

112TH CONGRESS
1ST SESSION

H. R. 1823

To modernize, shorten, and simplify the Federal criminal code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 2011

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

A BILL

To modernize, shorten, and simplify the Federal criminal code, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Criminal Code Mod-
5 ernization and Simplification Act of 2011”.

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

7 **CODE.**

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

1 **“PART I—GENERAL PROVISIONS AND OFFENSES**

“Chapter	
“1. Definitions	1
“3. Criminal responsibility	2
“5. Other general provisions	21
“10. Violent crimes against persons	101
“13. Sex crimes	201
“15. National security and related crimes	261
“17. Drug crimes	401
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“21. Arson, firearms, explosives, and weapons crimes	571
“23. Theft and related crimes	641
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“27. Crimes related to Federal Government responsibilities	851
“29. Crimes related to protection of Government functions and integrity	991
“31. International law crimes	1251
“33. Transportation related crimes	1301
“35. Regulatory crimes	1371
“37. Privacy	1481
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2 **“CHAPTER 1—DEFINITIONS**

“Sec.

“1. Definitions for title.

3 **“§ 1. Definitions for title**

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

6 “(1) The term ‘person’ and the term ‘whoever’,
7 unless the context otherwise requires, include any
8 entity capable of holding a legal or beneficial interest
9 in property as well as an individual, and where used
10 as a victim of an offense, includes a government.

11 “(2) The term ‘minor’ means an individual who
12 is less than 18 years of age.

1 “(3) The term ‘national of the United States’
2 has the meaning given in section 101(a)(22) of the
3 Immigration and Nationality Act.

4 “(4) The term ‘organization’ means a person
5 other than an individual.

6 “(5) The term ‘department’ means one of the
7 executive departments enumerated in section 1 of
8 title 5, unless the context shows that such term was
9 intended to describe the executive, legislative, or ju-
10 dicial branches of the government.

11 “(6) The term ‘agency’ means any department,
12 independent establishment, commission, administra-
13 tion, authority, board, or bureau of the United
14 States or any corporation in which the United States
15 has a proprietary interest, unless the context shows
16 that such term was intended to be used in a more
17 limited sense.

18 “(7) The term ‘Postal Service’ means the
19 United States Postal Service established under title
20 39, and every officer and employee of that Service,
21 whether or not such officer or employee has taken
22 the oath of office.

23 “(8) The term ‘court of the United States’ in-
24 cludes the District Court of Guam, the District

1 Court for the Northern Mariana Islands, and the
2 District Court of the Virgin Islands.

3 “(9) The term ‘foreign government’ except in
4 sections 102, 112, 121, 144, or 928, includes any
5 government, faction, or body of insurgents within a
6 country with which the United States is at peace, ir-
7 respective of recognition by the United States.

8 “(10) The term ‘crime of violence’ means—

9 “(A) an offense that has as an element the
10 use, attempted use, or threatened use of phys-
11 ical force against the person or property of an-
12 other; or

13 “(B) any other offense that is a felony and
14 that, by its nature, involves a substantial risk
15 that physical force against the person or prop-
16 erty of another may be used in the course of
17 committing the offense.

18 “(11) The term ‘petty offense’ means a Class B
19 misdemeanor, a Class C misdemeanor, or an infrac-
20 tion, for which the maximum fine is no greater than
21 the amount set forth for such an offense in section
22 3571(b)(6) or (7) in the case of an individual or sec-
23 tion 3571(c)(6) or (7) in the case of an organization.

24 “(12) The term ‘United States’, unless the con-
25 text otherwise requires, includes all places and wa-

1 ters, continental or insular, subject to the jurisdic-
2 tion of the United States.

3 “(13) The term ‘State’ means a State of the
4 United States, the District of Columbia, or any com-
5 monwealth, territory, or possession of the United
6 States.

7 “(14) The term ‘interstate commerce’ means
8 commerce between or among more than one State.

9 “(15) The term ‘foreign commerce’ means com-
10 merce with a foreign country.

11 “(16) The term ‘facility of interstate or foreign
12 commerce’ includes a means of transportation and
13 communication in or affecting interstate or foreign
14 commerce;

15 “(17) The term ‘health care benefit program’
16 means any public or private plan or contract, affect-
17 ing commerce, under which any medical benefit,
18 item, or service is provided to any individual, and in-
19 cludes any individual or entity who is providing a
20 medical benefit, item, or service for which payment
21 may be made under the plan or contract.

22 “(18) The term ‘Federal health care offense’
23 means a violation of—

24 “(A) section 655, 792, or 806 of this title,
25 or section 1128B of the Social Security Act; or

1 “(B) section 504, 651, 653, 772, 782, 801,
2 803, or 1017 of this title, section 411, 518, or
3 511 of the Employee Retirement Income Secu-
4 rity Act of 1974, section 301 of the Federal
5 Food, Drug, and Cosmetic Act, or section 501
6 of the Employee Retirement Income Security
7 Act of 1974, if the violation relates to a health
8 care benefit program.

9 “(19) The term ‘financial institution’ means—

10 “(A) an insured depository institution (as
11 defined in section 3(c)(2) of the Federal De-
12 posit Insurance Act);

13 “(B) a credit union with accounts insured
14 by the National Credit Union Administration;

15 “(C) a Federal home loan bank or a mem-
16 ber of the Federal home loan bank system (as
17 such terms are defined in section 2 of the Fed-
18 eral Home Loan Bank Act);

19 “(D) a System institution of the Farm
20 Credit System (as defined in section 5.35(3) of
21 the Farm Credit Act of 1971);

22 “(E) a small business investment company
23 (as defined in section 103 of the Small Busi-
24 ness Investment Act of 1958);

1 “(F) a depository institution holding com-
2 pany (as defined in section 3(w)(1) of the Fed-
3 eral Deposit Insurance Act);

4 “(G) a Federal Reserve bank or a member
5 bank of the Federal Reserve System;

6 “(H) an organization operating under sec-
7 tion 25 or section 25A of the Federal Reserve
8 Act;

9 “(I) a branch or agency of a foreign bank
10 (as such terms are defined in section 1(b) of
11 the International Banking Act of 1978); and

12 “(J) a mortgage lending business or any
13 person or entity that makes in whole or in part
14 a federally related mortgage loan (as defined in
15 section 3 of the Real Estate Settlement Proce-
16 dures Act of 1974).

17 “(20) The term ‘mortgage lending business’
18 means an organization which finances or refinances
19 any debt secured by an interest in real estate, in-
20 cluding private mortgage companies and any subsidi-
21 aries of such organizations, and whose activities af-
22 fect interstate or foreign commerce.

23 “(21) The term ‘national bank’ is synonymous
24 with ‘national banking association’.

1 “(22) The term ‘obligation or other security of
2 any foreign government’ includes uncanceled stamps,
3 whether or not demonetized.

4 “(23) The term ‘special maritime and territorial
5 jurisdiction of the United States’ means the fol-
6 lowing:

7 “(A) The high seas, any other waters with-
8 in the admiralty and maritime jurisdiction of
9 the United States and out of the jurisdiction of
10 any particular State, and any vessel belonging
11 in whole or in part to the United States or any
12 citizen thereof, or to any corporation created by
13 or under the laws of the United States, or of
14 any State, when such vessel is within the admi-
15 ralty and maritime jurisdiction of the United
16 States and out of the jurisdiction of any par-
17 ticular State.

18 “(B) Any vessel registered, licensed, or en-
19 rolled under the laws of the United States, and
20 being on a voyage upon the waters of any of the
21 Great Lakes, or any of the waters connecting
22 them, or upon the Saint Lawrence River where
23 the same constitutes the International Bound-
24 ary Line.

1 “(C) Any lands reserved or acquired for
2 the use of the United States, and under the ex-
3 clusive or concurrent jurisdiction thereof, or any
4 place purchased or otherwise acquired by the
5 United States by consent of the legislature of
6 the State in which the same shall be, for the
7 erection of a fort, magazine, arsenal, dockyard,
8 or other needful building.

9 “(D) Any aircraft belonging in whole or in
10 part to the United States, or any citizen there-
11 of, or to any corporation created by or under
12 the laws of the United States, or any State,
13 while such aircraft is in flight over the high
14 seas, or over any other waters within the admi-
15 ralty and maritime jurisdiction of the United
16 States and out of the jurisdiction of any par-
17 ticular State.

18 “(E) Any vehicle used or designed for
19 flight or navigation in space and on the registry
20 of the United States pursuant to the Treaty on
21 Principles Governing the Activities of States in
22 the Exploration and Use of Outer Space, In-
23 cluding the Moon and Other Celestial Bodies
24 and the Convention on Registration of Objects
25 Launched into Outer Space, while that vehicle

1 is in flight, which is from the moment when all
2 external doors are closed on Earth following
3 embarkation until the moment when one such
4 door is opened on Earth for disembarkation or
5 in the case of a forced landing, until the com-
6 petent authorities take over the responsibility
7 for the vehicle and for persons and property
8 aboard.

9 “(F) Any place outside the jurisdiction of
10 any nation with respect to an offense by or
11 against a national of the United States.

12 “(G) To the extent permitted by inter-
13 national law, any foreign vessel during a voyage
14 having a scheduled departure from or arrival in
15 the United States with respect to an offense
16 committed by or against a national of the
17 United States.

18 “(H) With respect to offenses committed
19 by or against a national of the United States—

20 “(i) the premises of United States
21 diplomatic, consular, military or other
22 United States Government missions or en-
23 tities in foreign States, including the build-
24 ings, parts of buildings, and land appur-
25 tenant or ancillary thereto or used for pur-

1 poses of those missions or entities, irre-
2 spective of ownership; and

3 “(ii) residences in foreign States and
4 the land appurtenant or ancillary thereto,
5 irrespective of ownership, used for pur-
6 poses of those missions or entities or used
7 by United States personnel assigned to
8 those missions or entities.

9 Nothing in clause (ii) supersedes any treaty or
10 international agreement. Clause (ii) does not
11 apply with respect to an offense committed by
12 a person described in section 3261(a).

13 “(24) The term ‘vessel of the United States’
14 means a vessel belonging in whole or in part to the
15 United States, or any citizen thereof, or any cor-
16 poration created by or under the laws of the United
17 States, or of any State.

18 “(25) The term ‘serious bodily injury’ means—

19 “(A) bodily injury which involves—

20 “(i) a substantial risk of death or un-
21 consciousness;

22 “(ii) extreme physical pain;

23 “(iii) protracted and obvious dis-
24 figurement; or

1 “(iv) protracted loss or impairment of
2 the function of a bodily member, organ, or
3 mental or sensory faculty; or

4 “(B) the condition of being a victim of
5 conduct that, had it occurred in the special
6 maritime or territorial jurisdiction of the
7 United States, would have violated subchapter
8 A of chapter 13.

9 “(26) The term ‘substantial bodily injury’
10 means bodily injury which involves—

11 “(A) a temporary but substantial disfigure-
12 ment; or

13 “(B) a temporary but substantial loss or
14 impairment of the function of any bodily mem-
15 ber, organ, or mental or sensory faculty.

16 “(27) The term ‘bodily injury’ means—

17 “(A) a cut, abrasion, bruise, burn, or dis-
18 figurement;

19 “(B) physical pain;

20 “(C) illness;

21 “(D) impairment of the function of a bod-
22 ily member, organ, or mental or sensory faculty;
23 or

24 “(E) any other injury to the body, no mat-
25 ter how temporary.

1 “(28) The term ‘controlled substance’ means a
2 controlled substance as defined in section 102 of the
3 Controlled Substances Act.

4 **“CHAPTER 3—CRIMINAL RESPONSIBILITY**

“Sec.

“2. Principals.

“3. Accessory after the fact.

“4. Misprision of felony.

“5. Conspiracy.

“6. Attempt.

“7. Solicitation to commit a crime of violence.

5 **“§ 2. Principals**

6 “(a) GENERALLY.—Whoever commits an offense
7 against the United States or aids, abets, counsels, com-
8 mands, induces, or procures its commission, is punishable
9 as a principal.

10 “(b) FOR CONDUCT OF OTHERS.—Whoever inten-
11 tionally causes conduct by another that is an offense
12 against the United States, is punishable as a principal for
13 that offense.

14 **“§ 3. Accessory after the fact**

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

20 “(b) PUNISHMENT.—Except as otherwise expressly
21 provided by Act of Congress, an accessory after the fact
22 shall be imprisoned not more than one-half the maximum

1 term of imprisonment or (notwithstanding section 3571)
2 fined not more than one-half the maximum fine prescribed
3 for the punishment of the principal, or both; or if the prin-
4 cipal is punishable by life imprisonment or death, the ac-
5 cessory shall be imprisoned not more than 15 years.

6 **“§ 4. Misprision of felony**

7 “Whoever, having knowledge of the actual commis-
8 sion of a felony offense against the United States, conceals
9 and does not as soon as possible make known the same
10 to some judge or other person in civil or military authority
11 under the United States, shall be imprisoned not more
12 than three years.

13 **“§ 5. Conspiracy**

14 “Unless otherwise provided by law, if two or more
15 persons conspire to commit any offense against the United
16 States, and one or more of such persons do any act to
17 effect the object of the conspiracy, each shall be punished
18 for the offense which is the object of the conspiracy.

19 **“§ 6. Attempt**

20 “Unless otherwise provided by law, whoever attempts
21 to commit an offense shall be punished as is provided for
22 the completed offense.

23 **“§ 7. Solicitation to commit a crime of violence**

24 “(a) OFFENSE.—Whoever, with intent that another
25 person engage in a Federal offense that is a felony crime

1 of violence and under circumstances strongly corroborative
2 of that intent, solicits such other person to engage in that
3 offense, shall be imprisoned not more than one-half the
4 maximum term of imprisonment or (notwithstanding sec-
5 tion 3571) fined not more than one-half of the maximum
6 fine prescribed for the punishment of the crime solicited,
7 or both; or if the crime solicited is punishable by life im-
8 prisonment or death, shall be imprisoned for not more
9 than 20 years.

10 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative
11 defense to a prosecution under this section that, under cir-
12 cumstances manifesting a voluntary and complete renunci-
13 ation of his criminal intent, the defendant prevented the
14 commission of the crime solicited. A renunciation is not
15 ‘voluntary and complete’ if it is motivated in whole or in
16 part by a decision to postpone the commission of the crime
17 until another time or to substitute another victim or an-
18 other but similar objective.

19 “(c) LIMITATION ON DEFENSES.—It is not a defense
20 to a prosecution under this section that the person solie-
21 ited could not be convicted of the crime because that per-
22 son lacked the state of mind required for its commission,
23 was incompetent or irresponsible, or is immune from pros-
24 ecution, or not subject to, prosecution.

1 **“CHAPTER 5—OTHER GENERAL**
2 **PROVISIONS**

“Subchapter
“A. Defenses
“B. General rules pertaining to criminal offenses

3 **“SUBCHAPTER A—DEFENSES**

“Sec.
“21. Affirmative defenses.
“22. Insanity defense.

4 **“§ 21. Affirmative defenses**

5 “If a provision of law provides an affirmative defense
6 to a prosecution for an offense, the defendant must prove
7 the elements of that defense by a preponderance of the
8 evidence.

9 **“§ 22. Insanity defense**

10 “(a) AFFIRMATIVE DEFENSE.—It is an affirmative
11 defense to a prosecution under any Federal statute that,
12 at the time of the commission of the acts constituting the
13 offense, the defendant, as a result of a severe mental dis-
14 ease or defect, was unable to appreciate the nature and
15 quality or the wrongfulness of his acts. Mental disease or
16 defect does not otherwise constitute a defense.

17 “(b) BURDEN OF PROOF.—The defendant has the
18 burden of proving the defense of insanity by clear and con-
19 vincing evidence.

1 “SUBCHAPTER B—GENERAL RULES
2 PERTAINING TO CRIMINAL OFFENSES

“Sec.

“31. Non-preemption.

3 **“§ 31. Non-preemption**

4 “‘The existence of a Federal criminal offense does not
5 preclude the application of a State or local law to the con-
6 duct proscribed by the offense, unless the law specifically
7 so provides or the State or local law requires conduct con-
8 stituting the Federal criminal offense.

9 **“§ 32. Extraterritorial jurisdiction over derivative of-
10 fenses**

11 “‘If extraterritorial jurisdiction exists for an offense
12 defined by a provision of law, then extraterritorial jurisdic-
13 tion also exists for any offense arising under chapter 3
14 as a result of conduct with respect the offense so defined.

15 **“CHAPTER 10—VIOLENT CRIMES AGAINST
16 PERSONS**

“Subchapter

“A. Homicide

“B. Assault and related offenses

“C. Kidnapping

“D. Threats against specially protected persons

“E. Definitions and general provisions for subchapters A through D

“F. Robbery, extortion, and threats

“G. Extortionate credit transactions

“H. Domestic violence

“I. Protection of unborn children

17 “SUBCHAPTER A—HOMICIDE

“Sec.

“101. Homicide.

“102. Federally punishable homicides.

“103. Penalties for murders punishable under section 102; attempts.

“104. Penalties for manslaughters punishable under section 102; attempts.

“105. Misconduct or neglect of ship officers.

1 **“§ 101. Homicide**

2 “Unless otherwise provided by Act of Congress, if a
3 Federal law makes the killing of a human being an of-
4 fense, the following categories shall apply with respect to
5 that offense:

6 “(1) MURDER.—

7 “(A) ELEMENTS OF OFFENSE.—Murder is the
8 unlawful killing of a human being with malice
9 aforethought. Every murder perpetrated by poison,
10 lying in wait, or any other kind of willful, deliberate,
11 malicious, and premeditated killing; or committed in
12 the perpetration of, or attempt to perpetrate, any
13 arson, escape, murder, kidnapping, treason, espio-
14 nage, sabotage, aggravated sexual abuse or sexual
15 abuse, child abuse, burglary, or robbery; or per-
16 petrated as part of a pattern or practice of assault
17 or torture against a child or children; or perpetrated
18 from a premeditated design unlawfully and mali-
19 ciously to effect the death of any human being other
20 than him who is killed, is murder in the first degree.
21 Any other murder is murder in the second degree.

22 “(B) DEFINITIONS.—In this paragraph—

1 “(i) the term ‘assault’ means conduct that
2 consists of an assault as described in section
3 111;

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

7 “(iii) the term ‘child abuse’ means inten-
8 tionally causing death or serious bodily injury
9 to a child;

10 “(iv) the term ‘pattern or practice of as-
11 sault or torture’ means assault or torture en-
12 gaged in on at least two occasions; and

13 “(v) the term ‘torture’ means conduct,
14 whether or not committed under the color of
15 law, that otherwise satisfies the definition of
16 that term set forth in section 1292.

17 “(2) MANSLAUGHTER.—Manslaughter is the unlaw-
18 ful killing of a human being without malice. It is of two
19 kinds:

20 “(A) VOLUNTARY.—Upon a sudden quarrel or
21 heat of passion.

22 “(B) INVOLUNTARY.—In the commission of an
23 unlawful act not amounting to a felony, or in the
24 commission in an unlawful manner, or without due

1 caution and circumspection, of a lawful act which
2 might produce death.

3 **“§ 102. Federally punishable homicides**

4 “In addition to any other homicides made punishable
5 by law, the following are Federal offenses:

6 “(1) SPECIAL MARITIME AND TERRITORIAL JU-
7 RISDICTION.—A killing of an individual in the spe-
8 cial maritime and territorial jurisdiction of the
9 United States.

10 “(2) OFFICERS AND EMPLOYEES AND FORMER
11 OFFICERS AND EMPLOYEES OF THE UNITED
12 STATES.—A killing of any officer or employee, or
13 any former officer or employee, of the United States
14 or of any agency in any branch of the United States
15 Government (including any member of the uni-
16 formed services) while such officer or employee is en-
17 gaged in or on account of the performance of official
18 duties, or any individual assisting such an officer or
19 employee in the performance of such duties or on ac-
20 count of that assistance.

21 “(3) FAMILY MEMBERS OF OFFICERS AND EM-
22 PLOYEES AND FORMER OFFICERS AND EMPLOYEES
23 OF THE UNITED STATES.—A killing, with the intent
24 to impede, intimidate, or interfere with an individual
25 described in paragraph (2) while that individual is

1 engaged in the performance of official duties, or
2 with intent to retaliate against such individual on
3 account of the performance of official duties of that
4 individual, of a member of that individual's family.

5 “(4) FOREIGN OFFICIALS, OFFICIAL GUESTS,
6 AND INTERNATIONALLY PROTECTED PERSONS.—A
7 killing of a foreign official, official guest, or inter-
8 nationally protected person.

9 “(5) KILLINGS BY ESCAPED PRISONER.—A kill-
10 ing by an individual who has escaped from a Federal
11 correctional institution where the individual was con-
12 fined under a sentence for a term of life imprison-
13 ment.

14 “(6) CONGRESSIONAL, CABINET, AND SUPREME
15 COURT ASSASSINATION.—A killing of an individual
16 who is a Member of Congress or a Member-of-Con-
17 gress-elect, a member of the executive branch of the
18 Government who is the head, or a person nominated
19 to be head during the pendency of such nomination,
20 of a department listed in section 101 of title 5 or
21 the second ranking official in such department, the
22 Director (or a person nominated to be Director dur-
23 ing the pendency of such nomination) or Deputy Di-
24 rector of Central Intelligence, or a Justice of the
25 United States, as defined in section 451 of title 28,

1 or a person nominated to be a Justice of the United
2 States, during the pendency of such nomination.

3 “(7) PRESIDENTIAL AND PRESIDENTIAL STAFF
4 ASSASSINATION.—A killing of an individual who is—

5 “(A) the President of the United States,
6 the President-elect, the Vice President, or, if
7 there is no Vice President, the officer next in
8 the order of succession to the Office of the
9 President of the United States, the Vice Presi-
10 dent-elect, or any person who is acting as Presi-
11 dent under the Constitution and laws of the
12 United States;

13 “(B) a major Presidential or Vice Presi-
14 dential candidate (as defined in section 3056);
15 or

16 “(C) a person appointed under section
17 105(a)(2)(A) of title 3 employed in the Execu-
18 tive Office of the President or appointed under
19 section 106(a)(1)(A) of title 3 employed in the
20 Office of the Vice President.

