pregnant and parenting  
6 women offenders to promote family stability  
7 and permanence.

8 (B) A description of the nature and the ex-  
9 tent of the problem of methamphetamine use by  
10 pregnant and parenting women offenders.

11 (C) A certification that the State has in-  
12 volved counties and other units of local govern-  
13 ment, when appropriate, in the development, ex-  
14 pansion, modification, operation or improve-  
15 ment of proposed programs to address the use,  
16 manufacture, or sale of methamphetamine.

17 (D) A certification that funds received  
18 under this section will be used to supplement,  
19 not supplant, other Federal, State, and local  
20 funds.

21 (E) A description of clinically appropriate  
22 practices and procedures to—

23 (i) screen and assess pregnant and  
24 parenting women offenders for addiction to  
25 methamphetamine and other drugs;

1 (ii) when clinically appropriate for  
2 both the women and children, provide fam-  
3 ily treatment for pregnant and parenting  
4 women offenders, with clinically appro-  
5 priate services in the same location to pro-  
6 mote family permanence and self suffi-  
7 ciency; and

8 (iii) provide for a process to enhance  
9 or ensure the abilities of the child welfare  
10 agency, criminal justice agency and State  
11 substance agency to work together to re-  
12 unite families when appropriate in the case  
13 where family treatment is not provided.

14 (d) PERIOD OF GRANT.—The grant shall be a three-  
15 year grant. Successful applicants may reapply for only one  
16 additional three-year funding cycle and the Attorney Gen-  
17 eral may approve such applications.

18 (e) PERFORMANCE ACCOUNTABILITY; REPORTS AND  
19 EVALUATIONS.—

20 (1) REPORTS.—Successful applicants shall sub-  
21 mit to the Attorney General a report on the activi-  
22 ties carried out under the grant at the end of each  
23 fiscal year.

24 (2) EVALUATIONS.—Not later than 12 months  
25 at the end of the 3 year funding cycle under this



1 section, the Attorney General shall submit a report  
2 to the appropriate committees of jurisdiction that  
3 summarizes the results of the evaluations conducted  
4 by recipients and recommendations for further legis-  
5 lative action.

6 **TITLE III—REDUCING CRIME**  
7 **AND TERRORISM AT AMER-**  
8 **ICA’S SEAPORTS**

9 **SEC. 301. SHORT TITLE.**

10 This title may be cited as the “Reducing Crime and  
11 Terrorism at America’s Seaports Act of 2005”.

12 **SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

13 (a) IN GENERAL.—Section 1036 of title 18, United  
14 States Code, is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (2), by striking “or” at  
17 the end;

18 (B) by redesignating paragraph (3) as  
19 paragraph (4); and

20 (C) by inserting after paragraph (2) the  
21 following:

22 “(3) any secure or restricted area of any sea-  
23 port, designated as secure in an approved security  
24 plan, as required under section 70103 of title 46,

1 United States Code, and the rules and regulations  
2 promulgated under that section; or”;

3 (2) in subsection (b)(1), by striking “5 years”  
4 and inserting “10 years”;

5 (3) in subsection (c)(1), by inserting “, captain  
6 of the seaport,” after “airport authority”; and

7 (4) by striking the section heading and insert-  
8 ing the following:

9 **“§ 1036. Entry by false pretenses to any real property,  
10 vessel, or aircraft of the United States or  
11 secure area of any airport or seaport”.**

12 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
13 The table of sections for chapter 47 of title 18 is amended  
14 by striking the matter relating to section 1036 and insert-  
15 ing the following:

“1036. Entry by false pretenses to any real property, vessel, or aircraft of the  
United States or secure area of any airport or seaport.”.

16 (c) DEFINITION OF SEAPORT.—Chapter 1 of title 18,  
17 United States Code, is amended by adding at the end the  
18 following:

19 **“§ 26. Definition of seaport**

20 “As used in this title, the term ‘seaport’ means all  
21 piers, wharves, docks, and similar structures, adjacent to  
22 any waters subject to the jurisdiction of the United States,  
23 to which a vessel may be secured, including areas of land,  
24 water, or land and water under and in immediate prox-

1 imity to such structures, buildings on or contiguous to  
 2 such structures, and the equipment and materials on such  
 3 structures or in such buildings.”.