21 “(8) OF NATIONAL ABROAD.—A killing of an
22 individual outside the United States who is a na-
23 tional of the United States.

1 “(9) KILLINGS BY PRISONER.—A killing of an
2 individual by a person confined under a sentence of
3 life imprisonment in a Federal correctional facility.

4 **“§ 103. Penalties for murders punishable under sec-**
5 **tion 102; attempts**

6 “(a) MURDER.—A murder that is an offense under
7 section 102 is punishable by—

8 “(1) death or imprisonment for life for first de-
9 gree murder; and

10 “(2) imprisonment for any term of years or for
11 life for second degree murder.

12 “(b) ATTEMPTED MURDER.—

13 “(1) GENERALLY.—Except as provided in para-
14 graph (2), whoever attempts to commit a murder
15 that is an offense under section 102 shall be impris-
16 oned not more than 20 years.

17 “(2) SPECIAL RULE RELATING TO CONGRES-
18 SIONAL, CABINET, AND SUPREME COURT ASSASSINA-
19 TIONS AND PRESIDENTIAL AND PRESIDENTIAL
20 STAFF ASSASSINATIONS.—If the offense attempted is
21 against an individual described in paragraph (6) or
22 (7) of section 102, the penalty is imprisonment for
23 any term of years or for life.

1 **“§ 104. Penalties for manslaughters punishable under**
2 **section 102; attempts**

3 “(a) PENALTY FOR MANSLAUGHTER.—A man-
4 slaughter that is an offense under section 102 is punish-
5 able by—

6 “(1) imprisonment for not more than ten years,
7 for voluntary manslaughter; and

8 “(2) imprisonment for not more than six years,
9 for involuntary manslaughter.

10 “(b) ATTEMPTED MANSLAUGHTER.—Whoever at-
11 tempts to commit a manslaughter that would be punish-
12 able under section 102 shall be imprisoned not more than
13 7 years.

14 **“§ 105. Misconduct or neglect of ship officers**

15 “(a) OFFICERS.—Every captain, engineer, pilot, or
16 other person employed on any steamboat or vessel, by
17 whose misconduct, negligence, or inattention to his duties
18 on such vessel the life of any person is destroyed, and
19 every owner, charterer, inspector, or other public officer,
20 through whose fraud, neglect, connivance, misconduct, or
21 violation of law the life of any person is destroyed, shall
22 be imprisoned not more than ten years.

23 “(b) OWNERS.—When the owner or charterer of any
24 steamboat or vessel is a corporation, any executive officer
25 of such corporation, for the time being actually charged
26 with the control and management of the operation, equip-

1 ment, or navigation of such steamboat or vessel, who has
 2 knowingly caused or allowed such fraud, neglect, conniv-
 3 ance, misconduct, or knowing violation of law, by which
 4 the life of any person is destroyed, shall be imprisoned
 5 not more than ten years.

6 “SUBCHAPTER B—ASSAULT AND RELATED
 7 OFFENSES

“Sec.

“111. Assault.

“112. Individuals federally protected from assault.

“113. Interference with Federal officers and employees.

“114. Domestic assault by an habitual offender.

8 “§ 111. Assault

9 “Unless otherwise provided by Act of Congress, if a
 10 Federal law prohibits an assault against an individual, the
 11 following punishments shall apply with respect to that of-
 12 fense:

13 “(1) Assault with intent to commit murder, a
 14 felony under subchapter (A) of chapter 10, or with
 15 intent to maim, disfigure, or torture, by imprison-
 16 ment for not more than 20 years.

17 “(2) Assault with intent to commit any felony,
 18 except murder or a felony under subchapter (A) of
 19 chapter 10, by imprisonment for not more than ten
 20 years.

21 “(3) Assault with a dangerous weapon, with in-
 22 tent to do bodily harm, and without just cause or ex-
 23 cuse, by imprisonment for not more than ten years.

1 of that assistance while that person is engaged in, or on
2 account of, the performance, official duties shall be impris-
3 oned not more than one year.

4 **“§ 114. Domestic assault by an habitual offender**

5 “(a) IN GENERAL.—Whoever commits a domestic as-
6 sault within the special maritime and territorial jurisdic-
7 tion of the United States or Indian country and who has
8 a final conviction on at least 2 separate prior occasions
9 in Federal, State, or Indian tribal court proceedings for
10 offenses that would be, if subject to Federal jurisdiction—

11 “(1) any assault, sexual abuse, or serious vio-
12 lent felony against a spouse or intimate partner; or

13 “(2) an offense under section 161,
14 shall be imprisoned for a term of not more than 5 years,
15 but if substantial bodily injury results from the offense
16 under this section, the offender shall be imprisoned for
17 a term of not more than 10 years.

18 “(b) DOMESTIC ASSAULT DEFINED.—In this section,
19 the term ‘domestic assault’ means an assault committed
20 by a current or former spouse, parent, child, or guardian
21 of the victim, by a person with whom the victim shares
22 a child in common, by a person who is cohabitating with
23 or has cohabitated with the victim as a spouse, parent,
24 child, or guardian, or by a person similarly situated to a
25 spouse, parent, child, or guardian of the victim.

1 “SUBCHAPTER C—KIDNAPPING

“Sec.

“121. Kidnapping.

“122. Ransom money.

“123. Hostage taking.

“124. International parental kidnapping.

2 **“§ 121. Kidnapping**

3 “(a) BASIC OFFENSE.—Except in the case of a child
4 by the parent thereof, whoever, as made applicable by sub-
5 section (b), kidnaps an individual shall be imprisoned for
6 any term of years or for life and, if death results to any
7 individual, shall be punished by death or life imprison-
8 ment.

9 “(b) CIRCUMSTANCES REQUIRED.—Subsection (a)
10 applies if—

11 “(1) the victim is transported in interstate or
12 foreign commerce;

13 “(2) the victim’s body is transported in inter-
14 state or foreign commerce and the victim was alive
15 when the transportation began;

16 “(3) the offender travels in interstate or foreign
17 commerce or uses the mail or any means, facility, or
18 instrumentality of interstate or foreign commerce in
19 committing or in furtherance of the commission of
20 the offense; or

21 “(4) the victim is an individual whose killing is
22 a Federal offense under paragraph (1), (2), (4), (6),
23 or (7) of section 102.

1 “(c) PRESUMPTION.—With respect to a violation of
2 subsection (a), based on the circumstance described in
3 subsection (b)(1), the failure to release the victim within
4 24 hours after the victim was kidnapped creates a rebutta-
5 ble presumption that the victim has been transported in
6 interstate or foreign commerce. However, the fact that the
7 presumption under this section has not yet taken effect
8 does not preclude a Federal investigation of a possible vio-
9 lation of this section.

10 “(d) ATTEMPTS.—Whoever attempts to violate sub-
11 section (a) shall be punished by imprisonment for not
12 more than 20 years but if the individual whose kidnapping
13 was attempted is described in paragraph (6) or (7) of sec-
14 tion 102, the offender shall be imprisoned for any term
15 of years or for life.

16 “(e) SPECIAL RULE FOR CERTAIN OFFENSES IN-
17 VOLVING CHILDREN.—If the victim of an offense under
18 this section is a minor and the offender—

19 “(1) is not a minor; and

20 “(2) is not—

21 “(A) a parent;

22 “(B) a grandparent;

23 “(C) a brother;

24 “(D) a sister;

25 “(E) an aunt;

1 “(F) an uncle; or

2 “(G) an individual having legal custody of
3 the victim;

4 the sentence under this section for such offense shall in-
5 clude imprisonment for not less than 20 years.

6 “(f) DEFINITION.—As used in this section, the term
7 ‘parent’ does not include a person whose parental rights
8 with respect to the victim of an offense under this section
9 have been terminated by a final court order.

10 **“§ 122. Ransom money**

11 “(a) FEDERAL.—Whoever receives, possesses, or dis-
12 poses of any money or other property, or any portion
13 thereof, which has at any time been delivered as ransom
14 or reward in connection with a violation of section 121,
15 knowing it to be such, shall be imprisoned not more than
16 ten years.

17 “(b) STATE.—Whoever transports, transmits, or
18 transfers in interstate or foreign commerce any proceeds
19 of a kidnapping punishable under State law by imprison-
20 ment for more than 1 year, or receives, possesses, con-
21 ceals, or disposes of any such proceeds after they have
22 crossed a State or United States boundary, knowing the
23 proceeds to have been unlawfully obtained, shall be impris-
24 oned not more than 10 years.

1 **“§ 123. Hostage taking**

2 “(a) OFFENSE.—Except as provided in subsection (b)
3 of this section, whoever, whether inside or outside the
4 United States, seizes or detains and threatens to kill, to
5 injure, or to continue to detain another person in order
6 to compel a third person or a governmental organization
7 to do or abstain from doing any act as an explicit or im-
8 plicit condition for the release of the person detained shall
9 be punished by imprisonment for any term of years or for
10 life and, if the death of any person results, shall be pun-
11 ished by death or life imprisonment.

12 “(b) EXCLUSIONS.—

13 “(1) It is not an offense under this section if
14 the conduct required for the offense occurred outside
15 the United States unless—

16 “(A) the offender or the person seized or
17 detained is a national of the United States;

18 “(B) the offender is found in the United
19 States; or

20 “(C) the governmental organization sought
21 to be compelled is the Government of the
22 United States.

23 “(2) It is not an offense under this section if
24 the conduct required for the offense occurred inside
25 the United States, each alleged offender and each
26 person seized or detained are nationals of the United

1 States, and each alleged offender is found in the
2 United States, unless the governmental organization
3 sought to be compelled is the Government of the
4 United States.

5 **“§ 124. International parental kidnapping**

6 “(a) OFFENSE.—Whoever removes a child from the
7 United States, or attempts to do so, or retains a child
8 (who has been in the United States) outside the United
9 States with intent to obstruct the lawful exercise of paren-
10 tal rights shall be imprisoned not more than 3 years.

11 “(b) DEFINITIONS.—As used in this section—

12 “(1) the term ‘child’ means a person who has
13 not attained the age of 16 years; and

14 “(2) the term ‘parental rights’, with respect to
15 a child, means the right to physical custody of the
16 child—

17 “(A) whether joint or sole (and includes
18 visiting rights); and

19 “(B) whether arising by operation of law,
20 court order, or legally binding agreement of the
21 parties.

22 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
23 defense under this section that—

24 “(1) the defendant acted within the provisions
25 of a valid court order granting the defendant legal

1 custody or visitation rights and that order was ob-
 2 tained pursuant to the Uniform Child Custody Ju-
 3 risdiction Act or the Uniform Child Custody Juris-
 4 diction and Enforcement Act and was in effect at
 5 the time of the offense;

6 “(2) the defendant was fleeing an incidence or
 7 pattern of domestic violence; or

8 “(3) the defendant had physical custody of the
 9 child pursuant to a court order granting cus-
 10 tody or visitation rights and failed to return the
 11 child as a result of circumstances beyond the defend-
 12 ant’s control, and the defendant notified or made
 13 reasonable attempts to notify the other parent or
 14 lawful custodian of the child of such circumstances
 15 within 24 hours after the visitation period had ex-
 16 pired and returned the child as soon as possible.

17 “(d) EFFECT ON HAGUE CONVENTION.—This sec-
 18 tion does not limit The Hague Convention on the Civil
 19 Aspects of International Parental Child Abduction, done
 20 at The Hague on October 25, 1980.

21 “SUBCHAPTER D—THREATS AGAINST
 22 SPECIALLY PROTECTED PERSONS

“See.

“131. Threats against officers or employees of the United States, and other spe-
 cially protected persons.

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

4 “Whoever threatens to kill, kidnap, or inflict bodily
5 harm upon—

6 “(1) an individual described in paragraph (2) or
7 (3) of section 102 on account of the performance of
8 official duties;

9 “(2) an individual described in paragraph (4),
10 (6), or (7) of section 102;

11 “(3) a former President of the United States;

12 “(4) a member of the immediate family of the
13 President, the President-elect, the Vice President, or
14 the Vice President-elect;

15 “(5) a major candidate for the office of Presi-
16 dent or Vice President, or a member of the imme-
17 diate family of such candidate; or

18 “(6) a person protected by the Secret Service
19 under section 3056(a)(6);

20 shall be imprisoned for not more than 10 years.

21 **“SUBCHAPTER E—DEFINITIONS AND GENERAL**
22 **PROVISIONS FOR SUBCHAPTERS A THROUGH D**

“Sec.

“136. Definitions for subchapters A through D.

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

1 **“§ 136. Definitions for subchapters A through D**

2 “Unless otherwise provided, in subchapters A
3 through D, the following definitions apply:

4 “(1) The term ‘family’, with respect to an indi-
5 vidual, means—

6 “(A) a spouse, parent, brother or sister,
7 child, or person to whom the individual stands
8 in loco parentis; or

9 “(B) any other person living in the individ-
10 ual’s household and related to the individual by
11 blood or marriage.

12 “(2) The term ‘foreign government’ means the
13 government of a foreign country, irrespective of rec-
14 ognition by the United States.

15 “(3) The term ‘foreign official’ means—

16 “(A) a Chief of State or the political equiv-
17 alent, President, Vice President, Prime Min-
18 ister, Ambassador, Foreign Minister, or other
19 officer of Cabinet rank or above of a foreign
20 government or the chief executive officer of an
21 international organization, or any person who
22 has previously served in such capacity, and any
23 member of his family, while in the United
24 States; or

25 “(B) any person of a foreign nationality
26 who is duly notified to the United States as an

1 officer or employee of a foreign government or
2 international organization, and who is in the
3 United States on official business, and any
4 member of that person’s family whose presence
5 in the United States is in connection with the
6 presence of such officer or employee.

7 “(4) The term ‘internationally protected person’
8 means an individual who is—

9 “(A) a Chief of State or the political equiv-
10 alent, head of government, or Foreign Minister
11 whenever such person is in a country other than
12 his own and any member of that individual’s
13 family accompanying that individual; or

14 “(B) any other representative, officer, em-
15 ployee, or agent of the United States Govern-
16 ment, a foreign government, or international or-
17 ganization who at the time and place concerned
18 is entitled pursuant to international law to spe-
19 cial protection against attack upon his person,
20 freedom, or dignity, and any member of that in-
21 dividual’s family then forming part of his
22 household.

23 “(5) The term ‘international organization’
24 means a public international organization designated
25 as such pursuant to section 1 of the International

1 Organizations Immunities Act or a public organiza-
2 tion created pursuant to treaty or other agreement
3 under international law as an instrument through or
4 by which two or more foreign governments engage in
5 some aspect of their conduct of international affairs.

6 “(6) The term ‘official guest’ means a citizen or
7 national of a foreign country present in the United
8 States as an official guest of the Government of the
9 United States pursuant to designation as such by
10 the Secretary of State.

11 “(7) The terms ‘President-elect’ and ‘Vice
12 President-elect’ mean those persons who are the ap-
13 parently successful candidates for the offices of
14 President and Vice President, respectively, as
15 ascertained from the result of the general elections
16 held to determine the electors of President and Vice
17 President under sections 1 and 2 of title 3.

18 **“§ 137. Special rules relating to offenses against cer-
19 tain types of victims**

20 “(a) EXTRATERRITORIAL JURISDICTION.—

21 “(1) PRESIDENTIAL AND CONGRESSIONAL VIC-
22 TIMS.—There is extraterritorial jurisdiction over an
23 offense under any of subchapters A through D
24 against a victim described in paragraph (6) or (7)
25 of section 102.

1 “(2) INTERNATIONALLY PROTECTED PER-
2 SONS.—There is extraterritorial jurisdiction over an
3 offense under any of subchapters A through D the
4 victim of which is an internationally protected per-
5 son outside the United States, if—

6 “(A) the victim is a representative, officer,
7 employee, or agent of the United States;

8 “(B) an offender is a national of the
9 United States; or

10 “(C) an offender is afterwards found in the
11 United States.

12 “(b) USE OF MILITARY WITH RESPECT TO CERTAIN
13 OFFENSES.—With respect to an offense under this chap-
14 ter, or an attempt or conspiracy to commit such an of-
15 fense, if an element of the offense is that the victim be
16 individual described in paragraph (6) or (7) of section
17 102, a foreign official, an internationally protected person,
18 or an official guest, the Attorney General may request as-
19 sistance from any Federal, State, or local agency, includ-
20 ing the Army, Navy, and Air Force.

21 “(c) SPECIAL PROVISIONS RELATING TO OFFENSES
22 INVOLVING PRESIDENTIAL OR CONGRESSIONAL VIC-
23 TIMS.—With respect to an offense under paragraph (6)
24 or (7) of section 102—

1 “(1) if Federal investigative or prosecutive ju-
2 risdiction is asserted, that assertion suspends the ex-
3 ercise of jurisdiction by a State or local authority,
4 under any applicable State or local law, until Fed-
5 eral action is terminated;

6 “(2) the Federal Bureau of Investigation shall
7 have investigative authority; and

8 “(3) in a prosecution, the Government need not
9 prove that the defendant knew that the victim of the
10 offense was an individual who is protected by that
11 paragraph.

12 “(d) ACTIONS REQUIRED FOR CERTAIN HOMICIDE
13 PROSECUTIONS.—No prosecution shall be undertaken for
14 an offense under section 102(8) unless the named official
15 takes one of the following actions:

16 “(1) In the case of any such prosecution, the
17 Attorney General or the highest ranking subordinate
18 of the Attorney General with responsibility for crimi-
19 nal prosecutions certifies that, in the judgment of
20 the certifying official, such offense was intended to
21 coerce, intimidate, or retaliate against a government
22 or a civilian population.

23 “(2)(A) In the case of a killing by a national
24 of the United States within the jurisdiction of an-
25 other country, the Attorney General, the Deputy At-

1 son or presence of another anything of value, shall be im-
2 prisoned not more than 15 years.

3 **“§ 142. Robbery of personal property of United States**

4 “Whoever robs or attempts to rob another of any
5 kind or description of personal property belonging to the
6 United States, shall be imprisoned not more than 15
7 years.

8 **“§ 143. Bank robbery and incidental crimes**

9 “(a) BANK ROBBERY.—Whoever—

10 “(1) by force and violence, or by intimidation,
11 takes, or attempts to take, from the person or pres-
12 ence of another, or obtains or attempts to obtain by
13 extortion any property or money or any other thing
14 of value belonging to, or in the care, custody, con-
15 trol, management, or possession of, any bank, credit
16 union, or any savings and loan association; or

17 “(2) enters or attempts to enter any bank,
18 credit union, or any savings and loan association, or
19 any building used in whole or in part as a bank,
20 credit union, or as a savings and loan association,
21 with intent to commit in such bank, credit union, or
22 in such savings and loan association, or building, or
23 part thereof, so used, any felony affecting such
24 bank, credit union, or such savings and loan associa-

1 tion and in violation of any statute of the United
2 States, or any larceny;
3 shall be imprisoned not more than 20 years.

4 “(b) THEFT OF PROPERTY OVER \$1,000 IN
5 VALUE.—Whoever takes and carries away, with intent to
6 steal or purloin any property or money or any other thing
7 of value exceeding \$1,000 belonging to, or in the care, cus-
8 tody, control, management, or possession of any bank,
9 credit union, or any savings and loan association, shall be
10 imprisoned not more than ten years.

11 “(c) THEFT OF PROPERTY OF \$1,000 OR LESS IN
12 VALUE.—Whoever takes and carries away, with intent to
13 steal or purloin, any property or money or any other thing
14 of value not exceeding \$1,000 belonging to, or in the care,
15 custody, control, management, or possession of any bank,
16 credit union, or any savings and loan association, shall be
17 imprisoned not more than one year.

18 “(c) RECEIVING STOLEN BANK PROPERTY.—Who-
19 ever receives, possesses, conceals, stores, barter, sells, or
20 disposes of, any property or money or other thing of value
21 which has been taken or stolen from a bank, credit union,
22 or savings and loan association in violation of subsection
23 (b) or (c), knowing the same to be property which has
24 been stolen shall be subject to the punishment provided
25 in subsection (b) or (c) for the taker.

1 “(d) ASSAULTING PERSON OR PLACING LIFE IN
2 JEOPARDY.—Whoever, in committing, or in attempting to
3 commit, any offense defined in subsections (a) through (c),
4 assaults any person, or puts in jeopardy the life of any
5 person by the use of a dangerous weapon or device, shall
6 be imprisoned not more than 25 years.

7 “(e) KILLING AND KIDNAPPING.—Whoever, in com-
8 mitting any offense defined in this section, or in avoiding
9 or attempting to avoid apprehension for the commission
10 of such offense, or in freeing himself or attempting to free
11 himself from arrest or confinement for such offense, kills
12 any person, or forces any person to accompany him with-
13 out the consent of such person, shall be imprisoned not
14 less than ten years, or if death results shall be punished
15 by death or life imprisonment.

16 “(f) DEFINITIONS.—As used in this section—

17 “(1) the term ‘bank’ means any member bank
18 of the Federal Reserve System, and any bank, bank-
19 ing association, trust company, savings bank, or
20 other banking institution organized or operating
21 under the laws of the United States, including a
22 branch or agency of a foreign bank (as such terms
23 are defined in paragraphs (1) and (3) of section 1(b)
24 of the International Banking Act of 1978), and any

1 institution the deposits of which are insured by the
2 Federal Deposit Insurance Corporation;

3 “(2) the term ‘credit union’ means any Federal
4 credit union and any State-chartered credit union
5 the accounts of which are insured by the National
6 Credit Union Administration Board, and any ‘Fed-
7 eral credit union’ as defined in section 2 of the Fed-
8 eral Credit Union Act;

9 “(3) the term ‘State-chartered credit union’ in-
10 cludes a credit union chartered under the laws of a
11 State; and

12 “(4) the term ‘savings and loan association’
13 means—

14 “(A) a Federal savings association or State
15 savings association (as defined in section 3(b)
16 of the Federal Deposit Insurance Act) having
17 accounts insured by the Federal Deposit Insur-
18 ance Corporation; and

19 “(B) a corporation described in section
20 3(b)(1)(C) of the Federal Deposit Insurance
21 Act that is operating under the laws of the
22 United States.

1 **“§ 144. Communication of ransom demands and other**
2 **threatening communications in or affect-**
3 **ing commerce**

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

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

15 “(c) THREATS TO PROPERTY OR REPUTATION WITH
16 INTENT TO EXTORT.—Whoever, with intent to extort
17 from any person any money or other thing of value, know-
18 ingly transmits, in or affecting interstate or foreign com-
19 merce, any communication containing any threat—

20 “(1) to injure the property or reputation of an-
21 other or the reputation of a deceased person; or

22 “(2) to accuse another of a crime;
23 shall be imprisoned not more than 10 years.

1 **“§ 145. Extortion by officers or employees of the**
 2 **United States**

3 “Whoever, being an officer, or employee of the United
 4 States or any department or agency thereof, or rep-
 5 resenting oneself to be or assuming to act as such, under
 6 color or pretense of office or employment commits or at-
 7 tempts an act of extortion, shall be imprisoned not more
 8 than three years; but if the amount so extorted or de-
 9 manded does not exceed \$1,000, the offender shall be im-
 10 prisoned not more than one year.

11 **“§ 146. Receiving the proceeds of extortion**

12 “Whoever receives, possesses, conceals, or disposes of
 13 any money or other property which was obtained from the
 14 commission of any offense under this subchapter that is
 15 punishable by imprisonment for more than 1 year, know-
 16 ing the same to have been unlawfully obtained, shall be
 17 imprisoned not more than 3 years.

18 **“SUBCHAPTER G—EXTORTIONATE CREDIT**
 19 **TRANSACTIONS**

“Sec.

“155. Making extortionate extensions of credit.

“156. Financing extortionate extensions of credit.

“157. Collection of extensions of credit by extortionate means.

“158. Definitions and rules of construction.

20 **“§ 155. Making extortionate extensions of credit**

21 “(a) OFFENSE.—Whoever makes any extortionate ex-
 22 tension of credit shall be imprisoned not more than 20
 23 years.

1 “(b) PRIMA FACIE EVIDENCE OF EXTORTIONATE
2 TRANSACTION.—In any prosecution under this section, if
3 it is shown that all of the following factors were present
4 in connection with the extension of credit in question,
5 there is prima facie evidence that the extension of credit
6 was extortionate:

7 “(1) The repayment of the extension of credit,
8 or the performance of any promise given in consider-
9 ation thereof, would be unenforceable, through civil
10 judicial processes against the debtor—

11 “(A) in the jurisdiction within which the
12 debtor, if a natural person, resided; or

13 “(B) in every jurisdiction within which the
14 debtor, if other than a natural person, was in-
15 corporated or qualified to do business at the
16 time the extension of credit was made.

17 “(2) The extension of credit was made at a rate
18 of interest in excess of an annual rate of 45 per cen-
19 tum calculated according to the actuarial method of
20 allocating payments made on a debt between prin-
21 cipal and interest, pursuant to which a payment is
22 applied first to the accumulated interest and the bal-
23 ance is applied to the unpaid principal.

24 “(3) At the time the extension of credit was
25 made, the debtor reasonably believed that either—

1 “(A) one or more extensions of credit by
2 the creditor had been collected or attempted to
3 be collected by extortionate means, or the non-
4 repayment thereof had been punished by extor-
5 tionate means; or

6 “(B) the creditor had a reputation for the
7 use of extortionate means to collect extensions
8 of credit or to punish the nonrepayment there-
9 of.

10 “(4) Upon the making of the extension of cred-
11 it, the total of the extensions of credit by the cred-
12 itor to the debtor then outstanding, including any
13 unpaid interest or similar charges, exceeded \$100.

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

1 **“§ 156. Financing extortionate extensions of credit**

2 “Whoever knowingly advances money or property,
3 whether as a gift, as a loan, as an investment, pursuant
4 to a partnership or profit-sharing agreement, or otherwise,
5 to any person, with reason to believe that it is the inten-
6 tion of that person to use the money or property so ad-
7 vanced directly or indirectly for the purpose of making ex-
8 tortionate extensions of credit, shall be imprisoned not
9 more than 20 years.

10 **“§ 157. Collection of extensions of credit by extor-**
11 **tionate means**

12 “Whoever knowingly uses any extortionate means—

13 “(1) to collect or attempt to collect any exten-
14 sion of credit; or

15 “(2) to punish any person for nonrepayment of
16 an extension of credit;

17 shall be imprisoned not more than 20 years.

18 **“§ 158. Definitions and rules of construction**

19 “As used in this subchapter:

20 “(1) To extend credit means to make or renew
21 any loan, or to enter into any agreement, tacit or ex-
22 press, whereby the repayment or satisfaction of any
23 debt or claim, whether acknowledged or disputed,
24 valid or invalid, and however arising, may or will be
25 deferred.

1 “(2) The term ‘creditor’, with reference to any
2 given extension of credit, refers to any person mak-
3 ing that extension of credit, or to any person claim-
4 ing by, under, or through any person making that
5 extension of credit.

6 “(3) The term ‘debtor’, with reference to any
7 given extension of credit, refers to any person to
8 whom that extension of credit is made, or to any
9 person who guarantees the repayment of that exten-
10 sion of credit, or in any manner undertakes to in-
11 demnify the creditor against loss resulting from the
12 failure of any person to whom that extension of
13 credit is made to repay the same.

14 “(4) The repayment of any extension of credit
15 includes the repayment, satisfaction, or discharge in
16 whole or in part of any debt or claim, acknowledged
17 or disputed, valid or invalid, resulting from or in
18 connection with that extension of credit.

19 “(5) To collect an extension of credit means to
20 induce in any way any person to make repayment
21 thereof.

22 “(6) An extortionate extension of credit is any
23 extension of credit with respect to which it is the un-
24 derstanding of the creditor and the debtor at the
25 time it is made that delay in making repayment or

1 failure to make repayment could result in the use of
 2 violence or other criminal means to cause harm to
 3 the person, reputation, or property of any person.

4 “(7) An extortionate means is any means which
 5 involves the use, or an express or implicit threat of
 6 use, of violence or other criminal means to cause
 7 harm to the person, reputation, or property of any
 8 person.

9 “(8) State law, including conflict of laws rules,
 10 governing the enforceability through civil judicial
 11 processes of repayment of any extension of credit or
 12 the performance of any promise given in consider-
 13 ation thereof shall be judicially noticed. This para-
 14 graph does not impair any authority which any court
 15 would otherwise have to take judicial notice of any
 16 matter of State law.

17 “SUBCHAPTER H—DOMESTIC VIOLENCE

“Sec.

“161. Interstate domestic violence; interstate stalking; interstate violations of
 custody orders.

“162. Pretrial release of defendant.

“163. Full faith and credit given to protection orders.

“164. Definitions.

“165. Repeat offenders.

18 “§ 161. **Interstate domestic violence; interstate stalk-**
 19 **ing; interstate violations of custody or-**
 20 **ders**

21 “(a) OFFENSES.—Whoever—

1 “(1) travels in interstate or foreign commerce
2 or enters or leaves Indian country or within the spe-
3 cial maritime and territorial jurisdiction of the
4 United States with the intent to kill, injure, harass,
5 or intimidate a spouse, intimate partner, or dating
6 partner, and who, in the course of or as a result of
7 such travel, commits or attempts to commit a crime
8 of violence against that spouse, intimate partner, or
9 dating partner;

10 “(2) causes a spouse, intimate partner, or dat-
11 ing partner to travel in interstate or foreign com-
12 merce or to enter or leave Indian country or within
13 the special maritime and territorial jurisdiction of
14 the United States by force, coercion, duress, or
15 fraud, and who, in the course of, as a result of, or
16 to facilitate such conduct or travel, commits or at-
17 tempts to commit a crime of violence against that
18 spouse, intimate partner, or dating partner;

19 “(3) travels in interstate or foreign commerce
20 or within the special maritime and territorial juris-
21 diction of the United States, or enters or leaves In-
22 dian country, with the intent to kill, injure, harass,
23 or place under surveillance with intent to kill, injure,
24 harass, or intimidate another person, and in the
25 course of, or as a result of, such travel places that

1 person in reasonable fear of the death of, or serious
2 bodily injury to, or causes substantial emotional dis-
3 tress to that person, a member of the family (as de-
4 fined in section 136) of that person, or the spouse
5 or intimate partner of that person; or

6 “(4) with the intent—

7 “(A) to kill, injure, harass, or place under
8 surveillance with intent to kill, injure, harass,
9 or intimidate, or cause substantial emotional
10 distress to a person in another State or tribal
11 jurisdiction or within the special maritime and
12 territorial jurisdiction of the United States; or

13 “(B) to place a person in another State or
14 tribal jurisdiction, or within the special mari-
15 time and territorial jurisdiction of the United
16 States, in reasonable fear of the death of, or se-
17 rious bodily injury to—

18 “(i) that person;

19 “(ii) a member of the family (as de-
20 fined in section 136) of that person; or

21 “(iii) a spouse or intimate partner of
22 that person;

23 uses the mail, any interactive computer service, or
24 any facility of interstate or foreign commerce to en-
25 gage in a course of conduct that causes substantial

1 emotional distress to that person or places that per-
2 son in reasonable fear of the death of, or serious
3 bodily injury to, any of the persons described in
4 clauses (i) through (iii) of subparagraph (B);

5 “(5) travels in interstate or foreign commerce,
6 or enters or leaves Indian country, with the intent
7 to engage in conduct that violates the portion of a
8 protection order that prohibits or provides protection
9 against violence, threats, or harassment against,
10 contact or communication with, or physical prox-
11 imity to, another person, or that would violate such
12 a portion of a protection order in the jurisdiction in
13 which the order was issued, and subsequently en-
14 gages in such conduct; or

15 “(6) causes another person to travel in inter-
16 state or foreign commerce or to enter or leave In-
17 dian country by force, coercion, duress, or fraud,
18 and in the course of, as a result of, or to facilitate
19 such conduct or travel engages in conduct that vio-
20 lates the portion of a protection order that prohibits
21 or provides protection against violence, threats, or
22 harassment against, contact or communication with,
23 or physical proximity to, another person, or that
24 would violate such a portion of a protection order in
25 the jurisdiction in which the order was issued;

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

2 “(b) PUNISHMENT.—

3 “(1) IN GENERAL.—Whoever violates subsection
4 (a) shall be imprisoned—

5 “(A) for life or any term of years, if death
6 of the victim results;

7 “(B) for not more than 20 years, if perma-
8 nent disfigurement or life threatening bodily in-
9 jury to the victim results;

10 “(C) for not more than 10 years, if serious
11 bodily injury to the victim results or if the of-
12 fender uses a dangerous weapon during the of-
13 fense;

14 “(D) as provided for the applicable con-
15 duct under subchapter A of chapter 13, if the
16 offense would constitute an offense under that
17 subchapter if the offense had occurred within
18 the special maritime and territorial jurisdiction
19 of the United States; and

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

22 “(2) SPECIAL RULE.—Whoever violates para-
23 graph (3) or (4) of subsection (a) in violation of a
24 temporary or permanent civil or criminal injunction,
25 restraining order, no-contact order, or other order

1 described in section 164 shall be punished by impris-
2 onment for not less than 1 year.

3 **“§ 162. Pretrial release of defendant**

4 “In any proceeding pursuant to section 3142 for the
5 purpose of determining whether a defendant charged
6 under this subchapter shall be released pending trial, or
7 for the purpose of determining conditions of such release,
8 the alleged victim shall be given an opportunity to be
9 heard regarding the danger posed by the defendant.

10 **“§ 163. Full faith and credit given to protection or-**
11 **ders**

12 “(a) FULL FAITH AND CREDIT.—Any protection
13 order issued that is consistent with subsection (b) of this
14 section by the court of one State or Indian tribe (the
15 issuing State or Indian tribe) shall be accorded full faith
16 and credit by the court of another State or Indian tribe,
17 (the enforcing State or Indian tribe) and enforced by the
18 court and law enforcement personnel of the other State
19 or Indian tribe as if it were the order of the enforcing
20 State or Indian tribe.

21 “(b) PROTECTION ORDER.—A protection order
22 issued by a State, tribal, or territorial court is consistent
23 with this subsection if—

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

4 “(2) reasonable notice and opportunity to be
5 heard is given to the person against whom the order
6 is sought sufficient to protect that person’s right to
7 due process; and in the case of ex parte orders, no-
8 tice and opportunity to be heard must be provided
9 within the time required by State, tribal, or terri-
10 torial law, and in any event within a reasonable time
11 after the order is issued, sufficient to protect the re-
12 spondent’s due process rights.

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

19 “(1) no cross or counter petition, complaint, or
20 other written pleading was filed seeking such a pro-
21 tection order; or

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

25 “(d) NOTIFICATION AND REGISTRATION.—

1 “(1) NOTIFICATION.—A State or Indian tribe
2 according full faith and credit to an order by a court
3 of another State or Indian tribe shall not notify or
4 require notification of the party against whom a pro-
5 tection order has been issued that the protection
6 order has been registered or filed in that enforcing
7 State, tribal, or territorial jurisdiction unless re-
8 quested to do so by the party protected under such
9 order.

10 “(2) NO PRIOR REGISTRATION OR FILING AS
11 PREREQUISITE FOR ENFORCEMENT.—Any protection
12 order that is otherwise consistent with this section
13 shall be accorded full faith and credit, notwith-
14 standing failure to comply with any requirement
15 that the order be registered or filed in the enforcing
16 State, tribal, or territorial jurisdiction.

17 “(3) LIMITS ON INTERNET PUBLICATION OF
18 REGISTRATION INFORMATION.—A State or Indian
19 tribe shall not make available publicly on the Inter-
20 net any information regarding the registration, filing
21 of a petition for, or issuance of a protection order,
22 restraining order or injunction, restraining order, or
23 injunction in either the issuing or enforcing State,
24 tribal or territorial jurisdiction, if such publication
25 would be likely to publicly reveal the identity or loca-

1 tion of the party protected under such order. A
2 State or Indian tribe may share court-generated and
3 law enforcement-generated information contained in
4 secure, governmental registries for protection order
5 enforcement purposes.

6 “(e) TRIBAL COURT JURISDICTION.—For purposes
7 of this section, a tribal court shall have full civil jurisdic-
8 tion to enforce protection orders, including authority to
9 enforce any orders through civil contempt proceedings, ex-
10 clusion of violators from Indian lands, and other appro-
11 priate mechanisms, in matters arising within the authority
12 of the tribe.

13 **“§ 164. Definitions**

14 “As used in this subchapter—

15 “(1) the term ‘course of conduct’ means a pat-
16 tern of conduct composed of 2 or more acts, dem-
17 onstrating a continuity of purpose;

18 “(2) the term ‘enter or leave Indian country’ in-
19 cludes leaving the jurisdiction of one tribal govern-
20 ment and entering the jurisdiction of another tribal
21 government;

22 “(3) the term ‘protection order’ includes—

23 “(A) any injunction, restraining order, or
24 any other order issued by a civil or criminal
25 court for the purpose of preventing violent or

1 threatening acts or harassment against, sexual
2 violence, or contact or communication with or
3 physical proximity to, another person, including
4 any temporary or final order issued by a civil
5 or criminal court whether obtained by filing an
6 independent action or as a pendente lite order
7 in another proceeding so long as any civil or
8 criminal order was issued in response to a com-
9 plaint, petition, or motion filed by or on behalf
10 of a person seeking protection; and

11 “(B) any support, child custody or visita-
12 tion provisions, orders, remedies or relief issued
13 as part of a protection order, restraining order,
14 or injunction pursuant to State, tribal, terri-
15 torial, or local law authorizing the issuance of
16 protection orders, restraining orders, or injunc-
17 tions for the protection of victims of domestic
18 violence, sexual assault, dating violence, or
19 stalking;

20 “(4) the term ‘spouse or intimate partner’ in-
21 cludes—

22 “(A) for purposes of—

23 “(i) all provisions except paragraphs
24 (3) and (4) of section 161—

1 “(I) a spouse or former spouse of
2 the abuser, a person who shares a
3 child in common with the abuser, and
4 a person who cohabits or has
5 cohabited as a spouse with the abuser;
6 or

7 “(II) a person who is or has been
8 in a social relationship of a romantic
9 or intimate nature with the abuser, as
10 determined by the length of the rela-
11 tionship, the type of relationship, and
12 the frequency of interaction between
13 the persons involved in the relation-
14 ship; and

15 “(ii) paragraphs (3) and (4) of section
16 161—

17 “(I) a spouse or former spouse of
18 the target of the stalking, a person
19 who shares a child in common with
20 the target of the stalking, and a per-
21 son who cohabits or has cohabited as
22 a spouse with the target of the stalk-
23 ing; or

24 “(II) a person who is or has been
25 in a social relationship of a romantic

1 or intimate nature with the target of
2 the stalking, as determined by the
3 length of the relationship, the type of
4 the relationship, and the frequency of
5 interaction between the persons in-
6 volved in the relationship; and

7 “(B) any other person similarly situated to
8 a spouse who is protected by the domestic or
9 family violence laws of the State or tribal juris-
10 diction in which the injury occurred or where
11 the victim resides;

12 “(5) the term ‘travel in interstate or foreign
13 commerce’ does not include travel from one State to
14 another by an individual who is a member of an In-
15 dian tribe and who remains at all times in the terri-
16 tory of the Indian tribe of which the individual is a
17 member; and

18 “(6) the term ‘dating partner’ refers to a per-
19 son who is or has been in a social relationship of a
20 romantic or intimate nature with the abuser; and
21 the existence of such a relationship is based on a
22 consideration of—

23 “(A) the length of the relationship;

24 “(B) the type of relationship; and

1 a child, who is in utero at the time the conduct
2 takes place, is guilty of a separate offense under this
3 section.

4 “(2)(A) Except as otherwise provided in this
5 paragraph, the punishment for that separate offense
6 is the same as the punishment provided under Fed-
7 eral law for that conduct had that injury or death
8 occurred to the unborn child’s mother.

9 “(B) An offense under this section does
10 not require proof that—

11 “(i) the person engaging in the con-
12 duct had knowledge or should have had
13 knowledge that the victim of the under-
14 lying offense was pregnant; or

15 “(ii) the defendant intended to cause
16 the death of, or bodily injury to, the un-
17 born child.

18 “(C) If the person engaging in the conduct
19 thereby intentionally kills or attempts to kill the
20 unborn child, that person shall instead of being
21 punished under subparagraph (A) and subject
22 to subparagraph (D), be punished as provided
23 under subchapter A for the like offense.

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

4 “(b) PROVISIONS REFERRED TO.—The provisions re-
5 ferred to in subsection (a) are the following:

6 “(1) Sections 102, 112, 121, 123, 131, 143,
7 161, 201(a)(1), 204, 271, 273, 501, 502, 506, 507,
8 584(j), 593, 601, 614(d), (f), (h)(1), and (i), 631,
9 873, 892, 895, 897, 898, 1131, 1132, 1137, 1138,
10 1204(a), 1216, 1291, 1296, 1305, 1331, 1345, and
11 1373.

12 “(2) Section 202 of the Atomic Energy Act of
13 1954.

14 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
15 tion shall be construed to permit the prosecution—

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

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

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

25 “(d) DEFINITIONS.—As used in this section—

1 “(1) the term ‘unborn child’ means a child in
2 utero; and

3 “(2) the term ‘child in utero’ or ‘child, who is
4 in utero’ means a member of the species homo sapi-
5 ens, at any stage of development, who is carried in
6 the womb.

7 **“§ 172. Partial-birth abortions prohibited**

8 “(a) OFFENSE.—Any physician who, in or affecting
9 interstate or foreign commerce, knowingly performs a par-
10 tial-birth abortion and thereby kills a human fetus shall
11 be imprisoned not more than 2 years. This subsection does
12 not apply to a partial-birth abortion that is necessary to
13 save the life of a mother whose life is endangered by a
14 physical disorder, physical illness, or physical injury, in-
15 cluding a life-endangering physical condition caused by or
16 arising from the pregnancy itself.

17 “(b) DEFINITIONS.—As used in this section—

18 “(1) the term ‘partial-birth abortion’ means an
19 abortion in which the person performing the abor-
20 tion—

21 “(A) deliberately and intentionally
22 vaginally delivers a living fetus until, in the
23 case of a head-first presentation, the entire
24 fetal head is outside the body of the mother, or,
25 in the case of breech presentation, any part of

1 the fetal trunk past the navel is outside the
2 body of the mother, for the purpose of per-
3 forming an overt act that the person knows will
4 kill the partially delivered living fetus; and

5 “(B) performs the overt act, other than
6 completion of delivery, that kills the partially
7 delivered living fetus; and

8 “(2) the term ‘physician’ means a doctor of
9 medicine or osteopathy legally authorized to practice
10 medicine and surgery by the State in which the doc-
11 tor performs such activity, or any other individual
12 legally authorized by the State to perform abortions,
13 but any individual who is not a physician or not oth-
14 erwise legally authorized by the State to perform
15 abortions, but who nevertheless directly performs a
16 partial-birth abortion, shall be subject to the provi-
17 sions of this section.

18 “(c) CIVIL ACTION.—

19 “(1) The father, if married to the mother at the
20 time she receives a partial-birth abortion procedure,
21 and if the mother has not attained the age of 18
22 years at the time of the abortion, the maternal
23 grandparents of the fetus, may in a civil action ob-
24 tain appropriate relief, unless the pregnancy resulted

1 from the plaintiff's criminal conduct or the plaintiff
2 consented to the abortion.

3 “(2) Such relief shall include—

4 “(A) money damages for all injuries, psy-
5 chological and physical, occasioned by the viola-
6 tion of this section; and

7 “(B) statutory damages equal to three
8 times the cost of the partial-birth abortion.

9 “(d) HEARING.—

10 “(1) A defendant accused of an offense under
11 this section may seek a hearing before the State
12 Medical Board on whether the physician's conduct
13 was necessary to save the life of the mother whose
14 life was endangered by a physical disorder, physical
15 illness, or physical injury, including a life-endan-
16 gering physical condition caused by or arising from
17 the pregnancy itself.