4 (d) TECHNICAL AND CONFORMING AMENDMENT.—  
 5 The table of sections for chapter 1 of title 18 is amended  
 6 by inserting after the matter relating to section 25 the  
 7 following:

“26. Definition of seaport.”.

8 **SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE**  
 9 **TO, OBSTRUCTION OF BOARDING, OR PRO-**  
 10 **VIDING FALSE INFORMATION.**

11 (a) OFFENSE.—Chapter 109 of title 18, United  
 12 States Code, is amended by adding at the end the fol-  
 13 lowing:

14 **“§ 2237. Criminal sanctions for failure to heave to, ob-**  
 15 **struction of boarding, or providing false**  
 16 **information**

17 “(a)(1) It shall be unlawful for the master, operator,  
 18 or person in charge of a vessel of the United States, or  
 19 a vessel subject to the jurisdiction of the United States,  
 20 to knowingly fail to obey an order by an authorized Fed-  
 21 eral law enforcement officer to heave to that vessel.

22 “(2) It shall be unlawful for any person on board a  
 23 vessel of the United States, or a vessel subject to the juris-  
 24 diction of the United States, to—

1           “(A) forcibly resist, oppose, prevent, impede, in-  
2           timidate, or interfere with a boarding or other law  
3           enforcement action authorized by any Federal law or  
4           to resist a lawful arrest; or

5           “(B) provide materially false information to a  
6           Federal law enforcement officer during a boarding of  
7           a vessel regarding the vessel’s destination, origin,  
8           ownership, registration, nationality, cargo, or crew.

9           “(b) Any person who intentionally violates this sec-  
10          tion shall be fined under this title or imprisoned for not  
11          more than 5 years, or both.

12          “(c) This section does not limit the authority of a  
13          customs officer under section 581 of the Tariff Act of  
14          1930 (19 U.S.C. 1581), or any other provision of law en-  
15          forced or administered by the Secretary of the Treasury  
16          or the Secretary of Homeland Security, or the authority  
17          of any Federal law enforcement officer under any law of  
18          the United States, to order a vessel to stop or heave to.

19          “(d) A foreign nation may consent or waive objection  
20          to the enforcement of United States law by the United  
21          States under this section by radio, telephone, or similar  
22          oral or electronic means. Consent or waiver may be proven  
23          by certification of the Secretary of State or the designee  
24          of the Secretary of State.

25          “(e) In this section—

1           “(1) the term ‘Federal law enforcement officer’  
2 has the meaning given the term in section 115(c);

3           “(2) the term ‘heave to’ means to cause a vessel  
4 to slow, come to a stop, or adjust its course or speed  
5 to account for the weather conditions and sea state  
6 to facilitate a law enforcement boarding;

7           “(3) the term ‘vessel subject to the jurisdiction  
8 of the United States’ has the meaning given the  
9 term in section 2 of the Maritime Drug Law En-  
10 forcement Act (46 U.S.C. App. 1903); and

11           “(4) the term ‘vessel of the United States’ has  
12 the meaning given the term in section 2 of the Mari-  
13 time Drug Law Enforcement Act (46 U.S.C. App.  
14 1903).”.

15       (b) CONFORMING AMENDMENT.—The table of sec-  
16 tions for chapter 109, title 18, United States Code, is  
17 amended by inserting after the item for section 2236 the  
18 following:

“2237. Criminal sanctions for failure to heave to, obstruction of boarding, or  
providing false information.”.

19 **SEC. 304. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST**  
20 **MARITIME NAVIGATION, PLACEMENT OF DE-**  
21 **STRUCTIVE DEVICES.**

22       (a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chap-  
23 ter 111 of title 18, United States Code, as amended by

1 subsection (a), is further amended by adding at the end  
2 the following:

3 **“§ 2282A. Devices or dangerous substances in waters**  
4 **of the United States likely to destroy or**  
5 **damage ships or to interfere with mari-**  
6 **time commerce**

7 “(a) A person who knowingly places, or causes to be  
8 placed, in navigable waters of the United States, by any  
9 means, a device or dangerous substance which is likely to  
10 destroy or cause damage to a vessel or its cargo, cause  
11 interference with the safe navigation of vessels, or inter-  
12 ference with maritime commerce (such as by damaging or  
13 destroying marine terminals, facilities, or any other ma-  
14 rine structure or entity used in maritime commerce) with  
15 the intent of causing such destruction or damage, inter-  
16 ference with the safe navigation of vessels, or interference  
17 with maritime commerce shall be fined under this title or  
18 imprisoned for any term of years, or for life; or both.

19 “(b) A person who causes the death of any person  
20 by engaging in conduct prohibited under subsection (a)  
21 may be punished by death.

22 “(c) Nothing in this section shall be construed to  
23 apply to otherwise lawfully authorized and conducted ac-  
24 tivities of the United States Government.

25 “(d) In this section:



1 tion maintained by the Saint Lawrence Seaway Develop-  
 2 ment Corporation under the authority of section 4 of the  
 3 Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard  
 4 pursuant to section 81 of title 14, United States Code,  
 5 or lawfully maintained under authority granted by the  
 6 Coast Guard pursuant to section 83 of title 14, United  
 7 States Code, if such act endangers or is likely to endanger  
 8 the safe navigation of a ship, shall be fined under this  
 9 title or imprisoned for not more than 20 years, or both.”.

10 (2) CONFORMING AMENDMENT.—The table of  
 11 sections for chapter 111 of title 18, United States  
 12 Code, as amended by subsections (b) and (d) is fur-  
 13 ther amended by adding after the item related to  
 14 section 2282A the following:

“2282B. Violence against aids to maritime navigation.”.

15 **SEC. 305. TRANSPORTATION OF DANGEROUS MATERIALS**  
 16 **AND TERRORISTS.**

17 (a) TRANSPORTATION OF DANGEROUS MATERIALS  
 18 AND TERRORISTS.—Chapter 111 of title 18, as amended  
 19 by section 305, is further amended by adding at the end  
 20 the following:

21 **“§ 2283. Transportation of explosive, biological, chem-**  
 22 **ical, or radioactive or nuclear materials**

23 “(a) IN GENERAL.—Whoever knowingly transports  
 24 aboard any vessel within the United States and on waters  
 25 subject to the jurisdiction of the United States or any ves-



1 sel outside the United States and on the high seas or hav-  
2 ing United States nationality an explosive or incendiary  
3 device, biological agent, chemical weapon, or radioactive  
4 or nuclear material, knowing that any such item is in-  
5 tended to be used to commit an offense listed under sec-  
6 tion 2332b(g)(5)(B), shall be fined under this title or im-  
7 prisoned for any term of years or for life, or both.

8 “(b) CAUSING DEATH.—Any person who causes the  
9 death of a person by engaging in conduct prohibited by  
10 subsection (a) may be punished by death.

11 “(c) DEFINITIONS.—In this section:

12 “(1) BIOLOGICAL AGENT.—The term ‘biological  
13 agent’ means any biological agent, toxin, or vector  
14 (as those terms are defined in section 178).

15 “(2) BY-PRODUCT MATERIAL.—The term ‘by-  
16 product material’ has the meaning given that term  
17 in section 11(e) of the Atomic Energy Act of 1954  
18 (42 U.S.C. 2014(e)).

19 “(3) CHEMICAL WEAPON.—The term ‘chemical  
20 weapon’ has the meaning given that term in section  
21 229F(1).

22 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The  
23 term ‘explosive or incendiary device’ has the mean-  
24 ing given the term in section 232(5) and includes ex-

1 plosive materials, as that term is defined in section  
2 841(c) and explosive as defined in section 844(j).

3 “(5) NUCLEAR MATERIAL.—The term ‘nuclear  
4 material’ has the meaning given that term in section  
5 831(f)(1).

6 “(6) RADIOACTIVE MATERIAL.—The term ‘ra-  
7 dioactive material’ means—

8 “(A) source material and special nuclear  
9 material, but does not include natural or de-  
10pleted uranium;

11 “(B) nuclear by-product material;

12 “(C) material made radioactive by bom-  
13bardment in an accelerator; or

14 “(D) all refined isotopes of radium.

15 “(7) SOURCE MATERIAL.—The term ‘source  
16 material’ has the meaning given that term in section  
17 11(z) of the Atomic Energy Act of 1954 (42 U.S.C.  
18 2014(z)).

19 “(8) SPECIAL NUCLEAR MATERIAL.—The term  
20 ‘special nuclear material’ has the meaning given that  
21 term in section 11(aa) of the Atomic Energy Act of  
22 1954 (42 U.S.C. 2014(aa)).