18 “(2) The findings on that issue are admissible
19 on that issue at the trial of the defendant. Upon a
20 motion of the defendant, the court shall delay the
21 beginning of the trial for not more than 30 days to
22 permit such a hearing to take place.

23 “(e) EXCLUSION.—A woman upon whom a partial-
24 birth abortion is performed may not be prosecuted under
25 this section, for a conspiracy to violate this section, or for

1 an offense under section 2, 3, or 4 based on a violation
 2 of this section.

3 **“CHAPTER 13—SEX CRIMES**

“Subchapter

“A. Sexual abuse

“B. Transport for illegal sexual activity

“C. Sexual exploitation of children

“D. Sex offender registry

“E. General provisions and definitions

4 **“SUBCHAPTER A—SEXUAL ABUSE**

“Sec.

“201. Sexual abuse.

“202. Abusive sexual contact.

“203. Special rules and defenses.

“204. Sexual abuse resulting in death.

“205. Definitions for subchapter.

5 **“§ 201. Sexual abuse**

6 “(a) OFFENSES.—As made applicable and punished
 7 in subsection (b), the following offenses have the following
 8 elements:

9 “(1) AGGRAVATED SEXUAL ABUSE OF A
 10 CHILD.—Whoever—

11 “(A) knowingly engages in a sexual act
 12 with another person—

13 “(i) who has not attained the age of
 14 12 years; or

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

1 “(B) crosses a state line with the intent to
2 engage in a sexual act with a person who has
3 not attained the age of 12 years;
4 is guilty of aggravated sexual abuse of a child.

5 “(2) AGGRAVATED SEXUAL ABUSE.—Who-
6 ever—

7 “(A) knowingly causes another person to
8 engage in a sexual act—

9 “(i) by using force against that other
10 person; or

11 “(ii) by threatening or placing that
12 other person in fear that any person will
13 be subjected to death, serious bodily in-
14 jury, substantial risk of unconsciousness,
15 or kidnapping; or

16 “(B) knowingly—

17 “(i) renders another person uncon-
18 scious and thereby engages in a sexual act
19 with that other person; or

20 “(ii) administers to another person by
21 force or threat of force, or without the
22 knowledge or permission of that person, a
23 drug, intoxicant, or other similar substance
24 and thereby—

1 “(I) substantially impairs the
2 ability of that other person to ap-
3 praise or control conduct; and

4 “(II) engages in a sexual act with
5 that other person;

6 is guilty of aggravated sexual abuse.

7 “(3) SEXUAL ABUSE.—Whoever knowingly—

8 “(A) causes another person to engage in a
9 sexual act by threatening or placing that other
10 person in fear (other than by threatening or
11 placing that other person in fear that any per-
12 son will be subjected to death, serious bodily in-
13 jury, substantial risk of unconsciousness, or
14 kidnapping); or

15 “(B) engages in a sexual act with another
16 person if that other person is—

17 “(i) incapable of appraising the na-
18 ture of the conduct; or

19 “(ii) physically incapable of declining
20 participation in, or communicating unwill-
21 ingness to engage in, that sexual act;

22 is guilty of sexual abuse.

23 “(4) SEXUAL ABUSE OF A WARD.—Whoever
24 knowingly engages in a sexual act with another per-
25 son who is—

1 “(A) in official detention; and

2 “(B) under the custodial, supervisory, or
3 disciplinary authority of the person so engag-
4 ing;

5 is guilty of sexual abuse of a ward.

6 “(b) PENALTIES AND CIRCUMSTANCES FOR FED-
7 ERAL OFFENSE.—

8 “(1) PENALTIES.—

9 “(A) AGGRAVATED SEXUAL ABUSE OF A
10 CHILD.—Whoever commits aggravated sexual
11 abuse of a child in a place described in para-
12 graph (2) or by crossing a state line with the
13 intent to engage in a sexual act with a person
14 who has not attained the age of 12 years shall
15 be imprisoned not less than 30 years or for life.
16 If the offender has previously been convicted of
17 another Federal offense under subsection (a)(1)
18 or (a)(2), or of a State offense that would have
19 been an offense under either such provision had
20 the offense occurred in a Federal prison, the
21 defendant shall be punished by death or life im-
22 prisonment.

23 “(B) AGGRAVATED SEXUAL ABUSE.—Who-
24 ever commits aggravated sexual abuse in a

1 place described in paragraph (2) shall be im-
2 prisoned for any term of years or for life.

3 “(C) SEXUAL ABUSE.—Whoever commits
4 sexual abuse in a place described in paragraph
5 (2) shall be imprisoned not more than 20 years.

6 “(D) SEXUAL ABUSE OF A WARD.—Who-
7 ever commits sexual abuse of a ward in a place
8 described in paragraph (2) shall be imprisoned
9 not more than 15 years.

10 “(2) CIRCUMSTANCES.—The places referred to
11 in paragraph (1) are—

12 “(A) the special maritime and territorial
13 jurisdiction of the United States; or

14 “(B) a Federal prison or any prison insti-
15 tution or facility in which persons are held in
16 custody by direction of or pursuant to a con-
17 tract or agreement with the Attorney General.

18 **“§ 202. Abusive sexual contact**

19 “Whoever engages in sexual contact with another per-
20 son—

21 “(1) under circumstances in which, if the sexual
22 contact had been a sexual act, the sexual contact
23 would be punishable under section 201(b)(1)(A),
24 shall be imprisoned for any term of years or for life;

1 “(2) under circumstances in which, if the sexual
2 contact had been a sexual act, the sexual contact
3 would be punishable under section 201(b)(1)(B),
4 shall be imprisoned not more than 10 years;

5 “(3) under circumstances in which, if the sexual
6 contact had been a sexual act, the sexual contact
7 would be punishable under section 201(b)(1)(C),
8 shall be imprisoned not more than 3 years; and

9 “(4) under circumstances in which, if the sexual
10 contact had been a sexual act, the sexual contact
11 would be punishable under section 201(b)(1)(D),
12 shall be imprisoned not more than 2 years.

13 **“§ 203. Special rules and defenses**

14 “(a) PROOF OF STATE OF MIND AS TO AGE.—In a
15 prosecution under subsection (a)(1), the Government need
16 not prove that the defendant knew the age of the other
17 person engaging in the sexual act or that the requisite age
18 difference existed between the persons so engaging.

19 “(b) DEFENSES.—

20 “(1) AGGRAVATED SEXUAL ABUSE OF A CHILD
21 OR SEXUAL CONTACT INVOLVING A MINOR.—It is a
22 affirmative defense to a prosecution under this sub-
23 chapter for an offense involving a minor where an
24 element of the offense is that the minor not be 16

1 years of age or older that the defendant reasonably
2 believed the minor to be 16 years of age or older.

3 “(2) MARRIAGE IN CERTAIN CASES.—It is an
4 affirmative defense to prosecution for an offense
5 under this subchapter involving a sexual act or sex-
6 ual contact with a ward, that the ward was married
7 to the person engaging in the sexual act or contact
8 at the time of the alleged offense.

9 **“§ 204. Sexual abuse resulting in death**

10 “Whoever, in the course of an offense under this sub-
11 chapter, engages in conduct that results in the death of
12 a person, shall be punished by death or imprisoned for
13 any term of years or for life.

14 **“§ 205. Definitions for subchapter**

15 “As used in this subchapter—

16 “(1) the term ‘sexual act’ means—

17 “(A) contact between the penis and the
18 vulva or the penis and the anus, and for pur-
19 poses of this subparagraph contact involving the
20 penis occurs upon penetration, however slight;

21 “(B) contact between the mouth and the
22 penis, the mouth and the vulva, or the mouth
23 and the anus;

24 “(C) the penetration, however slight, of the
25 anal or genital opening of another by a hand or

1 finger or by any object, with an intent to abuse,
2 humiliate, harass, degrade, or arouse or gratify
3 the sexual desire of any person; or

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

10 “(2) the term ‘sexual contact’ means the inten-
11 tional touching, either directly or through the cloth-
12 ing, of the genitalia, anus, groin, breast, inner thigh,
13 or buttocks of any person, with an intent to abuse,
14 humiliate, harass, degrade, or arouse or gratify the
15 sexual desire of any person;

16 “(3) the term ‘official detention’ means—

17 “(A) detention by a Federal officer or em-
18 ployee, or under the direction of a Federal offi-
19 cer or employee, following arrest for an offense;
20 following surrender in lieu of arrest for an of-
21 fense; following a charge or conviction of an of-
22 fense, or an allegation or finding of juvenile de-
23 linquency; following commitment as a material
24 witness; following civil commitment in lieu of
25 criminal proceedings or pending resumption of

1 criminal proceedings that are being held in
2 abeyance, or pending extradition, deportation,
3 or exclusion; or

4 “(B) custody by a Federal officer or em-
5 ployee, or under the direction of a Federal offi-
6 cer or employee, for purposes incident to any
7 detention described in subparagraph (A) of this
8 paragraph, including transportation, medical di-
9 agnosis or treatment, court appearance, work,
10 and recreation;

11 but does not include supervision or other control
12 (other than custody during specified hours or days)
13 after release on bail, probation, or parole, or after
14 release following a finding of juvenile delinquency.

15 “SUBCHAPTER B—TRANSPORT FOR ILLEGAL
16 SEXUAL ACTIVITY

“Sec.

“211. Transportation generally.

“212. Coercion and enticement.

“213. Transportation of minors.

“214. Use of interstate facilities to transmit information about a minor.

17 “§ 211. **Transportation generally**

18 “Whoever knowingly transports an individual in
19 interstate or foreign commerce, or in any territory or pos-
20 session of the United States, with intent that such indi-
21 vidual engage in prostitution, or in any sexual activity for
22 which any person can be charged with a criminal offense,

1 or attempts to do so, shall be imprisoned not more than
2 10 years.

3 **“§ 212. Coercion and enticement**

4 “(a) Whoever knowingly persuades, induces, entices,
5 or coerces any individual to travel in interstate or foreign
6 commerce, or in any territory or possession of the United
7 States, to engage in prostitution, or in any sexual activity
8 for which any person can be charged with a criminal of-
9 fense, or attempts to do so, shall be imprisoned not more
10 than 20 years.

11 “(b) Whoever, using any facility of interstate or for-
12 eign commerce, or within the special maritime and terri-
13 torial jurisdiction of the United States, knowingly per-
14 suades, induces, entices, or coerces any minor to engage
15 in prostitution or any sexual activity for which any person
16 can be charged with a criminal offense, or attempts to do
17 so, shall be imprisoned not less than 5 years and not more
18 than 30 years.

19 **“§ 213. Transportation of minors**

20 “(a) TRANSPORTATION WITH INTENT TO ENGAGE IN
21 CRIMINAL SEXUAL ACTIVITY.—Whoever transports a
22 minor in interstate or foreign commerce, or in any terri-
23 tory or possession of the United States, with intent that
24 the minor engage in prostitution, or in any sexual activity
25 for which any person can be charged with a criminal of-

1 fense, shall be imprisoned not less than 5 years and not
2 more than 30 years.

3 “(b) TRAVEL WITH INTENT TO ENGAGE IN ILLICIT
4 SEXUAL CONDUCT.—Whoever travels in interstate com-
5 merce or travels into the United States, or, being a United
6 States citizen or an alien admitted for permanent resi-
7 dence in the United States, travels in foreign commerce,
8 for the purpose of engaging in any illicit sexual conduct
9 shall be imprisoned not more than 30 years.

10 “(c) ENGAGING IN ILLICIT SEXUAL CONDUCT IN
11 FOREIGN PLACES.—Any United States citizen or alien ad-
12 mitted for permanent residence who travels in foreign
13 commerce, and engages in any illicit sexual conduct shall
14 be imprisoned not more than 30 years.

15 “(d) ANCILLARY OFFENSES.—Whoever, for the pur-
16 pose of commercial advantage or private financial gain,
17 arranges, induces, procures, or facilitates the travel of a
18 person knowing that such a person is traveling in inter-
19 state commerce or foreign commerce for the purpose of
20 engaging in illicit sexual conduct shall be imprisoned not
21 more than 30 years.

22 “(e) DEFINITION.—As used in this section, the term
23 ‘illicit sexual conduct’ means—

24 “(1) a sexual act (as defined in section 205)
25 with a minor that would be in violation of sub-

1 chapter A if the sexual act occurred in the special
2 maritime and territorial jurisdiction of the United
3 States;

4 “(2) any commercial sex act (as defined in sec-
5 tion 1265) with a minor; or

6 “(3) the production of child pornography (as
7 defined in section 225).

8 “(f) DEFENSE.—In a prosecution under this section
9 based on illicit sexual conduct as defined in subsection
10 (e)(2), it is an affirmative defense that the defendant rea-
11 sonably believed that the person with whom the defendant
12 engaged in the commercial sex act had attained the age
13 of 18 years.

14 **“§ 214. Use of interstate facilities to transmit infor-**
15 **mation about a minor**

16 “Whoever, using a facility of interstate or foreign
17 commerce, or within the special maritime and territorial
18 jurisdiction of the United States, knowingly transmits of
19 the name, address, telephone number, social security num-
20 ber, or electronic mail address of another individual, know-
21 ing that such other individual has not attained the age
22 of 16 years, with the intent to entice, encourage, offer,
23 or solicit any person to engage in any sexual activity for
24 which any person can be charged with a criminal offense,

1 or attempts to do so, shall be imprisoned not more than
2 5 years.

3 “SUBCHAPTER C—SEXUAL EXPLOITATION OF
4 CHILDREN

“Sec.

“221. Sexual exploitation of children.

“222. Selling or buying of children.

“223. Certain activities relating to material involving the sexual exploitation of
minors and child pornography.

“224. Misleading domain names on the Internet.

“225. Definitions for subchapter.

“226. Record keeping requirements.

“227. Failure to report child abuse.

5 **“§ 221. Sexual exploitation of children**

6 “(a) OFFENSE.—Whoever, as made applicable in sub-
7 section (b)—

8 “(1) either—

9 “(A) employs, uses, persuades, induces, en-
10 tices, or coerces any minor to engage in, or who
11 has a minor assist any other person to engage
12 in, any sexually explicit conduct for the purpose
13 of producing any visual depiction of such con-
14 duct or for the purpose of transmitting a live
15 visual depiction of such conduct; or

16 “(B) transports any minor in interstate or
17 foreign commerce, or in any territory or posses-
18 sion of the United States, with the intent that
19 such minor engage in such conduct for such
20 purpose; or

1 “(2) being a parent, legal guardian, or person
2 having custody or control of a minor knowingly per-
3 mits such minor to engage in, or to assist any other
4 person to engage in, sexually explicit conduct for the
5 purpose of producing any visual depiction of such
6 conduct or for the purpose of transmitting a live vis-
7 ual depiction of such conduct;

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

9 “(b) **APPLICABILITY.**—Subsection (a) applies if—

10 “(1) the person engaging in that conduct knows
11 or has reason to know that such visual depiction will
12 be transported or transmitted in or affecting inter-
13 state or foreign commerce;

14 “(2) such visual depiction was produced using
15 materials that have been transported in or affecting
16 interstate or foreign commerce;

17 “(3) such visual depiction has actually been
18 transported or transmitted in or affecting interstate
19 or foreign commerce; or

20 “(4) the conduct constituting the offense occurs
21 in or affects interstate or foreign commerce.

22 “(c) **EXTRATERRITORIAL JURISDICTION.**—There is
23 extraterritorial jurisdiction over an offense under sub-
24 section (a)(1) if the offender—

1 “(1) intends such visual depiction to be trans-
2 ported to the United States; or

3 “(2) transports such visual depiction to the
4 United States.

5 “(d) ADVERTISEMENTS.—(1) Whoever, as made ap-
6 plicable by paragraph (2), knowingly makes, prints, or
7 publishes, or causes to be made, printed, or published, any
8 notice or advertisement seeking or offering—

9 “(A) to receive, exchange, buy, produce, display,
10 distribute, or reproduce, any visual depiction, if the
11 production of such visual depiction involves the use
12 of a minor engaging in sexually explicit conduct and
13 such visual depiction is of such conduct; or

14 “(B) participation in any act of sexually explicit
15 conduct by or with any minor for the purpose of pro-
16 ducing a visual depiction of such conduct;

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

18 “(2) Paragraph (1) applies if—

19 “(A) such person knows or has reason to know
20 that such notice or advertisement will be transported
21 in or affecting interstate or foreign commerce; or

22 “(B) such notice or advertisement is trans-
23 ported in or affecting interstate or foreign com-
24 merce.

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

16 **“§ 222. Selling or buying of children**

17 “(a) TRANSFER OF CUSTODY.—Whoever, as made
18 applicable by subsection (d) and with a mental state de-
19 scribed in subsection (c) having custody or control of a
20 minor, transfers that custody or control, or offers to do
21 so, shall be punished by imprisonment for not less than
22 30 years or for life.

23 “(b) OBTAINING CUSTODY.—Whoever, as made ap-
24 plicable by subsection (d) and with a mental state de-
25 scribed in subsection (c), obtains custody or control of a

1 minor, or offers to do so, shall be punished by imprison-
2 ment for not less than 30 years or for life.

3 “(c) MENTAL STATE.—The mental state referred to
4 in subsections (a) and (b) is—

5 “(1) knowledge that, as a consequence of the
6 transfer of custody, the minor will be portrayed in
7 a visual depiction engaging in, or assisting another
8 person to engage in, sexually explicit conduct; or

9 “(2) intent to promote either—

10 “(A) the engaging in of sexually explicit
11 conduct by such minor for the purpose of pro-
12 ducing any visual depiction of such conduct; or

13 “(B) the rendering of assistance by the
14 minor to any other person to engage in sexually
15 explicit conduct for the purpose of producing
16 any visual depiction of such conduct.

17 “(d) FEDERAL NEXUS.—Conduct described in sub-
18 section (a) and (b) is an offense if—

19 “(1) in the course of the conduct the minor or
20 the person engaging in the conduct travel in inter-
21 state or foreign commerce;

22 “(2) any offer described in such subsections
23 was communicated or transported in or affecting
24 interstate or foreign commerce; or

1 “(3) the conduct took place in any territory or
2 possession of the United States.

3 **“§ 223. Certain activities relating to material involv-**
4 **ing the sexual exploitation of minors and**
5 **child pornography**

6 “(a) OFFENSE.—Whoever, in a circumstance de-
7 scribed in subsection (b)—

8 “(1) knowingly—

9 “(A) transports an exploitative visual de-
10 piction or child pornography;

11 “(B) receives, or distributes, any exploita-
12 tive visual depiction or child pornography; or

13 “(C) reproduces any exploitative visual de-
14 piction or child pornography for distribution;

15 “(2) knowingly—

16 “(A) sells or possesses with intent to sell
17 any exploitative visual depiction or child por-
18 nography; or

19 “(B) possesses or accesses with intent to
20 view an exploitative visual depiction or child
21 pornography;

22 “(3) knowingly advertises, promotes, presents,
23 distributes, or solicits any material or purported ma-
24 terial in a manner that reflects the belief, or that is
25 intended to cause another to believe, that the mate-

1 rial or purported material contains an exploitative
2 visual depiction or child pornography;

3 “(4) knowingly produces with intent to dis-
4 tribute, or distributes, by any means, including a
5 computer, child pornography that is an adapted or
6 modified depiction of an identifiable minor;

7 shall be punished as provided in subsection (c).

8 “(b) CIRCUMSTANCE REQUIRED.—The circumstance
9 referred to in subsection (a) is any one of the following:

10 “(1) The conduct occurs in the special maritime
11 and territorial jurisdiction of the United States, or
12 in the Indian country as defined in section 871.

13 “(2) The conduct is in or affects interstate or
14 foreign commerce.

15 “(3) The exploitative visual depiction or child
16 pornography is transported in or affecting interstate
17 or foreign commerce, or was produced using mate-
18 rials which have been so transported.

19 “(c) PUNISHMENT.—

20 “(1) Whoever violates paragraph (1), (2)(A), or
21 (3) of subsection (a) shall be imprisoned not less
22 than 5 years and not more than 20 years, but if
23 such person has a prior relevant conviction, such
24 person shall be imprisoned for not less than 15 years
25 nor more than 40 years.

1 “(2) Whoever violates paragraph (2)(B) of sub-
2 section (a) shall be imprisoned not more than 10
3 years, but if such person has a prior relevant convic-
4 tion, such person shall be imprisoned for not less
5 than 10 years nor more than 20 years.

6 “(3) Whoever violates paragraph (4) of sub-
7 section (a) shall be imprisoned not more than 15
8 years.

9 “(4) In this subsection, the term ‘prior relevant
10 conviction’ means a prior conviction under this chap-
11 ter, subchapter A or B of this chapter, subchapter
12 F of chapter 35, or under section 920 of title 10
13 (article 120 of the Uniform Code of Military Jus-
14 tice), or under the laws of any State relating to ag-
15 gravated sexual abuse, sexual abuse, or abusive sex-
16 ual conduct involving a minor or ward, or the pro-
17 duction, possession, receipt, mailing, sale, distribu-
18 tion, shipment, or transportation of child pornog-
19 raphy.

20 “(d) AFFIRMATIVE DEFENSES.—(1) It is an affirma-
21 tive defense to a charge of violating paragraph (2)(B) of
22 subsection (a) that the defendant—

23 “(A) possessed less than three matters
24 containing any visual depiction proscribed by
25 that paragraph; and

1 “(B) promptly and in good faith, and with-
2 out retaining or allowing any person, other than
3 a law enforcement agency, to access any visual
4 depiction or copy thereof—

5 “(i) took reasonable steps to destroy
6 each such visual depiction; or

7 “(ii) reported the matter to a law en-
8 forcement agency and afforded that agency
9 access to each such visual depiction.

10 “(2) It is an affirmative defense to a charge of
11 violating paragraph (1), (2), or (4) of subsection (a)
12 that—

13 “(A)(i) the alleged child pornography was
14 produced using an actual person or persons en-
15 gaging in sexually explicit conduct; and

16 “(ii) each such person was an adult at the
17 time the material was produced; or

18 “(B) the alleged child pornography was not
19 produced using any actual minor.