23 **“§ 2284. Transportation of terrorists**

24 “(a) IN GENERAL.—Whoever knowingly and inten-  
25 tionally transports any terrorist aboard any vessel within

1 the United States and on waters subject to the jurisdiction  
 2 of the United States or any vessel outside the United  
 3 States and on the high seas or having United States na-  
 4 tionality, knowing that the transported person is a ter-  
 5 rorist, shall be fined under this title or imprisoned for any  
 6 term of years or for life, or both.

7 “(b) DEFINED TERM.—In this section, the term ‘ter-  
 8 rorist’ means any person who intends to commit, or is  
 9 avoiding apprehension after having committed, an offense  
 10 listed under section 2332b(g)(5)(B).”.

11 (b) CONFORMING AMENDMENT.—The table of sec-  
 12 tions for chapter 111 of title 18, United States Code, as  
 13 amended by section 305, is further amended by adding  
 14 at the end the following:

“2283. Transportation of explosive, chemical, biological, or radioactive or nu-  
 clear materials.

“2284. Transportation of terrorists.”.

15 **SEC. 306. DESTRUCTION OF, OR INTERFERENCE WITH, VES-**  
 16 **SELS OR MARITIME FACILITIES.**

17 (a) IN GENERAL.—Title 18, United States Code, is  
 18 amended by inserting after chapter 111 the following:

19 **“CHAPTER 111A—DESTRUCTION OF, OR**  
 20 **INTERFERENCE WITH, VESSELS OR**  
 21 **MARITIME FACILITIES**

“Sec.

“2290. Jurisdiction and scope.

“2291. Destruction of vessel or maritime facility.

“2292. Imparting or conveying false information.

1 **“§ 2290. Jurisdiction and scope**

2 “(a) JURISDICTION.—There is jurisdiction, including  
3 extraterritorial jurisdiction, over an offense under this  
4 chapter if the prohibited activity takes place—

5 “(1) within the United States and within waters  
6 subject to the jurisdiction of the United States; or

7 “(2) outside United States and—

8 “(A) an offender or a victim is a national  
9 of the United States (as that term is defined  
10 under section 101(a)(22) of the Immigration  
11 and Nationality Act (8 U.S.C. 1101(a)(22));

12 “(B) the activity involves a vessel in which  
13 a national of the United States was on board;  
14 or

15 “(C) the activity involves a vessel of the  
16 United States (as that term is defined under  
17 section 2 of the Maritime Drug Law Enforce-  
18 ment Act (46 U.S.C. App. 1903).

19 “(b) SCOPE.—Nothing in this chapter shall apply to  
20 otherwise lawful activities carried out by or at the direc-  
21 tion of the United States Government.

22 **“§ 2291. Destruction of vessel or maritime facility**

23 “(a) OFFENSE.—Whoever knowingly—

24 “(1) sets fire to, damages, destroys, disables, or  
25 wrecks any vessel;

1           “(2) places or causes to be placed a destructive  
2 device, as defined in section 921(a)(4), destructive  
3 substance, as defined in section 31(a)(3), or an ex-  
4 plosive, as defined in section 844(j) in, upon, or  
5 near, or otherwise makes or causes to be made un-  
6 workable or unusable or hazardous to work or use,  
7 any vessel, or any part or other materials used or in-  
8 tended to be used in connection with the operation  
9 of a vessel;

10           “(3) sets fire to, damages, destroys, or disables  
11 or places a destructive device or substance in, upon,  
12 or near, any maritime facility, including any aid to  
13 navigation, lock, canal, or vessel traffic service facil-  
14 ity or equipment;

15           “(4) interferes by force or violence with the op-  
16 eration of any maritime facility, including any aid to  
17 navigation, lock, canal, or vessel traffic service facil-  
18 ity or equipment, if such action is likely to endanger  
19 the safety of any vessel in navigation;

20           “(5) sets fire to, damages, destroys, or disables  
21 or places a destructive device or substance in, upon,  
22 or near, any appliance, structure, property, machine,  
23 or apparatus, or any facility or other material used,  
24 or intended to be used, in connection with the oper-  
25 ation, maintenance, loading, unloading, or storage of

1 any vessel or any passenger or cargo carried or in-  
2 tended to be carried on any vessel;

3 “(6) performs an act of violence against or in-  
4 capacitates any individual on any vessel, if such act  
5 of violence or incapacitation is likely to endanger the  
6 safety of the vessel or those on board;

7 “(7) performs an act of violence against a per-  
8 son that causes or is likely to cause serious bodily  
9 injury, as defined in section 1365(h)(3), in, upon, or  
10 near, any appliance, structure, property, machine, or  
11 apparatus, or any facility or other material used, or  
12 intended to be used, in connection with the oper-  
13 ation, maintenance, loading, unloading, or storage of  
14 any vessel or any passenger or cargo carried or in-  
15 tended to be carried on any vessel;

16 “(8) communicates information, knowing the  
17 information to be false and under circumstances in  
18 which such information may reasonably be believed,  
19 thereby endangering the safety of any vessel in navi-  
20 gation; or

21 “(9) attempts or conspires to do anything pro-  
22 hibited under paragraphs (1) through (8),

23 shall be fined under this title or imprisoned not more than  
24 20 years, or both.

1       “(b) LIMITATION.—Subsection (a) shall not apply to  
2 any person that is engaging in otherwise lawful activity,  
3 such as normal repair and salvage activities, and the  
4 transportation of hazardous materials regulated and al-  
5 lowed to be transported under chapter 51 of title 49.

6       “(c) PENALTY.—Whoever is fined or imprisoned  
7 under subsection (a) as a result of an act involving a vessel  
8 that, at the time of the violation, carried high-level radio-  
9 active waste (as that term is defined in section 2(12) of  
10 the Nuclear Waste Policy Act of 1982 (42 U.S.C.  
11 10101(12)) or spent nuclear fuel (as that term is defined  
12 in section 2(23) of the Nuclear Waste Policy Act of 1982  
13 (42 U.S.C. 10101(23)), shall be fined under this title, im-  
14 prisoned for a term up to life, or both.

15       “(d) PENALTY WHEN DEATH RESULTS.—Whoever is  
16 convicted of any crime prohibited by subsection (a) and  
17 intended to cause death by the prohibited conduct, if the  
18 conduct resulted in the death of any person, shall be sub-  
19 ject also to the death penalty or to a term of imprisonment  
20 for a period up to life.

21       “(e) THREATS.—Whoever knowingly and inten-  
22 tionally imparts or conveys any threat to do an act which  
23 would violate this chapter, with an apparent determination  
24 and will to carry the threat into execution, shall be fined  
25 under this title or imprisoned not more than 5 years, or

1 both, and is liable for all costs incurred as a result of such  
2 threat.

3 **“§ 2292. Imparting or conveying false information**

4       “(a) IN GENERAL.—Whoever imparts or conveys or  
5 causes to be imparted or conveyed false information,  
6 knowing the information to be false, concerning an at-  
7 tempt or alleged attempt being made or to be made, to  
8 do any act that would be a crime prohibited by this chap-  
9 ter or by chapter 111 of this title, shall be subject to a  
10 civil penalty of not more than \$5,000, which shall be re-  
11 coverable in a civil action brought in the name of the  
12 United States.

13       “(b) MALICIOUS CONDUCT.—Whoever knowingly, in-  
14 tentiously, maliciously, or with reckless disregard for the  
15 safety of human life, imparts or conveys or causes to be  
16 imparted or conveyed false information, knowing the infor-  
17 mation to be false, concerning an attempt or alleged at-  
18 tempt to do any act which would be a crime prohibited  
19 by this chapter or by chapter 111 of this title, shall be  
20 fined under this title or imprisoned not more than 5 years.

21       “(c) JURISDICTION.—

22               “(1) IN GENERAL.—Except as provided under  
23 paragraph (2), section 2290(a) shall not apply to  
24 any offense under this section.



1           “(2) JURISDICTION.—Jurisdiction over an of-  
2           fense under this section shall be determined in ac-  
3           cordance with the provisions applicable to the crime  
4           prohibited by this chapter, or by chapter 111 of this  
5           title, to which the imparted or conveyed false infor-  
6           mation relates, as applicable.

7   **“§ 2293. Bar to prosecution**

8           “(a) IN GENERAL.—It is a bar to prosecution under  
9           this chapter if—

10           “(1) the conduct in question occurred within  
11           the United States in relation to a labor dispute, and  
12           such conduct is prohibited as a felony under the law  
13           of the State in which it was committed; or

14           “(2) such conduct is prohibited as a mis-  
15           demeanor, and not as a felony, under the law of the  
16           State in which it was committed.