20 No affirmative defense under subsection (d)(2) shall
21 be available in any prosecution that involves child
22 pornography as described in section 225(5). A de-
23 fendant may not assert an affirmative defense to a
24 charge of violating paragraph (1), (2), or (4) of sub-
25 section (a) unless, within the time provided for filing

1 pretrial motions or at such time prior to trial as the
2 judge may direct, but in no event later than 14 days
3 before the commencement of the trial, the defendant
4 provides the court and the United States with notice
5 of the intent to assert such defense and the sub-
6 stance of any expert or other specialized testimony
7 or evidence upon which the defendant intends to
8 rely. If the defendant fails to comply with this sub-
9 section, the court shall, absent a finding of extraor-
10 dinary circumstances that prevented timely compli-
11 ance, prohibit the defendant from asserting such de-
12 fense to a charge of violating paragraph (1), (2), or
13 (4) of subsection (a) or presenting any evidence for
14 which the defendant has failed to provide proper and
15 timely notice.

16 “(e) ADMISSIBILITY OF EVIDENCE.—On motion of
17 the government, in any prosecution under this subchapter
18 or section 1445, except for good cause shown, the name,
19 address, social security number, or other nonphysical iden-
20 tifying information, other than the age or approximate
21 age, of any minor who is depicted in any child pornog-
22 raphy shall not be admissible and may be redacted from
23 any otherwise admissible evidence, and the jury shall be
24 instructed, upon request of the United States, that it can
25 draw no inference from the absence of such evidence in

1 deciding whether the child pornography depicts an actual
2 minor.

3 “(f) EXPLOITATIVE VISUAL DEPICTION DEFINED.—

4 In this section, a visual depiction is an exploitative visual
5 depiction if—

6 “(1) the producing of such visual depiction in-
7 volves the use of a child engaging in sexually explicit
8 conduct; and

9 “(2) such visual depiction is of such conduct.

10 **“§ 224. Misleading domain names on the Internet**

11 “(a) OBSCENITY.—Whoever knowingly uses a mis-
12 leading domain name on the Internet with the intent to
13 deceive a person into viewing material constituting obscen-
14 ity shall be imprisoned not more than 2 years.

15 “(b) MATERIAL HARMFUL TO MINORS.—Whoever
16 knowingly uses a misleading domain name on the Internet
17 with the intent to deceive a minor into viewing material
18 that is harmful to minors on the Internet shall be impris-
19 oned not more than 10 years.

20 “(c) DEFINITION.—For the purposes of this sec-
21 tion—

22 “(1) a domain name that includes a word or
23 words to indicate the sexual content of the site, such
24 as ‘sex’ or ‘porn’, is not misleading;

1 “(2) the term ‘material that is harmful to mi-
2 nors’ means any communication, consisting of nu-
3 dity, sex, or excretion, that, taken as a whole and
4 with reference to its context—

5 “(A) predominantly appeals to a prurient
6 interest of minors;

7 “(B) is patently offensive to prevailing
8 standards in the adult community as a whole
9 with respect to what is suitable material for mi-
10 nors; and

11 “(C) lacks serious literary, artistic, polit-
12 ical, or scientific value for minors; and

13 “(3) as used in this subsection, the term ‘sex’
14 means acts of masturbation, sexual intercourse, or
15 physical contact with a person’s genitals, or the con-
16 dition of human male or female genitals when in a
17 state of sexual stimulation or arousal.

18 **“§ 225. Definitions for subchapter**

19 “In this subchapter the following definitions apply:

20 “(1)(A) Except as provided in subparagraph
21 (B), the term ‘sexually explicit conduct’ means ac-
22 tual or simulated—

23 “(i) sexual intercourse, including genital-
24 genital, oral-genital, anal-genital, or oral-anal,

1 whether between persons of the same or oppo-
2 site sex;

3 “(ii) bestiality;

4 “(iii) masturbation;

5 “(iv) sadistic or masochistic abuse; or

6 “(v) lascivious exhibition of the genitals or
7 pubic area of any person.

8 “(B) For purposes of paragraph 5(B), the term
9 ‘sexually explicit conduct’ means—

10 “(i) graphic sexual intercourse, including
11 genital-genital, oral-genital, anal-genital, or
12 oral-anal, whether between persons of the same
13 or opposite sex, or lascivious simulated sexual
14 intercourse where the genitals, breast, or pubic
15 area of any person is exhibited;

16 “(ii) graphic or lascivious simulated—

17 “(I) bestiality;

18 “(II) masturbation; or

19 “(III) sadistic or masochistic abuse;

20 or

21 “(iii) graphic or simulated lascivious exhi-
22 bition of the genitals or pubic area of any per-
23 son.

1 “(2) The term ‘producing’ means producing, di-
2 recting, manufacturing, issuing, publishing, or ad-
3 vertising.

4 “(3) The term ‘visual depiction’ includes unde-
5 veloped film and videotape, data stored on computer
6 disk or by electronic means which is capable of con-
7 version into a visual image, and data which is capa-
8 ble of conversion into a visual image that has been
9 transmitted by any means, whether or not stored in
10 a permanent format.

11 “(4) The term ‘custody or control’ includes
12 temporary supervision over or responsibility for a
13 minor whether legally or illegally obtained.

14 “(5) The term ‘child pornography’ means any
15 visual depiction of sexually explicit conduct, where—

16 “(A) the production of such visual depic-
17 tion involves the use of a minor engaging in
18 sexually explicit conduct;

19 “(B) such visual depiction is a digital
20 image, computer image, or computer-generated
21 image that is, or is indistinguishable from, that
22 of a minor engaging in sexually explicit con-
23 duct; or

24 “(C) such visual depiction has been cre-
25 ated, adapted, or modified to appear that an

1 identifiable minor is engaging in sexually ex-
2 plicit conduct.

3 “(6) The term ‘identifiable minor’—

4 “(A) means a person—

5 “(i)(I) who was a minor at the time
6 the visual depiction was created, adapted,
7 or modified; or

8 “(II) whose image as a minor was
9 used in creating, adapting, or modifying
10 the visual depiction; and

11 “(ii) who is recognizable as an actual
12 person by the person’s face, likeness, or
13 other distinguishing characteristic, such as
14 a unique birthmark or other recognizable
15 feature; and

16 “(B) shall not be construed to require
17 proof of the actual identity of the identifiable
18 minor.

19 “(7) The term ‘graphic’, when used with re-
20 spect to a depiction of sexually explicit conduct,
21 means that a viewer can observe any part of the
22 genitals or pubic area of any depicted person or ani-
23 mal during any part of the time that the sexually ex-
24 plicit conduct is being depicted.

1 “(8) The term ‘indistinguishable’ used with re-
2 spect to a depiction, means virtually indistinguish-
3 able, in that the depiction is such that an ordinary
4 person viewing the depiction would conclude that the
5 depiction is of an actual minor engaged in sexually
6 explicit conduct. This definition does not apply to
7 depictions that are drawings, cartoons, sculptures, or
8 paintings depicting minors or adults.

9 **“§ 226. Record keeping requirements**

10 “(a) DUTY TO KEEP RECORDS.—Whoever produces
11 any book, magazine, periodical, film, videotape, or other
12 matter which—

13 “(1) contains one or more visual depictions
14 made after November 1, 1990, of actual sexually ex-
15 plicit conduct; and

16 “(2) is produced in whole or in part with mate-
17 rials which have been mailed or shipped in interstate
18 or foreign commerce, or is shipped or transported or
19 is intended for shipment or transportation in inter-
20 state or foreign commerce;

21 shall create and maintain individually identifiable records
22 pertaining to every performer portrayed in such a visual
23 depiction.

24 “(b) DUTY TO ASCERTAIN CERTAIN INFORMA-
25 TION.—Any person to whom subsection (a) applies shall,

1 with respect to every performer portrayed in a visual de-
2 picture of actual sexually explicit conduct—

3 “(1) ascertain, by examination of an identifica-
4 tion document containing such information, the per-
5 former’s name and date of birth, and require the
6 performer to provide such other indicia of his or her
7 identity as may be prescribed by regulations;

8 “(2) ascertain any name, other than the per-
9 former’s present and correct name, ever used by the
10 performer including maiden name, alias, nickname,
11 stage, or professional name; and

12 “(3) record in the records required by sub-
13 section (a) the information required by paragraphs
14 (1) and (2) of this subsection and such other identi-
15 fying information as may be prescribed by regula-
16 tion.

17 “(c) WHERE RECORDS MAINTAINED AND AVAIL-
18 ABILITY FOR INSPECTION.—Any person to whom sub-
19 section (a) applies shall maintain the records required by
20 this section at his business premises, or at such other
21 place as the Attorney General may by regulation prescribe
22 and shall make such records available to the Attorney
23 General for inspection at all reasonable times.

24 “(d) EXCLUSION OF EVIDENCE.—

1 “(1) No information or evidence obtained from
2 records required to be created or maintained by this
3 section shall, except as provided in this section, di-
4 rectly or indirectly, be used as evidence against any
5 person with respect to any violation of law.

6 “(2) Paragraph (1) of this subsection does not
7 preclude the use of such information or evidence in
8 a prosecution or other action for a violation of this
9 subchapter or subchapter F of chapter 35, or for a
10 violation of any applicable provision of law with re-
11 spect to the furnishing of false information.

12 “(e) STATEMENT.—

13 “(1) Any person to whom subsection (a) applies
14 shall cause to be affixed to every copy of any matter
15 described in paragraph (1) of subsection (a) of this
16 section, in such manner and in such form as the At-
17 torney General shall by regulations prescribe, a
18 statement describing where the records required by
19 this section with respect to all performers depicted
20 in that copy of the matter may be located.

21 “(2) If the person to whom subsection (a) of
22 this section applies is an organization the statement
23 required by this subsection shall include the name,
24 title, and business address of the individual em-

1 employed by such organization responsible for main-
2 taining the records required by this section.

3 “(f) UNLAWFUL ACTS.—It shall be unlawful—

4 “(1) for any person to whom subsection (a) ap-
5 plies to fail to create or maintain the records as re-
6 quired by subsections (a) and (c) or by any regula-
7 tion promulgated under this section;

8 “(2) for any person to whom subsection (a) ap-
9 plies knowingly to make any false entry in or know-
10 ingly to fail to make an appropriate entry in, any
11 record required by subsection (b) of this section or
12 any regulation promulgated under this section;

13 “(3) for any person to whom subsection (a) ap-
14 plies knowingly to fail to comply with subsection (e)
15 or any regulation promulgated pursuant to that sub-
16 section; and

17 “(4) for any person knowingly to sell or other-
18 wise transfer, or offer for sale or transfer, any book,
19 magazine, periodical, film, video, or other matter,
20 produce in whole or in part with materials which
21 have been mailed or shipped in interstate or foreign
22 commerce or which is intended for shipment in
23 interstate or foreign commerce, which—

1 “(A) contains one or more visual depictions
2 made after November 1, 1990, of actual sexu-
3 ally explicit conduct; and

4 “(B) is produced in whole or in part with
5 materials which have been mailed or shipped in
6 interstate or foreign commerce, or is shipped or
7 transported or is intended for shipment or
8 transportation in interstate or foreign com-
9 merce;

10 which does not have affixed thereto, in a manner
11 prescribed as set forth in subsection (e)(1), a state-
12 ment describing where the records required by this
13 section may be located, but such person shall have
14 no duty to determine the accuracy of the contents of
15 the statement or the records required to be kept.

16 “(g) REGULATIONS.—The Attorney General shall
17 issue appropriate regulations to carry out this section.

18 “(h) DEFINITIONS.—As used in this section—

19 “(1) the term ‘actual sexually explicit conduct’
20 means actual but not simulated conduct as defined
21 in clauses (i) through (v) of section 225(1)(A);

22 “(2) ‘identification document’ has the meaning
23 given that term in section 783;

24 “(3) the term ‘produces’ means to produce,
25 manufacture, or publish any book, magazine, peri-

1 odical, film, video tape, computer generated image,
2 digital image, or picture, or other similar matter and
3 includes the duplication, reproduction, or reissuing
4 of any such matter, but does not include mere dis-
5 tribution or any other activity which does not involve
6 hiring, contracting for managing, or otherwise ar-
7 ranging for the participation of the performers de-
8 picted; and

9 “(4) the term ‘performer’ includes any person
10 portrayed in a visual depiction engaging in, or as-
11 sisting another person to engage in, actual sexually
12 explicit conduct.

13 “(i) PENALTY FOR ANY VIOLATION OF THIS SEC-
14 TION.—Whoever violates this section shall be imprisoned
15 for not more than 5 years. Whoever violates this section
16 after having been convicted of a violation punishable under
17 this section shall be imprisoned for any period of years
18 not more than 10 years but not less than 2 years.

19 **“§ 227. Failure to report child abuse**

20 “Whoever, while engaged in a professional capacity
21 or activity described in subsection (b) of section 226 of
22 the Victims of Child Abuse Act of 1990 on Federal land
23 or in a federally operated (or contracted) facility, learns
24 of facts that give reason to suspect that a child has suf-
25 fered an incident of child abuse, as defined in subsection

1 (c) of that section, and fails to make a timely report as
2 required by subsection (a) of that section, shall be impris-
3 oned not more than 1 year.

4 “SUBCHAPTER D—SEX OFFENDER REGISTRY

“Sec.

“241. Failure to register.

5 “§ 241. Failure to register

6 “(a) IN GENERAL.—Whoever—

7 “(1) is required to register under the Sex Of-
8 fender Registration and Notification Act;

9 “(2)(A) is a sex offender as defined for the pur-
10 poses of the Sex Offender Registration and Notifica-
11 tion Act by reason of a conviction under Federal law
12 (including the Uniform Code of Military Justice),
13 the law of the District of Columbia, Indian tribal
14 law, or the law of any territory or possession of the
15 United States; or

16 “(B) travels in interstate or foreign commerce,
17 or enters or leaves, or resides in, Indian country;
18 and

19 “(3) knowingly fails to register or update a reg-
20 istration as required by the Sex Offender Registra-
21 tion and Notification Act;

22 shall be imprisoned not more than 10 years.

1 “(b) AFFIRMATIVE DEFENSE.—In a prosecution for
2 a violation under subsection (a), it is an affirmative de-
3 fense that—

4 “(1) uncontrollable circumstances prevented the
5 individual from complying;

6 “(2) the individual did not contribute to the
7 creation of such circumstances in reckless disregard
8 of the requirement to comply; and

9 “(3) the individual complied as soon as such
10 circumstances ceased to exist.

11 “(c) CRIME OF VIOLENCE.—

12 “(1) IN GENERAL.—An individual described in
13 subsection (a) who commits a crime of violence
14 under Federal law (including the Uniform Code of
15 Military Justice), the law of the District of Colum-
16 bia, Indian tribal law, or the law of any territory or
17 possession of the United States shall be imprisoned
18 for not less than 5 years and not more than 30
19 years.

20 “(2) ADDITIONAL PUNISHMENT.—The punish-
21 ment provided in paragraph (1) shall be in addition
22 and consecutive to the punishment provided for the
23 violation described in subsection (a).

1 “SUBCHAPTER E—GENERAL PROVISIONS AND
2 DEFINITIONS

“Sec.

“255. Repeat offenders.

“256. Civil remedy for personal injuries.

3 **“§ 255. Repeat offenders**

4 “(a) MAXIMUM TERM OF IMPRISONMENT.—The
5 maximum term of imprisonment for a violation of sub-
6 chapter A or B after a prior sex offense conviction shall
7 be twice the term of imprisonment otherwise provided by
8 this chapter, unless section 3559(e) applies.

9 “(b) DEFINITIONS.—In this section the term ‘prior
10 sex offense conviction’ means a conviction for an offense—

11 “(1) under subchapter A, B, or C of this chap-
12 ter or section 1265; or

13 “(2) under State law consisting of conduct that
14 would have been an offense under this chapter if the
15 conduct had occurred within the special maritime
16 and territorial jurisdiction of the United States; and

17 **“§ 256. Civil remedy for personal injuries**

18 “(a) IN GENERAL.—Any person who, while a minor,
19 was a victim of a violation of section 201, 202, 203, 211,
20 212, 213, 221, 222, or 223 and who suffers personal in-
21 jury as a result of such violation may sue in any appro-
22 priate United States District Court and shall recover the
23 actual damages such person sustains and the cost of the
24 suit, including a reasonable attorney’s fee. Any person as

1 described in the preceding sentence shall be deemed to
 2 have sustained damages of no less than \$150,000 in value.

3 “(b) STATUTE OF LIMITATIONS.—Any action com-
 4 menced under this section shall be barred unless the com-
 5 plaint is filed within six years after the right of action
 6 first accrues or in the case of a person under a legal dis-
 7 ability, not later than three years after the disability.

8 **“CHAPTER 15—NATIONAL SECURITY AND**
 9 **RELATED CRIMES**

“Subchapter

“A. Treason, sedition, and subversive activities

“B. Terrorism

“C. Military and navy

“D. Civil disorders and riots

“E. Espionage and censorship

“F. Immigration and nationality

10 “SUBCHAPTER A—TREASON, SEDITION, AND
 11 SUBVERSIVE ACTIVITIES

“Sec.

“261. Treason.

“262. Misprision of treason.

“263. Rebellion or insurrection.

“264. Seditious conspiracy.

“265. Advocating overthrow of Government.

12 **“§ 261. Treason**

13 “Whoever, owing allegiance to the United States, lev-
 14 ies war against them or adheres to their enemies, giving
 15 them aid and comfort within the United States or else-
 16 where, is guilty of treason and shall suffer death or be
 17 imprisoned for any term of years not less than five, and

1 shall be incapable of holding any office under the United
2 States.

3 **“§ 262. Misprision of treason**

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

12 **“§ 263. Rebellion or insurrection**

13 “Whoever incites, sets on foot, assists, or engages in
14 any rebellion or insurrection against the authority of the
15 United States or the laws thereof, or gives aid or comfort
16 thereto, shall be imprisoned not more than ten years and
17 shall be incapable of holding any office under the United
18 States.

19 **“§ 264. Seditious conspiracy**

20 “If two or more persons in any State, or in any place
21 subject to the jurisdiction of the United States, conspire
22 to overthrow, put down, or to destroy by force the Govern-
23 ment of the United States, or to levy war against them,
24 or to oppose by force the authority thereof, or by force
25 to prevent, hinder, or delay the execution of any law of

1 the United States, or by force to seize, take, or possess
2 any property of the United States contrary to the author-
3 ity thereof, they shall each be imprisoned not more than
4 20 years.

5 **“§ 265. Advocating overthrow of Government**

6 “(a) IN GENERAL.—Whoever—

7 “(1) knowingly advocates, advises, or teaches
8 the duty, necessity, desirability, or propriety of over-
9 throwing or destroying the Government of the
10 United States or the government of any State, or
11 the government of any political subdivision therein,
12 by force or violence, or by the assassination of any
13 officer of any such government;

14 “(2) with intent to cause the overthrow or de-
15 struction of any such government, prints, publishes,
16 edits, issues, circulates, sells, distributes, or publicly
17 displays any written or printed matter advocating,
18 advising, or teaching the duty, necessity, desirability,
19 or propriety of overthrowing or destroying any gov-
20 ernment in the United States by force or violence;
21 or

22 “(3) organizes or helps to organize any society,
23 group, or assembly of persons who teach, advocate,
24 or encourage the overthrow or destruction of any
25 such government by force or violence; or becomes or

1 is a member of, or affiliates with, any such society,
 2 group, or assembly of persons, knowing the purposes
 3 thereof;

4 shall be imprisoned not more than 20 years, and shall be
 5 ineligible for employment by the United States or any de-
 6 partment or agency thereof, for the five years next fol-
 7 lowing the conviction.

8 “(b) DEFINITION.—As used in this section, the term
 9 ‘organize’, with respect to any society, group, or assembly
 10 of persons, includes the recruiting of new members, the
 11 forming of new units, and the regrouping or expansion of
 12 existing clubs, classes, and other units of such society,
 13 group, or assembly of persons.

14 “SUBCHAPTER B—TERRORISM

“Sec.

“271. Weapons of mass destruction, and explosives and other lethal devices.

“272. Atomic weapons.

“273. Acts of terrorism transcending national boundaries.

“274. Financial transactions.

“275. Missile systems designed to destroy aircraft.

“276. Radiological dispersal devices.

“277. Harboring or concealing terrorists.

“278. Providing material support to terrorists.

“279. Providing material support or resources to designated foreign terrorist or-
 ganizations.

“280. Prohibitions against the financing of terrorism.

“281. Receiving military-type training from a foreign terrorist organization.

“282. Civil remedies.

“283. Definitions for subchapter.

1 **“§ 271. Weapons of mass destruction, and explosives**
2 **and other lethal devices**

3 “(a) OFFENSE.—Whoever, without lawful authority,
4 uses, threatens, to use, a weapon of mass destruction or
5 an explosive or other lethal device—

6 “(1) against any property that is owned, leased,
7 or used by the United States or by any department
8 or agency of the United States, whether the property
9 is within or outside of the United States;

10 “(2) against a national of the United States
11 while such national is outside of the United States;

12 “(3) against any person or property within the
13 United States, if the offense is in, or affects, inter-
14 state or foreign commerce; or

15 “(4) against any person or property outside of
16 the United States, if the offender is a national of the
17 United States;

18 shall be imprisoned for any term of years or for life, and
19 if death results, shall be punished by death or imprisoned
20 for any term of years or for life.

21 “(b) DEFINITIONS.—As used in this section—

22 “(1) the term ‘weapon of mass destruction’
23 means—

24 “(A) any destructive device as defined in
25 section 581;

1 “(B) any weapon that is designed or in-
2 tended to cause death or serious bodily injury
3 through the release, dissemination, or impact of
4 toxic or poisonous chemicals, or their precur-
5 sors;

6 “(C) any weapon involving a biological
7 agent, toxin, or vector (as those terms are in
8 defined in section 627);

9 “(D) any weapon that is designed to re-
10 lease radiation or radioactivity at a level dan-
11 gerous to human life; or

12 “(E) any lethal device or explosive;

13 “(2) the term ‘property’ includes all real and
14 personal property;

15 “(3) the term ‘explosive’ has the meaning given
16 in section 614(j) insofar that it is designed, or has
17 the capability, to cause death, serious bodily injury,
18 or substantial material damage; and

19 “(4) the term ‘other lethal device’ means any
20 weapon or device that is designed or has the capa-
21 bility to cause death, serious bodily injury, or sub-
22 stantial damage to property through the release, dis-
23 semination, or impact of toxic chemicals, biological
24 agents, or toxins (as those terms are defined in sec-
25 tion 627) or radiation or radioactive material.

1 **“§ 272. Atomic weapons**

2 “(a) OFFENSE.—Whoever, except as provided in sec-
 3 tion 91 of the Atomic Energy Act of 1954, in or affecting
 4 interstate or foreign commerce in the United States, or
 5 as made applicable by subsection (b) outside the United
 6 States, knowingly participates in the development of, man-
 7 ufactures, produces, transfers, acquires, receives, pos-
 8 sesses, imports, exports, or uses, or possesses and threat-
 9 ens to use, any atomic weapon. Nothing in this section
 10 modifies section 31 a. or section 101 of the Atomic Energy
 11 Act of 1954.

12 “(b) FEDERAL NEXUS TO CONDUCT OUTSIDE OF
 13 THE UNITED STATES.—Conduct outside the United
 14 States is prohibited by subsection (a) if—

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

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

19 **“§ 273. Acts of terrorism transcending national**
 20 **boundaries**

21 “(a) PROHIBITED ACTS.—

22 “(1) OFFENSES.—Whoever, involving conduct
 23 transcending national boundaries and as made appli-
 24 cable by subsection (b)—

25 “(A) kills, kidnaps, maims, commits an as-
 26 sault resulting in serious bodily injury, or as-

1 saults with a dangerous weapon any person
2 within the United States; or

3 “(B) creates a substantial risk of serious
4 bodily injury to any other person by destroying
5 or damaging any structure, conveyance, or
6 other real or personal property within the
7 United States or by attempting or conspiring to
8 destroy or damage any structure, conveyance,
9 or other real or personal property within the
10 United States;

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

14 “(2) TREATMENT OF THREATS.—Whoever
15 threatens to commit an offense under paragraph (1)
16 shall be punished under subsection (c).

17 “(b) APPLICABILITY.—

18 “(1) IN GENERAL.—Subsection (a) applies if—

19 “(A) the mail or any facility of interstate
20 or foreign commerce is used in furtherance of
21 the offense;

22 “(B) the offense obstructs, delays, or af-
23 fects interstate or foreign commerce, or would
24 have so obstructed, delayed, or affected inter-

1 state or foreign commerce if the offense had
2 been consummated;

3 “(C) the victim, or intended victim, is the
4 United States Government, a member of the
5 uniformed services, or any official, officer, em-
6 ployee, or agent of the legislative, executive, or
7 judicial branches, or of any department or
8 agency, of the United States;

9 “(D) the structure, conveyance, or other
10 real or personal property is, in whole or in part,
11 owned, possessed, or leased to the United
12 States, or any department or agency of the
13 United States;

14 “(E) the offense is committed in the terri-
15 torial sea (including the airspace above and the
16 seabed and subsoil below, and artificial islands
17 and fixed structures erected thereon) of the
18 United States; or

19 “(F) the offense is committed within the
20 special maritime and territorial jurisdiction of
21 the United States.

22 “(2) CO-CONSPIRATORS AND ACCESSORIES
23 AFTER THE FACT.—Subsection (a) applies with re-
24 spect to all principals and co-conspirators of an of-
25 fense under this section, and accessories after the

1 fact to any offense under this section, if at least one
2 of the circumstances described in subparagraphs (A)
3 through (F) of paragraph (1) is applicable to at
4 least one offender.

5 “(c) PENALTIES.—

6 “(1) GENERALLY.—Whoever violates this sec-
7 tion shall be punished—

8 “(A) for a killing, or if death results to
9 any person from any other conduct prohibited
10 by this section, by death, or by imprisonment
11 for any term of years or for life;

12 “(B) for kidnapping, by imprisonment for
13 any term of years or for life;

14 “(C) for maiming, by imprisonment for not
15 more than 35 years;

16 “(D) for assault with a dangerous weapon
17 or assault resulting in serious bodily injury, by
18 imprisonment for not more than 30 years;

19 “(E) for destroying or damaging any
20 structure, conveyance, or other real or personal
21 property, by imprisonment for not more than
22 25 years;

23 “(F) for attempting or conspiring to com-
24 mit an offense, for any term of years up to the

1 maximum punishment that would have applied
2 had the offense been completed; and

3 “(G) for threatening to commit an offense
4 under this section, by imprisonment for not
5 more than 10 years.

6 “(2) CONSECUTIVE SENTENCE.—Notwith-
7 standing any other provision of law, the court shall
8 not place on probation any person convicted of a vio-
9 lation of this section; nor shall the term of imprison-
10 ment imposed under this section run concurrently
11 with any other term of imprisonment.

12 “(d) PROOF REQUIREMENTS.—The following shall
13 apply to prosecutions under this section:

14 “(1) KNOWLEDGE.—The prosecution is not re-
15 quired to prove knowledge by any defendant of a ju-
16 risdictional base alleged in the indictment.

17 “(2) STATE LAW.—In a prosecution under this
18 section that is based upon the adoption of State law,
19 only the elements of the offense under State law,
20 and not any provisions pertaining to criminal proce-
21 dure or evidence, are adopted.

22 “(e) EXTRATERRITORIAL JURISDICTION.—There is
23 extraterritorial jurisdiction over any offense under this
24 section.

1 “(f) REQUESTS FOR MILITARY ASSISTANCE.—The
2 Attorney General may request the Secretary of Defense
3 to provide assistance under section 382 of title 10 in sup-
4 port of Department of Justice activities relating to the en-
5 forcement of section 271 during an emergency situation
6 involving a weapon of mass destruction. The authority to
7 make such a request may be exercised by another official
8 of the Department of Justice in accordance with section
9 382(f)(2) of title 10.

10 “(g) DEFINITIONS.—As used in this section—

11 “(1) the term ‘conduct transcending national
12 boundaries’ means conduct occurring outside of the
13 United States in addition to the conduct occurring
14 in the United States;

15 “(2) the term ‘territorial sea of the United
16 States’ means all waters extending seaward to 12
17 nautical miles from the baselines of the United
18 States, determined in accordance with international
19 law; and

20 “(3) the term ‘Federal crime of terrorism’
21 means an offense that—

22 “(A) is calculated to influence or affect the
23 conduct of government by intimidation or coer-
24 cion, or to retaliate against government con-
25 duct; and

1 “(B) is a violation of—

2 “(i) section 1301 (relating to destruc-
3 tion of aircraft or aircraft facilities), 1305
4 (relating to violence at international air-
5 ports), 571 (relating to arson within spe-
6 cial maritime and territorial jurisdiction),
7 621 or 623 (relating to biological weap-
8 ons), 624 (relating to variola virus), 631
9 (relating to chemical weapons), 102(2),
10 (4), (6), (7), or (8) (relating to certain
11 Federally punishable homicides), 121 (re-
12 lating to kidnapping) if the victim is an in-
13 dividual whose killing is an offense under
14 102(6) or (7), 601 (relating to prohibited
15 transactions involving nuclear materials),
16 612(m) or (n) (relating to plastic explo-
17 sives), 614(f)(2) or (3) (relating to arson
18 and bombing of Government property risk-
19 ing or causing death), 614(i) (relating to
20 arson and bombing of property used in
21 interstate commerce), 593(c) (relating to
22 killing or attempted killing during an at-
23 tack on a Federal facility with a dangerous
24 weapon), 924(a) (relating to conspiracy to
25 kill, kidnap, maim, or injure persons or

1 damage property in a foreign country),
2 787(a)(1) or (a)(5)(A) (relating to fraud
3 and related activity in connection with
4 computers), 123 (relating to hostage tak-
5 ing), 1201 (relating to government prop-
6 erty or contracts), 1202 (relating to de-
7 struction of communication lines, stations,
8 or systems), 1203 (relating to injury to
9 buildings or property within special mari-
10 time and territorial jurisdiction of the
11 United States), 1205(a) (relating to de-
12 struction of an energy facility), 1331 (re-
13 lating to terrorist attacks and other acts of
14 violence against railroad carriers and
15 against mass transportation systems on
16 land, on water, or through the air), 1345
17 (relating to violence against maritime navi-
18 gation), 271 (relating to weapons of mass
19 destruction, and explosives and other lethal
20 devices), 273 (relating to acts of terrorism
21 transcending national boundaries), 275
22 (relating to missile systems designed to de-
23 stroy aircraft), 276 (relating to radiological
24 dispersal devices), 277 (relating to har-
25 boring terrorists), 278 (relating to pro-

1 viding material support to terrorists), 279
2 (relating to providing material support to
3 terrorist organizations), 280 (relating to
4 prohibitions against the financing of ter-
5 rorism), 281 (relating to receiving military-
6 type training from a foreign terrorist orga-
7 nization), or 1291 (relating to torture);

8 “(ii) section 92 (relating to prohibi-
9 tions governing atomic weapons) or 236
10 (relating to sabotage of nuclear facilities or
11 fuel) of the Atomic Energy Act of 1954;

12 “(iii) section 46502 (relating to air-
13 craft piracy), the second sentence of sec-
14 tion 46504 (relating to assault on a flight
15 crew with a dangerous weapon), section
16 46505(b)(3) or (c) (relating to explosive or
17 incendiary devices, or endangerment of
18 human life by means of weapons, on air-
19 craft), section 46506 if homicide or at-
20 tempted homicide is involved (relating to
21 application of certain criminal laws to acts
22 on aircraft), or section 60123(b) (relating
23 to destruction of interstate gas or haz-
24 ardous liquid pipeline facility) of title 49;
25 or

1 “(iv) section 1010A of the Controlled
2 Substances Import and Export Act (relat-
3 ing to narco-terrorism).

4 **“§ 274. Financial transactions**

5 “(a) OFFENSE.—Except as provided in regulations
6 issued by the Secretary of the Treasury, in consultation
7 with the Secretary of State, whoever, being a United
8 States person, knowing or having reasonable cause to
9 know that a country is designated under section 6(j) of
10 the Export Administration Act of 1979 as a country sup-
11 porting international terrorism, engages in a financial
12 transaction with the government of that country, shall be
13 imprisoned for not more than 10 years.

14 “(b) DEFINITIONS.—As used in this section—

15 “(1) the term ‘financial transaction’ has the
16 same meaning as in section 1451; and

17 “(2) the term ‘United States person’ means
18 any—

19 “(A) United States citizen or national;

20 “(B) permanent resident alien;

21 “(C) juridical person organized under the
22 laws of the United States; or

23 “(D) any person in the United States.

24 **“§ 275. Missile systems designed to destroy aircraft**

25 “(a) UNLAWFUL CONDUCT.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (3), it shall be unlawful for any person to
3 knowingly produce, construct, otherwise acquire,
4 transfer directly or indirectly, receive, possess, im-
5 port, export, or use, or possess and threaten to
6 use—

7 “(A) an explosive or incendiary rocket or
8 missile that is guided by any system designed to
9 enable the rocket or missile to—

10 “(i) seek or proceed toward energy ra-
11 diated or reflected from an aircraft or to-
12 ward an image locating an aircraft; or

13 “(ii) otherwise direct or guide the
14 rocket or missile to an aircraft;

15 “(B) any device designed or intended to
16 launch or guide a rocket or missile described in
17 subparagraph (A); or

18 “(C) any part or combination of parts de-
19 signed or redesigned for use in assembling or
20 fabricating a rocket, missile, or device described
21 in subparagraph (A) or (B).

22 “(2) NONWEAPON.—Paragraph (1)(A) does not
23 apply to any device that is neither designed nor re-
24 designed for use as a weapon.

1 “(3) EXCLUDED CONDUCT.—This subsection
2 does not apply with respect to—

3 “(A) conduct by or under the authority of
4 the United States or any department or agency
5 thereof or of a State or any department or
6 agency thereof; or

7 “(B) conduct pursuant to the terms of a
8 contract with the United States or any depart-
9 ment or agency thereof or with a State or any
10 department or agency thereof.

11 “(b) JURISDICTION.—Conduct prohibited by sub-
12 section (a) is within the jurisdiction of the United States
13 if—

14 “(1) the offense occurs in or affects interstate
15 or foreign commerce;

16 “(2) the offense occurs outside of the United
17 States and is committed by a national of the United
18 States;

19 “(3) the offense is committed against a national
20 of the United States while the national is outside the
21 United States;

22 “(4) the offense is committed against any prop-
23 erty that is owned, leased, or used by the United
24 States or by any department or agency of the United

1 States, whether the property is within or outside the
2 United States; or

3 “(5) an offender aids or abets any person over
4 whom jurisdiction exists under this subsection in
5 committing an offense under this section or con-
6 spires with any person over whom jurisdiction exists
7 under this subsection to commit an offense under
8 this section.

9 “(c) CRIMINAL PENALTIES.—

10 “(1) IN GENERAL.—Whoever violates subsection
11 (a) shall be sentenced to a term of imprisonment not
12 less than 25 years or to imprisonment for life.

13 “(2) OTHER CIRCUMSTANCES.—Whoever, in the
14 course of a violation of subsection (a), uses or pos-
15 sesses and threatens to use, any item or items de-
16 scribed in subsection (a), shall be imprisoned for not
17 less than 30 years or imprisoned for life.

18 “(3) SPECIAL CIRCUMSTANCES.—If the death
19 of another results from a person’s violation of sub-
20 section (a), the person shall be punished by impris-
21 onment for life.

22 “(d) DEFINITION.—As used in this section, the term
23 ‘aircraft’ has the definition set forth in section
24 40102(a)(6) of title 49.

1 **“§ 276. Radiological dispersal devices**

2 “(a) UNLAWFUL CONDUCT.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), it shall be unlawful for any person to
5 knowingly produce, construct, otherwise acquire,
6 transfer directly or indirectly, receive, possess, im-
7 port, export, or use, or possess and threaten to
8 use—

9 “(A) any weapon that is designed or in-
10 tended to release radiation or radioactivity at a
11 level dangerous to human life; or

12 “(B) any device or other object that is ca-
13 pable of and designed or intended to endanger
14 human life through the release of radiation or
15 radioactivity.

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

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

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

24 “(b) JURISDICTION.—Conduct prohibited by sub-
25 section (a) is within the jurisdiction of the United States
26 if—

1 “(1) the offense occurs in or affects interstate
2 or foreign commerce;

3 “(2) the offense occurs outside of the United
4 States and is committed by a national of the United
5 States;

6 “(3) the offense is committed against a national
7 of the United States while the national is outside the
8 United States;

9 “(4) the offense is committed against any prop-
10 erty that is owned, leased, or used by the United
11 States or by any department or agency of the United
12 States, whether the property is within or outside the
13 United States; or

14 “(5) an offender aids or abets any person over
15 whom jurisdiction exists under this subsection in
16 committing an offense under this section or con-
17 spires with any person over whom jurisdiction exists
18 under this subsection to commit an offense under
19 this section.

20 “(c) CRIMINAL PENALTIES.—

21 “(1) IN GENERAL.—Whoever violates subsection
22 (a) shall be sentenced to a term of imprisonment not
23 less than 25 years or to imprisonment for life.

24 “(2) OTHER CIRCUMSTANCES.—Whoever, in the
25 course of a violation of subsection (a), uses or pos-

1 assesses and threatens to use, any item or items de-
2 scribed in subsection (a), shall be imprisoned for not
3 less than 30 years or imprisoned for life.

4 “(3) SPECIAL CIRCUMSTANCES.—If the death
5 of another results from a person’s violation of sub-
6 section (a), the person shall be punished by impris-
7 onment for life.

8 **“§ 277. Harboring or concealing terrorists**

9 “(a) OFFENSE.—Whoever harbors or conceals any
10 person who he knows, or has reasonable grounds to be-
11 lieve, has committed, or is about to commit, an offense
12 under section 1301 (relating to destruction of aircraft or
13 aircraft facilities), section 621 (relating to biological weap-
14 ons), section 631 (relating to chemical weapons), section
15 601 (relating to nuclear materials), paragraph (2) or (3)
16 of section 614(f) (relating to arson and bombing of gov-
17 ernment property risking or causing injury or death), sec-
18 tion 1205(a) (relating to the destruction of an energy fa-
19 cility), section 1345 (relating to violence against maritime
20 navigation), section 271 (relating to weapons of mass de-
21 struction), or section 273 (relating to acts of terrorism
22 transcending national boundaries) of this title, section
23 236(a) (relating to sabotage of nuclear facilities or fuel)
24 of the Atomic Energy Act of 1954, or section 46502 (re-

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

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

7 **“§ 278. Providing material support to terrorists**

8 “(a) OFFENSE.—Whoever provides material support
9 or resources or conceals or disguises the nature, location,
10 source, or ownership of material support or resources,
11 knowing or intending that they are to be used in prepara-
12 tion for, or in carrying out, a violation of section 102(2),
13 (4), (6), (7), or (8), 112 if the victim is an individual
14 whose killing is an offense under section 102(6), (7), or
15 (8), 121 if the victim is an individual whose killing is an
16 offense under section 102(6) or (7), 123, 271, 273, 571,
17 593(e), 601, 612(m) or (n), 614(f) or (i), 621, 631, 924,
18 1201, 1202, 1203, 1205, 1281, 1291, 1297, 1301, 1305,
19 1331, or 1345 of this title, section 236 of the Atomic En-
20 ergy Act of 1954, section 46502 or 60123(b) of title 49,
21 or any offense listed in section 273(g)(3)(B) (except for
22 sections 278 and 279) or in preparation for, or in carrying
23 out, the concealment of an escape from the commission
24 of any such violation shall be imprisoned not more than
25 15 years. A violation of this section may be prosecuted

1 in any Federal judicial district in which the underlying
2 offense was committed, or in any other Federal judicial
3 district as provided by law, and, if the death of any person
4 results, shall be imprisoned for any term of years or for
5 life.

6 “(b) DEFINITIONS.—As used in this section—

7 “(1) the term ‘material support or resources’
8 means any property, tangible or intangible, or serv-
9 ice, including currency or monetary instruments or
10 financial securities, financial services, lodging, train-
11 ing, expert advice or assistance, safehouses, false
12 documentation or identification, communications
13 equipment, facilities, weapons, lethal substances, ex-
14 plosives, personnel (1 or more individuals who may
15 be or include oneself), and transportation, except
16 medicine or religious materials;

17 “(2) the term ‘training’ means instruction or
18 teaching designed to impart a specific skill, as op-
19 posed to general knowledge; and

20 “(3) the term ‘expert advice or assistance’
21 means advice or assistance derived from scientific,
22 technical or other specialized knowledge.

1 **“§ 279. Providing material support or resources to**
2 **designated foreign terrorist organiza-**
3 **tions**

4 “(a) PROHIBITED ACTIVITIES.—

5 “(1) UNLAWFUL CONDUCT.—Whoever know-
6 ingly provides material support or resources to a for-
7 eign terrorist organization shall be imprisoned not
8 more than 15 years, or both, and if the death of any
9 person results, shall be imprisoned for any term of
10 years or for life. To violate this paragraph, a person
11 must have knowledge that the organization is a des-
12 ignated terrorist organization (as defined in sub-
13 section (g)(6)), that the organization has engaged or
14 engages in terrorist activity (as defined in section
15 212(a)(3)(B) of the Immigration and Nationality
16 Act), or that the organization has engaged or en-
17 engages in terrorism (as defined in section 140(d)(2)
18 of the Foreign Relations Authorization Act, Fiscal
19 Years 1988 and 1989).

20 “(2) FINANCIAL INSTITUTIONS.—Except as au-
21 thorized by the Secretary, any financial institution
22 that becomes aware that it has possession of, or con-
23 trol over, any funds in which a foreign terrorist or-
24 ganization, or its agent, has an interest, shall—

25 “(A) retain possession of, or maintain con-
26 trol over, such funds; and

1 “(B) report to the Secretary the existence
2 of such funds in accordance with regulations
3 issued by the Secretary.

4 “(b) CIVIL PENALTY.—Any financial institution that
5 knowingly fails to comply with subsection (a)(2) shall be
6 subject to a civil penalty in an amount that is the greater
7 of—

8 “(A) \$50,000 per violation; or

9 “(B) twice the amount of which the financial
10 institution was required under subsection (a)(2) to
11 retain possession or control.

12 “(c) INJUNCTION.—Whenever it appears to the Sec-
13 retary or the Attorney General that any person is engaged
14 in, or is about to engage in, any act that constitutes, or
15 would constitute, a violation of this section, the Attorney
16 General may initiate civil action in a district court of the
17 United States to enjoin such violation.

18 “(d) EXTRATERRITORIAL JURISDICTION.—There is
19 extraterritorial jurisdiction over an offense under this sec-
20 tion.

21 “(e) CLASSIFIED INFORMATION IN CIVIL PRO-
22 CEEDINGS BROUGHT BY THE UNITED STATES.—

23 “(1) DISCOVERY OF CLASSIFIED INFORMATION
24 BY DEFENDANTS.—

1 “(A) REQUEST BY UNITED STATES.—In
2 any civil proceeding under this section, upon re-
3 quest made ex parte and in writing by the
4 United States, a court, upon a sufficient show-
5 ing, may authorize the United States to—

6 “(i) redact specified items of classified
7 information from documents to be intro-
8 duced into evidence or made available to
9 the defendant through discovery under the
10 Federal Rules of Civil Procedure;

11 “(ii) substitute a summary of the in-
12 formation for such classified documents; or

13 “(iii) substitute a statement admitting
14 relevant facts that the classified informa-
15 tion would tend to prove.

16 “(B) ORDER GRANTING REQUEST.—If the
17 court enters an order granting a request under
18 this paragraph, the entire text of the documents
19 to which the request relates shall be sealed and
20 preserved in the records of the court to be made
21 available to the appellate court in the event of
22 an appeal.

23 “(C) DENIAL OF REQUEST.—If the court
24 enters an order denying a request of the United
25 States under this paragraph, the United States

1 may take an immediate, interlocutory appeal in
2 accordance with paragraph (5). For purposes of
3 such an appeal, the entire text of the docu-
4 ments to which the request relates, together
5 with any transcripts of arguments made ex
6 parte to the court in connection therewith, shall
7 be maintained under seal and delivered to the
8 appellate court.