17           “(b) DEFINITIONS.—In this section:

18           “(1) LABOR DISPUTE.—The term ‘labor dis-  
19           pute’ has the same meaning given that term in sec-  
20           tion 13(c) of the Act to amend the Judicial Code  
21           and to define and limit the jurisdiction of courts sit-  
22           ting in equity, and for other purposes (29 U.S.C.  
23           113(c), commonly known as the Norris-LaGuardia  
24           Act).



1 “or both” the second place it appears and inserting  
2 “be fined under this title or imprisoned not more  
3 than 10 years, or both, but if the amount or value  
4 of such money, baggage, goods, or chattels is less  
5 than \$1,000, shall be fined under this title or im-  
6 prisoned for not more than 3 years, or both”; and

7 (3) by inserting after the first sentence in the  
8 eighth undesignated paragraph the following: “For  
9 purposes of this section, goods and chattel shall be  
10 construed to be moving as an interstate or foreign  
11 shipment at all points between the point of origin  
12 and the final destination (as evidenced by the waybill  
13 or other shipping document of the shipment), re-  
14 gardless of any temporary stop while awaiting trans-  
15 shipment or otherwise.”.

16 (b) STOLEN VESSELS.—

17 (1) IN GENERAL.—Section 2311 of title 18,  
18 United States Code, is amended by adding at the  
19 end the following, as a new undesignated paragraph:  
20 “‘Vessel’ means any watercraft or other contrivance  
21 used or designed for transportation or navigation on,  
22 under, or immediately above, water.”.

23 (2) TRANSPORTATION AND SALE OF STOLEN  
24 VESSELS.—

1           (A) TRANSPORTATION.—Section 2312 of  
2           title 18, United States Code, is amended by  
3           striking “motor vehicle or aircraft” and insert-  
4           ing “motor vehicle, vessel, or aircraft”.

5           (B) SALE.—Section 2313(a) of title 18,  
6           United States Code, is amended by striking  
7           “motor vehicle or aircraft” and inserting  
8           “motor vehicle, vessel, or aircraft”.

9           (c) REVIEW OF SENTENCING GUIDELINES.—Pursu-  
10          ant to section 994 of title 28, United States Code, the  
11          United States Sentencing Commission shall review the  
12          Federal Sentencing Guidelines to determine whether sen-  
13          tencing enhancement is appropriate for any offense under  
14          section 659 or 2311 of title 18, United States Code, as  
15          amended by this title.

16          (d) ANNUAL REPORT OF LAW ENFORCEMENT AC-  
17          TIVITIES.—The Attorney General shall annually submit to  
18          Congress a report, which shall include an evaluation of  
19          law enforcement activities relating to the investigation and  
20          prosecution of offenses under section 659 of title 18,  
21          United States Code, as amended by this title.

22          (e) REPORTING OF CARGO THEFT.—The Attorney  
23          General shall take the steps necessary to ensure that re-  
24          ports of cargo theft collected by Federal, State, and local  
25          officials are reflected as a separate category in the Uni-

1 form Crime Reporting System, or any successor system,  
2 by no later than December 31, 2006.

3 **SEC. 308. STOWAWAYS ON VESSELS OR AIRCRAFT.**

4 Section 2199 of title 18, United States Code, is  
5 amended by striking “Shall be fined under this title or  
6 imprisoned not more than one year, or both.” and insert-  
7 ing the following:

8 “(1) shall be fined under this title, imprisoned  
9 not more than 5 years, or both;

10 “(2) if the person commits an act proscribed by  
11 this section, with the intent to commit serious bodily  
12 injury, and serious bodily injury occurs (as defined  
13 under section 1365, including any conduct that, if  
14 the conduct occurred in the special maritime and  
15 territorial jurisdiction of the United States, would  
16 violate section 2241 or 2242) to any person other  
17 than a participant as a result of a violation of this  
18 section, shall be fined under this title or imprisoned  
19 not more than 20 years, or both; and

20 “(3) if an individual commits an act proscribed  
21 by this section, with the intent to cause death, and  
22 if the death of any person other than a participant  
23 occurs as a result of a violation of this section, shall  
24 be fined under this title, imprisoned for any number  
25 of years or for life, or both.”.