9 “(2) INTRODUCTION OF CLASSIFIED INFORMA-
10 TION; PRECAUTIONS BY COURT.—

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

18 “(i) Copies of items from which classi-
19 fied information has been redacted.

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

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

1 “(B) DETERMINATION BY COURT.—The
2 court shall grant a request under this para-
3 graph if the court finds that the redacted item,
4 stipulation, or summary is sufficient to allow
5 the defendant to prepare a defense.

6 “(3) TAKING OF TRIAL TESTIMONY.—

7 “(A) OBJECTION.—During the examina-
8 tion of a witness in any civil proceeding brought
9 by the United States under this subsection, the
10 United States may object to any question or
11 line of inquiry that may require the witness to
12 disclose classified information not previously
13 found to be admissible.

14 “(B) ACTION BY COURT.—In determining
15 whether a response is admissible, the court
16 shall take precautions to guard against the
17 compromise of any classified information, in-
18 cluding—

19 “(i) permitting the United States to
20 provide the court, ex parte, with a proffer
21 of the witness’s response to the question or
22 line of inquiry; and

23 “(ii) requiring the defendant to pro-
24 vide the court with a proffer of the nature

1 of the information that the defendant seeks
2 to elicit.

3 “(C) OBLIGATION OF DEFENDANT.—In
4 any civil proceeding under this section, it shall
5 be the defendant’s obligation to establish the
6 relevance and materiality of any classified infor-
7 mation sought to be introduced.

8 “(4) APPEAL.—If the court enters an order de-
9 nying a request of the United States under this sub-
10 section, the United States may take an immediate
11 interlocutory appeal in accordance with paragraph
12 (5).

13 “(5) INTERLOCUTORY APPEAL.—

14 “(A) SUBJECT OF APPEAL.—An interlocu-
15 tory appeal by the United States shall lie to a
16 court of appeals from a decision or order of a
17 district court—

18 “(i) authorizing the disclosure of clas-
19 sified information;

20 “(ii) imposing sanctions for nondisclo-
21 sure of classified information; or

22 “(iii) refusing a protective order
23 sought by the United States to prevent the
24 disclosure of classified information.

25 “(B) EXPEDITED CONSIDERATION.—

1 “(i) IN GENERAL.—An appeal taken
2 pursuant to this paragraph, either before
3 or during trial, shall be expedited by the
4 court of appeals.

5 “(ii) APPEALS PRIOR TO TRIAL.—If
6 an appeal is of an order made prior to
7 trial, an appeal shall be taken not later
8 than 14 days after the decision or order
9 appealed from, and the trial shall not com-
10 mence until the appeal is resolved.

11 “(iii) APPEALS DURING TRIAL.—If an
12 appeal is taken during trial, the trial court
13 shall adjourn the trial until the appeal is
14 resolved, and the court of appeals—

15 “(I) shall hear argument on such
16 appeal not later than 4 days after the
17 adjournment of the trial, excluding in-
18 termediate weekends and holidays;

19 “(II) may dispense with written
20 briefs other than the supporting mate-
21 rials previously submitted to the trial
22 court;

23 “(III) shall render its decision
24 not later than 4 days after argument

1 on appeal, excluding intermediate
2 weekends and holidays; and

3 “(IV) may dispense with the
4 issuance of a written opinion in ren-
5 dering its decision.

6 “(C) EFFECT OF RULING.—An interlocu-
7 tory appeal and decision does not affect the
8 right of the defendant, in a subsequent appeal
9 from a final judgment, to claim as error rever-
10 sal by the trial court on remand of a ruling ap-
11 pealed from during trial.

12 “(6) CONSTRUCTION.—Nothing in this sub-
13 section shall prevent the United States from seeking
14 protective orders or asserting privileges ordinarily
15 available to the United States to protect against the
16 disclosure of classified information, including the in-
17 vocation of the military and State secrets privilege.

18 “(f) DEFINITIONS.—As used in this section—

19 “(1) the term ‘classified information’ has the
20 meaning given that term in section 1(a) of the Clas-
21 sified Information Procedures Act;

22 “(2) the term ‘funds’ includes coin or currency
23 of the United States or any other country, traveler’s
24 checks, personal checks, bank checks, money orders,
25 stocks, bonds, debentures, drafts, letters of credit,

1 any other negotiable instrument, and any electronic
2 representation of any of the foregoing;

3 “(3) the term ‘material support or resources’
4 has the same meaning given that term in section
5 278 (including the definitions of ‘training’ and ‘ex-
6 pert advice or assistance’ in that section);

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

9 “(6) the term ‘terrorist organization’ means an
10 organization designated as a terrorist organization
11 under section 219 of the Immigration and Nation-
12 ality Act.

13 “(g) PROVISION OF PERSONNEL.—No person may be
14 prosecuted under this section in connection with the term
15 ‘personnel’ unless that person has knowingly provided a
16 foreign terrorist organization with 1 or more individuals
17 (who may be or include himself) to work under that ter-
18 rorist organization’s direction or control or to organize,
19 manage, supervise, or otherwise direct the operation of
20 that organization. Individuals who act entirely independ-
21 ently of the foreign terrorist organization to advance its
22 goals or objectives shall not be considered to be working
23 under the foreign terrorist organization’s direction and
24 control.

1 “(h) **RULE OF CONSTRUCTION.**—Nothing in this sec-
2 tion shall be construed or applied so as to abridge the ex-
3 ercise of rights guaranteed under the First Amendment
4 to the Constitution of the United States.

5 “(i) **EXCEPTION.**—No person may be prosecuted
6 under this section in connection with the term ‘personnel’,
7 ‘training’, or ‘expert advice or assistance’ if the provision
8 of that material support or resources to a foreign terrorist
9 organization was approved by the Secretary of State with
10 the concurrence of the Attorney General. The Secretary
11 of State may not approve the provision of any material
12 support that may be used to carry out terrorist activity
13 (as defined in section 212(a)(3)(B)(iii) of the Immigration
14 and Nationality Act).

15 **“§ 280. Prohibitions against the financing of ter-**
16 **rorism**

17 “(a) **OFFENSES.**—

18 “(1) **IN GENERAL.**—Whoever, in a circumstance
19 described in subsection (b), by any means, directly
20 or indirectly, unlawfully and knowingly provides or
21 collects funds with the intention that such funds be
22 used, or with the knowledge that such funds are to
23 be used, in full or in part, in order to carry out—

24 “(A) an act which constitutes an offense
25 within the scope of a treaty specified in sub-

1 section (e)(7), as implemented by the United
2 States, or

3 “(B) any other act intended to cause death
4 or serious bodily injury to a civilian, or to any
5 other person not taking an active part in the
6 hostilities in a situation of armed conflict, when
7 the purpose of such act, by its nature or con-
8 text, is to intimidate a population, or to compel
9 a government or an international organization
10 to do or to abstain from doing any act,

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

12 “(2) RELATIONSHIP TO PREDICATE ACT.—For
13 an act to constitute an offense set forth in this sub-
14 section, it shall not be necessary that the funds were
15 actually used to carry out a predicate act.

16 “(b) JURISDICTION.—There is jurisdiction over the
17 offenses in subsection (a) in the following circumstances—

18 “(1) the offense takes place in the United
19 States and—

20 “(A) a perpetrator was a national of an-
21 other state or a stateless person;

22 “(B) on board a vessel flying the flag of
23 another state or an aircraft which is registered
24 under the laws of another state at the time the
25 offense is committed;

1 “(C) on board an aircraft which is oper-
2 ated by the government of another state;

3 “(D) a perpetrator is found outside the
4 United States;

5 “(E) was directed toward or resulted in
6 the carrying out of a predicate act against—

7 “(i) a national of another state; or

8 “(ii) another state or a government
9 facility of such state, including its embassy
10 or other diplomatic or consular premises of
11 that state;

12 “(F) was directed toward or resulted in the
13 carrying out of a predicate act committed in an
14 attempt to compel another state or inter-
15 national organization to do or abstain from
16 doing any act; or

17 “(G) was directed toward or resulted in
18 the carrying out of a predicate act—

19 “(i) outside the United States; or

20 “(ii) within the United States, and ei-
21 ther the offense or the predicate act was
22 conducted in, or the results thereof af-
23 fected, interstate or foreign commerce;

24 “(2) the offense takes place outside the United
25 States and—

1 “(A) a perpetrator is a national of the
2 United States or is a stateless person whose ha-
3 bitual residence is in the United States;

4 “(B) a perpetrator is found in the United
5 States; or

6 “(C) was directed toward or resulted in the
7 carrying out of a predicate act against—

8 “(i) any property that is owned,
9 leased, or used by the United States or by
10 any department or agency of the United
11 States, including an embassy or other dip-
12 lomatic or consular premises of the United
13 States;

14 “(ii) any person or property within
15 the United States;

16 “(iii) any national of the United
17 States or the property of such national; or

18 “(iv) any property of any legal entity
19 organized under the laws of the United
20 States, including any of its States, dis-
21 tricts, commonwealths, territories, or pos-
22 sessions;

23 “(3) the offense is committed on board a vessel
24 flying the flag of the United States or an aircraft

1 which is registered under the laws of the United
2 States at the time the offense is committed;

3 “(4) the offense is committed on board an air-
4 craft which is operated by the United States; or

5 “(5) the offense was directed toward or resulted
6 in the carrying out of a predicate act committed in
7 an attempt to compel the United States to do or ab-
8 stain from doing any act.

9 “(c) CONCEALMENT.—Whoever—

10 “(1)(A) is in the United States; or

11 “(B) is outside the United States and is a na-
12 tional of the United States or a legal entity orga-
13 nized under the laws of the United States (including
14 any of its States, districts, commonwealths, terri-
15 tories, or possessions); and

16 “(2) knowingly conceals or disguises the nature,
17 location, source, ownership, or control of any mate-
18 rial support or resources, or any funds or proceeds
19 of such funds—

20 “(A) knowing or intending that the sup-
21 port or resources are to be provided, or knowing
22 that the support or resources were provided, in
23 violation of section 279; or

24 “(B) knowing or intending that any such
25 funds are to be provided or collected, or know-

1 ing that the funds were provided or collected, in
2 violation of subsection (a),
3 shall be punished as prescribed in subsection (d)(2).

4 “(d) PENALTIES.—

5 “(1) SUBSECTION (a).—Whoever violates sub-
6 section (a) shall be imprisoned for not more than 20
7 years.

8 “(2) SUBSECTION (c).—Whoever violates sub-
9 section (c) shall be imprisoned for not more than 10
10 years.

11 “(e) DEFINITIONS.—In this section—

12 “(1) the term ‘funds’ means assets of every
13 kind, whether tangible or intangible, movable or im-
14 movable, however acquired, and legal documents or
15 instruments in any form, including electronic or dig-
16 ital, evidencing title to, or interest in, such assets,
17 including coin, currency, bank credits, travelers
18 checks, bank checks, money orders, shares, securi-
19 ties, bonds, drafts, and letters of credit;

20 “(2) the term ‘government facility’ means any
21 permanent or temporary facility or conveyance that
22 is used or occupied by representatives of a state,
23 members of a government, the legislature, or the ju-
24 diciary, or by officials or employees of a state or any
25 other public authority or entity or by employees or

1 officials of an intergovernmental organization in con-
2 nection with their official duties;

3 “(3) the term ‘proceeds’ means any funds de-
4 rived from or obtained, directly or indirectly,
5 through the commission of an offense set forth in
6 subsection (a);

7 “(4) the term ‘provides’ includes giving, donat-
8 ing, and transmitting;

9 “(5) the term ‘collects’ includes raising and re-
10 ceiving;

11 “(6) the term ‘predicate act’ means any act re-
12 ferred to in subparagraph (A) or (B) of subsection
13 (a)(1);

14 “(7) the term ‘treaty’ means—

15 “(A) the Convention for the Suppression of
16 Unlawful Seizure of Aircraft, done at The
17 Hague on December 16, 1970;

18 “(B) the Convention for the Suppression of
19 Unlawful Acts against the Safety of Civil Avia-
20 tion, done at Montreal on September 23, 1971;

21 “(C) the Convention on the Prevention and
22 Punishment of Crimes against Internationally
23 Protected Persons, including Diplomatic
24 Agents, adopted by the General Assembly of the
25 United Nations on December 14, 1973;

1 “(D) the International Convention against
2 the Taking of Hostages, adopted by the General
3 Assembly of the United Nations on December
4 17, 1979;

5 “(E) the Convention on the Physical Pro-
6 tection of Nuclear Material, adopted at Vienna
7 on March 3, 1980;

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

14 “(G) the Convention for the Suppression of
15 Unlawful Acts against the Safety of Maritime
16 Navigation, done at Rome on March 10, 1988;

17 “(H) the Protocol for the Suppression of
18 Unlawful Acts against the Safety of Fixed Plat-
19 forms located on the Continental Shelf, done at
20 Rome on March 10, 1988; or

21 “(I) the International Convention for the
22 Suppression of Terrorist Bombings, adopted by
23 the General Assembly of the United Nations on
24 December 15, 1997;

1 “(8) the term ‘intergovernmental organization’
2 includes international organizations;

3 “(9) the term ‘international organization’ has
4 the same meaning as in section 136;

5 “(10) the term ‘armed conflict’ does not include
6 internal disturbances and tensions, such as riots,
7 isolated and sporadic acts of violence, and other acts
8 of a similar nature;

9 “(11) the term ‘material support or resources’
10 has the same meaning given that term in section
11 279(f)(3); and

12 “(12) the term ‘state’ has the same meaning as
13 that term has under international law, and includes
14 all political subdivisions thereof.

15 “(f) CIVIL PENALTY.—In addition to any other crimi-
16 nal, civil, or administrative liability or penalty, any legal
17 entity located within the United States or organized under
18 the laws of the United States, including any of the laws
19 of its States, districts, commonwealths, territories, or pos-
20 sessions, shall be liable to the United States for the sum
21 of at least \$10,000, if a person responsible for the man-
22 agement or control of that legal entity has, in that capac-
23 ity, committed an offense set forth in subsection (a).

1 **“§ 281. Receiving military-type training from a for-**
2 ****foreign terrorist organization****

3 “(a) OFFENSE.—Whoever, if a circumstance exists
4 that is described in section 279(d), knowingly receives
5 military-type training from or on behalf of any organiza-
6 tion designated at the time of the training by the Sec-
7 retary of State under section 219(a)(1) of the Immigration
8 and Nationality Act as a foreign terrorist organization
9 shall be imprisoned for ten years. To violate this sub-
10 section, a person must have knowledge that the organiza-
11 tion is a designated terrorist organization (as defined in
12 subsection (b)(3)), that the organization has engaged or
13 engages in terrorist activity (as defined in section 212 of
14 the Immigration and Nationality Act), or that the organi-
15 zation has engaged or engages in terrorism (as defined
16 in section 140(d)(2) of the Foreign Relations Authoriza-
17 tion Act, Fiscal Years 1988 and 1989).

18 “(b) DEFINITIONS.—As used in this section—

19 “(1) the term ‘military-type training’ includes
20 training in means or methods that can cause death
21 or serious bodily injury, destroy or damage property,
22 or disrupt services to critical infrastructure, or train-
23 ing on the use, storage, production, or assembly of
24 any explosive, firearm or other weapon, including
25 any weapon of mass destruction (as defined in sec-
26 tion 271(b)(1));

1 “(2) the term ‘critical infrastructure’ means
2 systems and assets vital to national defense, national
3 security, economic security, public health or safety
4 including both regional and national infrastructure.
5 Critical infrastructure may be publicly or privately
6 owned; examples of critical infrastructure include
7 gas and oil production, storage, or delivery systems,
8 water supply systems, telecommunications networks,
9 electrical power generation or delivery systems, fi-
10 nancing and banking systems, emergency services
11 (including medical, police, fire, and rescue services),
12 and transportation systems and services (including
13 highways, mass transit, airlines, and airports); and
14 “(3) the term ‘foreign terrorist organization’
15 means an organization designated as a terrorist or-
16 ganization under section 219(a)(1) of the Immigra-
17 tion and Nationality Act.

18 **“§ 282. Civil remedies**

19 “(a) ACTION AND JURISDICTION.—Any national of
20 the United States who suffers any loss by reason of an
21 act of international terrorism, or the estate, survivors, or
22 heirs of that national, may in a civil action in any appro-
23 priate district court of the United States recover threefold
24 the damages sustained and the cost of the suit, including
25 attorney’s fees.

1 “(b) ESTOPPEL UNDER UNITED STATES LAW.—A
2 final judgment or decree rendered in favor of the United
3 States in any criminal proceeding under section 102, 111,
4 112, 121, or 123 of this title or section 46314, 46502,
5 46505, or 46506 of title 49 shall estop the defendant from
6 denying the essential allegations of the criminal offense
7 in any subsequent civil proceeding under this section.

8 “(c) ESTOPPEL UNDER FOREIGN LAW.—A final
9 judgment or decree rendered in favor of any foreign state
10 in any criminal proceeding shall, to the extent that such
11 judgment or decree may be accorded full faith and credit
12 under the law of the United States, estop the defendant
13 from denying the essential allegations of the criminal of-
14 fense in any subsequent civil proceeding under this sec-
15 tion.

16 “(d) GENERAL VENUE.—A civil action under this
17 section may be instituted the United States district court
18 for any district where any plaintiff resides or where any
19 defendant resides or is served, or has an agent. Process
20 in such a civil action may be served in any district where
21 the defendant resides, is found, or has an agent.

22 “(e) SPECIAL MARITIME OR TERRITORIAL JURISDIC-
23 TION.—If the actions giving rise to the claim occurred
24 within the special maritime and territorial jurisdiction of
25 the United States, then a civil action under this section

1 may be instituted in the United States district court for
2 any district in which any plaintiff resides or the defendant
3 resides, is served, or has an agent.

4 “(f) SERVICE ON WITNESSES.—A witness in a civil
5 action brought under this section may be served in any
6 other district where the defendant resides, is found, or has
7 an agent.

8 “(g) CONVENIENCE OF THE FORUM.—The district
9 court shall not dismiss any action brought under this sec-
10 tion on the grounds of the inconvenience or inappropriate-
11 ness of the forum chosen, unless—

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

15 “(2) that foreign court is significantly more
16 convenient and appropriate; and

17 “(3) that foreign court offers a remedy which is
18 substantially the same as the one available in the
19 courts of the United States.

20 “(h) STATUTE OF LIMITATIONS.—

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

1 “(2) The time of the absence of the defendant
2 from the United States or from any jurisdiction in
3 which the same or a similar action arising from the
4 same facts may be maintained by the plaintiff, or of
5 any concealment of the defendant’s whereabouts,
6 shall not be included in the 4-year period set forth
7 in paragraph (1).

8 “(i) ACTS OF WAR.—No action shall be maintained
9 under this section for injury or loss by reason of an act
10 of war.

11 “(j) LIMITATION ON DISCOVERY.—If a party to an
12 action under this section seeks to discover the investigative
13 files of the Department of Justice, the Assistant Attorney
14 General, Deputy Attorney General, or Attorney General
15 may object on the ground that compliance will interfere
16 with a criminal investigation or prosecution of the inci-
17 dent, or a national security operation related to the inci-
18 dent, which is the subject of the civil litigation. The court
19 shall evaluate any such objections in camera and shall stay
20 the discovery if the court finds that granting the discovery
21 request will substantially interfere with a criminal inves-
22 tigation or prosecution of the incident or a national secu-
23 rity operation related to the incident. The court shall con-
24 sider the likelihood of criminal prosecution by the Govern-
25 ment and other factors it deems to be appropriate. A stay

1 of discovery under this subsection shall constitute a bar
2 to the granting of a motion to dismiss under rules
3 12(b)(6) and 56 of the Federal Rules of Civil Procedure.
4 If the court grants a stay of discovery under this sub-
5 section, it may stay the action in the interests of justice.

6 “(k) STAY OF ACTION FOR CIVIL REMEDIES.—

7 “(1) The Attorney General may intervene in
8 any civil action brought under this section for the
9 purpose of seeking a stay of the civil action. A stay
10 shall be granted if the court finds that the continu-
11 ation of the civil action will substantially interfere
12 with a criminal prosecution which involves the same
13 subject matter and in which an indictment has been
14 returned, or interfere with national security oper-
15 ations related to the terrorist incident that is the
16 subject of the civil action. A stay may be granted for
17 up to 6 months. The Attorney General may petition
18 the court for an extension of the stay for additional
19 6-month periods until the criminal prosecution is
20 completed or dismissed.

21 “(2) In a proceeding under this subsection, the
22 Attorney General may request that any order issued
23 by the court for release to the parties and the public
24 omit any reference to the basis on which the stay
25 was sought.

1 “(1) SUITS AGAINST GOVERNMENTS.—No action
2 shall be maintained under this section against—

3 “(1) the United States, an agency of the United
4 States, or an officer or employee of the United
5 States or any agency thereof acting within his or her
6 official capacity or under color of legal authority; or

7 “(2) a foreign state, an agency of a foreign
8 state, or an officer or employee of a foreign state or
9 an agency thereof acting within his or her official
10 capacity or under color of legal authority.

11 “(m) EXCLUSIVE JURISDICTION.—The district
12 courts of the United States shall have exclusive original
13 jurisdiction over an action brought under this section.