1 **SEC. 309. BRIBERY AFFECTING PORT SECURITY.**

2 (a) IN GENERAL.—Chapter 11 of title 18, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 226. Bribery affecting port security**

6 “(a) IN GENERAL.—Whoever knowingly—

7 “(1) directly or indirectly, corruptly gives, of-  
8 fers, or promises anything of value to any public or  
9 private person, with intent to commit international  
10 terrorism or domestic terrorism (as those terms are  
11 defined under section 2331), to—

12 “(A) influence any action or any person to  
13 commit or aid in committing, or collude in, or  
14 allow, any fraud, or make opportunity for the  
15 commission of any fraud affecting any secure or  
16 restricted area or seaport; or

17 “(B) induce any official or person to do or  
18 omit to do any act in violation of the lawful  
19 duty of such official or person that affects any  
20 secure or restricted area or seaport; or

21 “(2) directly or indirectly, corruptly demands,  
22 seeks, receives, accepts, or agrees to receive or ac-  
23 cept anything of value personally or for any other  
24 person or entity in return for—

1           “(A) being influenced in the performance  
2           of any official act affecting any secure or re-  
3           stricted area or seaport; and

4           “(B) knowing that such influence will be  
5           used to commit, or plan to commit, inter-  
6           national or domestic terrorism,

7 shall be fined under this title or imprisoned not more than  
8 15 years, or both.

9           “(b) DEFINITION.—In this section, the term ‘secure  
10 or restricted area’ means an area of a vessel or facility  
11 designated as secure in an approved security plan, as re-  
12 quired under section 70103 of title 46, United States  
13 Code, and the rules and regulations promulgated under  
14 that section.”.

15           (b) CONFORMING AMENDMENT.—The table of sec-  
16 tions for chapter 11 of title 18, United States Code, is  
17 amended by adding at the end the following:

“226. Bribery affecting port security.”.

18 **SEC. 310. PENALTIES FOR SMUGGLING GOODS INTO THE**  
19 **UNITED STATES.**

20           The third undesignated paragraph of section 545 of  
21 title 18, United States Code, is amended by striking “5  
22 years” and inserting “20 years”.

1 **SEC. 311. SMUGGLING GOODS FROM THE UNITED STATES.**

2 (a) IN GENERAL.—Chapter 27 of title 18, United  
3 States Code, is amended by adding at the end the fol-  
4 lowing:

5 **“§ 554. Smuggling goods from the United States**

6 “(a) IN GENERAL.—Whoever fraudulently or know-  
7 ingly exports or sends from the United States, or attempts  
8 to export or send from the United States, any merchan-  
9 dise, article, or object contrary to any law or regulation  
10 of the United States, or receives, conceals, buys, sells, or  
11 in any manner facilitates the transportation, concealment,  
12 or sale of such merchandise, article or object, prior to ex-  
13 portation, knowing the same to be intended for expor-  
14 tation contrary to any law or regulation of the United  
15 States, shall be fined under this title, imprisoned not more  
16 than 10 years, or both.

17 “(b) DEFINITION.—In this section, the term ‘United  
18 States’ has the meaning given that term in section 545.”.

19 (b) CONFORMING AMENDMENT.—The chapter anal-  
20 ysis for chapter 27 of title 18, United States Code, is  
21 amended by adding at the end the following:

“554. Smuggling goods from the United States.”.

22 (c) SPECIFIED UNLAWFUL ACTIVITY.—Section  
23 1956(c)(7)(D) of title 18, United States Code, is amended  
24 by inserting “section 554 (relating to smuggling goods



1 from the United States),” before “section 641 (relating  
2 to public money, property, or records),”.

3 (d) TARIFF ACT OF 1990.—Section 596 of the Tariff  
4 Act of 1930 (19 U.S.C. 1595a) is amended by adding at  
5 the end the following:

6 “(d) Merchandise exported or sent from the United  
7 States or attempted to be exported or sent from the  
8 United States contrary to law, or the proceeds or value  
9 thereof, and property used to facilitate the exporting or  
10 sending of such merchandise, the attempted exporting or  
11 sending of such merchandise, or the receipt, purchase,  
12 transportation, concealment, or sale of such merchandise  
13 prior to exportation shall be seized and forfeited to the  
14 United States.”.

15 (e) REMOVING GOODS FROM CUSTOMS CUSTODY.—  
16 Section 549 of title 18, United States Code, is amended  
17 in the 5th paragraph by striking “two years” and insert-  
18 ing “10 years”.

○