14 **“§ 283. Definitions for subchapter**

15 “As used in this subchapter—

16 “(1) the term ‘international terrorism’ means
17 activities that—

18 “(A) involve violent acts or acts dangerous
19 to human life that are a violation of the crimi-
20 nal laws of the United States or of any State,
21 or that would be a criminal violation if com-
22 mitted within the jurisdiction of the United
23 States or of any State;

24 “(B) appear to be intended—

1 “(i) to intimidate or coerce a civilian
2 population;

3 “(ii) to influence the policy of a gov-
4 ernment by intimidation or coercion; or

5 “(iii) to affect the conduct of a gov-
6 ernment by mass destruction, assassina-
7 tion, or kidnapping; and

8 “(C) occur primarily outside the territorial
9 jurisdiction of the United States, or transcend
10 national boundaries in terms of the means by
11 which they are accomplished, the persons they
12 appear intended to intimidate or coerce, or the
13 locale in which their perpetrators operate or
14 seek asylum;

15 “(3) the term ‘act of war’ means any act occur-
16 ring in the course of—

17 “(A) declared war;

18 “(B) armed conflict, whether or not war
19 has been declared, between two or more na-
20 tions; or

21 “(C) armed conflict between military forces
22 of any origin; and

23 “(4) the term ‘domestic terrorism’ means activi-
24 ties that—

1 “(A) involve acts dangerous to human life
2 that are a violation of the criminal laws of the
3 United States or of any State;

4 “(B) appear to be intended—

5 “(i) to intimidate or coerce a civilian
6 population;

7 “(ii) to influence the policy of a gov-
8 ernment by intimidation or coercion; or

9 “(iii) to affect the conduct of a gov-
10 ernment by mass destruction, assassina-
11 tion, or kidnapping; and

12 “(C) occur primarily within the territorial
13 jurisdiction of the United States.

14 “SUBCHAPTER C—MILITARY AND NAVY

“Sec.

“291. Entering military, naval, or Coast Guard property.

“292. Use of army and Air Force as posse comitatus.

“293. Disruptions of funerals of members or former members of the Armed
Forces.

“294. Demonstrations at cemeteries under the control of the national cemetery
administration and at Arlington National Cemetery.

“295. Prohibition on attacks on United States servicemen on account of service.

15 **“§ 291. Entering military, naval, or Coast Guard prop-**
16 **erty**

17 “Whoever—

18 “(1) within the jurisdiction of the United
19 States, goes upon any military, naval, or Coast
20 Guard reservation, post, fort, arsenal, yard, station,

1 or installation, for any purpose prohibited by law or
2 lawful regulation; or

3 “(2) reenters or is found within any such res-
4 ervation, post, fort, arsenal, yard, station, or instal-
5 lation, after having been removed therefrom or or-
6 dered not to reenter by any officer or person in com-
7 mand or charge thereof;

8 shall be or imprisoned not more than six months.

9 **“§ 292. Use of army and Air Force as posse comitatus**

10 “Whoever, except in cases and under circumstances
11 expressly authorized by the Constitution or Act of Con-
12 gress, knowingly uses any part of the Army or the Air
13 Force as a posse comitatus or otherwise to execute the
14 laws shall be imprisoned not more than two years.

15 **“§ 293. Disruptions of funerals of members or former**
16 **members of the Armed Forces**

17 “(a) OFFENSE.—Whoever engages in disruptive ac-
18 tivity at a covered funeral of a member or former member
19 of the Armed services shall be imprisoned not more than
20 one year.

21 “(b) DEFINITIONS.—As used in this section—

22 “(1) the term ‘disruptive activity’ means—

23 “(A) during the period beginning 60 min-
24 utes before and ending 60 minutes after such
25 funeral, knowingly making noise or a diversion

1 with intent to disturb the peace and good order
2 of the funeral that—

3 “(i) is not part of the funeral; and

4 “(ii) takes place within the boundaries
5 of the location of such funeral or takes
6 place within 150 feet of the point of the
7 intersection between the boundary of the
8 location of such funeral and a road, path-
9 way, or other route of ingress to or egress
10 from the location of such funeral; or

11 “(B) intentionally and without authoriza-
12 tion, within 300 feet of the boundary of the lo-
13 cation of such funeral, impeding access to or
14 egress from the location of the funeral;

15 “(2) the term ‘covered funeral’ means a cere-
16 mony or memorial service held in connection with
17 the burial or cremation of a member or former mem-
18 ber of the Armed Forces, which is not located at a
19 cemetery under the control of the National Cemetery
20 Administration or part of Arlington National Ceme-
21 tery;

22 “(3) the term ‘Armed Forces’ has the meaning
23 given the term in section 101 of title 10;

1 “(4) The term ‘boundary of the location’, with
2 respect to the place a covered funeral is held,
3 means—

4 “(A) the property line of the place, if the
5 place is cemetery, mortuary, or house of wor-
6 ship; and

7 “(B) the reasonable property line of any
8 other location.

9 **“§ 294. Demonstrations at cemeteries under the con-
10 trol of the national cemetery administra-
11 tion and at Arlington National Cemetery**

12 “Whoever violates section 2413 of title 38 shall be
13 imprisoned for not more than one year.

14 **“§ 295. Prohibition on attacks on United States serv-
15 icemen on account of service**

16 “(a) IN GENERAL.—Whoever knowingly assaults or
17 batters a United States serviceman or an immediate fam-
18 ily member of a United States serviceman, or who know-
19 ingly destroys or injures the property of such serviceman
20 or immediate family member, on account of the military
21 service of that serviceman or status of that individual as
22 a United States serviceman, or who attempts or conspires
23 to do so, shall

24 “(1) in the case of a simple assault, or destruc-
25 tion or injury to property in which the damage or

1 attempted damage to such property is not more than
2 \$500, be fined under this title in an amount not less
3 than \$500 nor more than \$10,000 and imprisoned
4 not more than 2 years;

5 “(2) in the case of destruction or injury to
6 property in which the damage or attempted damage
7 to such property is more than \$500, be fined under
8 this title in an amount not less than \$1000 nor more
9 than \$100,000 and imprisoned not more than 5
10 years; and

11 “(3) in the case of a battery, or an assault re-
12 sulting in bodily injury, be fined under this title in
13 an amount not less than \$2,500 and imprisoned not
14 less than 6 months nor more than 10 years.

15 “(b) EXCEPTION.—This section does not apply to
16 conduct by a person who is subject to the Uniform Code
17 of Military Justice.

18 “(c) DEFINITIONS.—In this section

19 “(1) the term ‘Armed Forces’ has the meaning
20 given that term in section 101 of title 10;

21 “(2) the term ‘immediate family member’ has
22 the meaning given that term in section 136; and

23 “(3) the term ‘United States serviceman’—

24 “(A) means a member of the Armed
25 Forces; and

1 “(3) commits or attempts to commit any act to
2 obstruct, impede, or interfere with any fireman or
3 law enforcement officer lawfully engaged in the law-
4 ful performance of official duties incident to and
5 during the commission of a civil disorder which is in
6 or affects commerce or the conduct or performance
7 of any federally protected function;
8 shall be imprisoned not more than five years.

9 “(b) LAW ENFORCEMENT EXCLUSION.—Nothing in
10 this section makes unlawful any act of any law enforce-
11 ment officer which is performed in the lawful performance
12 of official duties.

13 “(c) DEFINITIONS.—The following definitions apply
14 in this section:

15 “(1) The term ‘civil disorder’ means any public
16 disturbance involving acts of violence by assemblages
17 of three or more persons, which causes an immediate
18 danger of or results in damage or injury to the prop-
19 erty or person of any other individual.

20 “(2) The term ‘federally protected function’
21 means any function, operation, or action carried out,
22 under the laws of the United States, by any depart-
23 ment, agency, or instrumentality of the United
24 States or by an officer or employee thereof; and such

1 term includes the collection and distribution of the
2 United States mails.

3 “(3) The term ‘firearm’ means any weapon
4 which is designed to or may readily be converted to
5 expel any projectile by the action of an explosive; or
6 the frame or receiver of any such weapon.

7 “(4) The term ‘explosive or incendiary device’
8 means—

9 “(A) dynamite and all other forms of high
10 explosives;

11 “(B) any explosive bomb, grenade, missile,
12 or similar device; and

13 “(C) any incendiary bomb or grenade, fire
14 bomb, or similar device, including any device
15 which—

16 “(i) consists of or includes a breakable
17 container including a flammable liquid or
18 compound, and a wick composed of any
19 material which, when ignited, is capable of
20 igniting such flammable liquid or com-
21 pound; and

22 “(ii) can be carried or thrown by one
23 individual acting alone.

24 “(5) The term ‘fireman’ means any member of
25 a fire department (including a volunteer fire depart-

1 ment) of any State, any political subdivision of a
2 State.

3 “(6) The term ‘law enforcement officer’ means
4 any officer or employee of the United States, of any
5 State or any political subdivision of a State while en-
6 gaged in the enforcement or prosecution of any of
7 the criminal laws of the United States or of that
8 State or subdivision; and such term includes mem-
9 bers of the National Guard (as defined in section
10 101 of title 10), members of the organized militia of
11 a State (as defined in section 101 of title 10), and
12 members of the Armed Forces of the United States,
13 while engaged in suppressing acts of violence or re-
14 storing law and order during a civil disorder.

15 “SUBCHAPTER E—ESPIONAGE AND
16 CENSORSHIP

“Sec.

“301. General provisions for subchapter.

“302. Gathering or transmitting defense information.

“303. Losing defense information.

“304. Disclosure of classified and other similarly protected information.

17 “§ 301. **General provisions for subchapter**

18 “(a) DEFINITION.—In this subchapter, the term ‘for-
19 eign power’ has the meaning given that term in section
20 101(a) of the Foreign Intelligence Surveillance Act of
21 1978.

22 “(b) EXCLUSION RELATING TO LAWFUL DEMANDS
23 OF CONGRESS.—Nothing in this subchapter prohibits the

1 furnishing, upon lawful demand, of information to any
2 regularly constituted committee of the Senate or House
3 of Representatives of the United States of America, or
4 joint committee thereof.

5 **“§ 302. Gathering or transmitting defense informa-**
6 **tion**

7 “Whoever, with intent or reason to believe that the
8 information will be used to the injury of the United States,
9 or to the advantage of any foreign power, knowingly—

10 “(1) obtains information connected with the na-
11 tional defense; or

12 “(2) provides information connected with the
13 national defense to any person not entitled to receive
14 it;

15 shall be imprisoned for life or for any term of years, and
16 if death results, shall be subject to the death penalty.

17 **“§ 303. Losing defense information**

18 “Whoever, having lawful possession or control of any
19 information connected with the national defense—

20 “(1) recklessly permits that information to be
21 lost, stolen, or destroyed; or

22 “(2) knowing that the information has been
23 lost, or stolen, or destroyed, fails to make prompt re-
24 port of that fact to an appropriate superior officer;

25 shall be imprisoned not more than 10 years.

1 **“§ 304. Disclosure of classified and other similarly**
2 **protected information**

3 “(a) OFFENSE.—Whoever knowingly provides pro-
4 tected information to a person not entitled to receive it,
5 or knowingly uses protected information to the injury of
6 the United States, or to the advantage of any foreign
7 power shall be imprisoned not more than 10 years.

8 “(b) DEFINITIONS.—In this section—

9 “(1) the term ‘protected information’ means
10 any classified information or any Restricted Data
11 (as defined for the purposes of the Atomic Energy
12 Act of 1954);

13 “(2) the term ‘classified information’ means in-
14 formation which, at the time of a violation of this
15 section, is, for reasons of national security, specifi-
16 cally designated by a United States Government au-
17 thority for limited or restricted dissemination or dis-
18 tribution—

19 “(A) concerning the nature, preparation,
20 or use of any code, cipher, or cryptographic sys-
21 tem of the United States or any foreign power;

22 “(B) concerning the design, construction,
23 use, maintenance, or repair of any device, appa-
24 ratus, or appliance used or prepared or planned
25 for use by the United States or any foreign

1 power for cryptographic or communication in-
2 telligence purposes;

3 “(C) concerning the communication intel-
4 ligence activities of the United States or any
5 foreign power; or

6 “(D) obtained by the processes of commu-
7 nication intelligence from the communications
8 of any foreign power, knowing the same to have
9 been obtained by such processes; and

10 “(3) the terms ‘code’, ‘cipher’, and ‘cryp-
11 tographic system’ include any method of secret writ-
12 ing and any mechanical or electrical device or meth-
13 od used for the purpose of disguising or concealing
14 the contents, significance, or meanings of commu-
15 nications.

16 “SUBCHAPTER F—IMMIGRATION AND
17 NATIONALITY

“Sec.

“311. False statement in application and use of passport.

“312. Forgery or false use of passport.

“313. Misuse of passport.

“314. Fraud and misuse of visas, permits, and other documents.

“315. Procurement of citizenship or naturalization unlawfully.

“316. Sale of naturalization or citizenship papers.

“317. Penalties related to removal.

“318. Bringing in and harboring certain aliens.

“319. Entry of alien at improper time or place; misrepresentation and conceal-
ment of facts.

“320. Reentry of removed alien.

“321. Aiding or assisting certain aliens to enter the United States.

“322. Increased penalty for certain terrorism related offenses.

1 **“§ 311. False statement in application and use of**
2 **passport**

3 “Whoever—

4 “(1) knowingly makes any false statement in an
5 application for passport with intent to induce or se-
6 cure the issuance of a passport under the authority
7 of the United States, either for his own use or the
8 use of another, contrary to the laws regulating the
9 issuance of passports or the rules prescribed pursu-
10 ant to such laws; or

11 “(2) knowingly uses or attempts to use, or fur-
12 nishes to another for use any passport the issue of
13 which was secured in any way by reason of any false
14 statement;

15 shall be imprisoned not more than 15 years.

16 **“§ 312. Forgery or false use of passport**

17 “Whoever—

18 “(1) falsely makes, forges, counterfeits, muti-
19 lates, or alters any passport or instrument pur-
20 porting to be a passport, with intent that the same
21 may be used; or

22 “(2) knowingly uses, or attempts to use, or fur-
23 nishes to another for use any such false, forged,
24 counterfeited, mutilated, or altered passport or in-
25 strument purporting to be a passport, or any pass-
26 port validly issued which has become void by the oc-

1 currence of any condition therein prescribed invali-
2 dating the same;
3 shall be imprisoned not more than 15 years.

4 **“§ 313. Misuse of passport**

5 “Whoever—

6 “(1) knowingly uses, or attempts to use, any
7 passport issued or designed for the use of another;

8 “(2) knowingly uses or attempts to use any
9 passport in violation of the conditions or restrictions
10 therein contained, or of the rules prescribed pursu-
11 ant to the laws regulating the issuance of passports;
12 or

13 “(3) knowingly furnishes, disposes of, or deliv-
14 ers a passport to any person, for use by another
15 than the person for whose use it was originally
16 issued and designed;

17 shall be imprisoned not more than 15 years.

18 **“§ 314. Fraud and misuse of visas, permits, and other**
19 **documents**

20 “(a) FORGERY AND SIMILAR CONDUCT.—Whoever—

21 “(1) knowingly forges, counterfeits, alters, or
22 falsely makes any immigrant or nonimmigrant visa,
23 permit, border crossing card, alien registration re-
24 ceipt card, or other document prescribed by statute
25 or regulation for entry into or as evidence of author-

1 ized stay or employment in the United States, or ut-
2 ters, uses, attempts to use, possesses, obtains, ac-
3 cepts, or receives any such visa, permit, border
4 crossing card, alien registration receipt card, or
5 other document prescribed by statute or regulation
6 for entry into or as evidence of authorized stay or
7 employment in the United States, knowing it to be
8 forged, counterfeited, altered, or falsely made, or to
9 have been procured by means of any false claim or
10 statement, or to have been otherwise procured by
11 fraud or unlawfully obtained;

12 “(2) except under direction of the Attorney
13 General or the Secretary of Homeland Security, or
14 other proper officer, knowingly possesses any blank
15 permit, or engraves, sells, brings into the United
16 States, or has in his control or possession any plate
17 in the likeness of a plate designed for the printing
18 of permits, or makes any print, photograph, or im-
19 pression in the likeness of any immigrant or non-
20 immigrant visa, permit or other document required
21 for entry into the United States, or has in his pos-
22 session a distinctive paper which has been adopted
23 by the Attorney General or Secretary of Homeland
24 Security for the printing of such visas, permits, or
25 documents;

1 “(3) when applying for an immigrant or non-
2 immigrant visa, permit, or other document required
3 for entry into the United States, or for admission to
4 the United States personates another, or falsely ap-
5 pears in the name of a deceased individual, or
6 evades or attempts to evade the immigration laws by
7 appearing under an assumed or fictitious name with-
8 out disclosing his true identity, or sells or otherwise
9 disposes of, or offers to sell or otherwise dispose of,
10 or utters, such visa, permit, or other document, to
11 any person not authorized by law to receive such
12 document; or

13 “(4) knowingly makes under oath, or as per-
14 mitted under penalty of perjury under section 1746
15 of title 28, knowingly subscribes as true, any false
16 statement with respect to a material fact in any ap-
17 plication, affidavit, or other document required by
18 the immigration laws or regulations prescribed
19 thereunder, or knowingly presents any such applica-
20 tion, affidavit, or other document which contains any
21 such false statement or which fails to contain any
22 reasonable basis in law or fact;
23 shall be imprisoned not more than 15 years.

24 “(b) USE OF FORGED OF SIMILAR DOCUMENTS.—
25 Whoever uses—

1 tains or applies for or otherwise attempts to procure
2 or obtain naturalization, or citizenship, or a declara-
3 tion of intention to become a citizen, or a certificate
4 of arrival or any certificate or evidence of national-
5 ization or citizenship, documentary or otherwise, or
6 duplicates or copies of any of the foregoing;

7 shall be imprisoned not more than 15 years.

8 **“§ 316. Sale of naturalization or citizenship papers**

9 “Whoever unlawfully sells or disposes of a declaration
10 of intention to become a citizen, certificate of naturaliza-
11 tion, certificate of citizenship or copies or duplicates or
12 other documentary evidence of naturalization or citizen-
13 ship, shall be imprisoned 15 years.

14 **“§ 317. Penalties related to removal**

15 “(a) PENALTY FOR FAILURE TO DEPART.—

16 “(1) IN GENERAL.—Any alien against whom a
17 final order of removal is outstanding by reason of
18 being a member of any of the classes described in
19 section 237(a) of the Immigration and Nationality
20 Act, who—

21 “(A) knowingly fails or refuses to depart
22 from the United States within a period of 90
23 days from the date of the final order of removal
24 under administrative processes, or if judicial re-

1 view is had, then from the date of the final
2 order of the court,

3 “(B) knowingly fails or refuses to make
4 timely application in good faith for travel or
5 other documents necessary to the alien’s depart-
6 ture,

7 “(C) connives or conspires, or takes any
8 other action, designed to prevent or hamper or
9 with the purpose of preventing or hampering
10 the alien’s departure pursuant to such, or

11 “(D) knowingly fails or refuses to present
12 himself or herself for removal at the time and
13 place required by the Attorney General pursu-
14 ant to such order,

15 shall be imprisoned not more than four years (or 10
16 years if the alien is a member of any of the classes
17 described in paragraph (1)(E), (2), (3), or (4) of
18 section 237(a) of the Immigration and Nationality
19 Act).

20 “(2) EXCEPTION.—It is not a violation of para-
21 graph (1) to take any proper steps for the purpose
22 of securing cancellation of or exemption from such
23 order of removal or for the purpose of securing the
24 alien’s release from incarceration or custody.

1 “(3) SUSPENSION.—The court may for good
2 cause suspend the sentence of an alien under this
3 subsection and order the alien’s release under such
4 conditions as the court may prescribe. In deter-
5 mining whether good cause has been shown to jus-
6 tify releasing the alien, the court shall take into ac-
7 count such factors as—

8 “(A) the age, health, and period of deten-
9 tion of the alien;

10 “(B) the effect of the alien’s release upon
11 the national security and public peace or safety;

12 “(C) the likelihood of the alien’s resuming
13 or following a course of conduct which made or
14 would make the alien deportable;

15 “(D) the character of the efforts made by
16 such alien himself and by representatives of the
17 country or countries to which the alien’s re-
18 moval is directed to expedite the alien’s depar-
19 ture from the United States;

20 “(E) the reason for the inability of the
21 Government of the United States to secure
22 passports, other travel documents, or removal
23 facilities from the country or countries to which
24 the alien has been ordered removed; and

1 “(F) the eligibility of the alien for discre-
2 tionary relief under the immigration laws.

3 “(b) FAILURE TO COMPLY WITH TERMS OF RE-
4 LEASE UNDER SUPERVISION.—An alien who knowingly
5 fails to comply with regulations or requirements issued
6 pursuant to section 241(a)(3) of the Immigration and Na-
7 tionality Act or knowingly give false information in re-
8 sponse to an inquiry under such section shall be impris-
9 oned for not more than one year.

10 “(c) PENALTIES RELATING TO VESSELS AND AIR-
11 CRAFT.—

12 “(1) CIVIL PENALTIES.—

13 “(A) FAILURE TO CARRY OUT CERTAIN
14 ORDERS.—If the Attorney General is satisfied
15 that a person has violated subsection (d) or (e)
16 of section 241 of the Immigration and Nation-
17 ality Act, the person shall pay to the Commis-
18 sioner the sum of \$2,000 for each violation.

19 “(B) FAILURE TO REMOVE ALIEN STOW-
20 AWAYS.—If the Attorney General is satisfied
21 that a person has failed to remove an alien
22 stowaway as required under section 241(d)(2)
23 of the Immigration and Nationality Act, the
24 person shall pay to the Commissioner the sum
25 of \$5,000 for each alien stowaway not removed.

1 “(C) NO COMPROMISE.—The Attorney
2 General may not compromise the amount of
3 such penalty under this paragraph.

4 “(2) CLEARING VESSELS AND AIRCRAFT.—

5 “(A) CLEARANCE BEFORE DECISION ON
6 LIABILITY.—A vessel or aircraft may be grant-
7 ed clearance before a decision on liability is
8 made under paragraph (1) only if a bond ap-
9 proved by the Attorney General or an amount
10 sufficient to pay the civil penalty is deposited
11 with the Commissioner.

12 “(B) PROHIBITION ON CLEARANCE WHILE
13 PENALTY UNPAID.—A vessel or aircraft may
14 not be granted clearance if a civil penalty im-
15 posed under paragraph (1) is not paid.

16 “(d) DISCONTINUING GRANTING VISAS TO NATION-
17 ALS OF COUNTRY DENYING OR DELAYING ACCEPTING
18 ALIEN.—On being notified by the Attorney General that
19 the government of a foreign country denies or unreason-
20 ably delays accepting an alien who is a citizen, subject,
21 national, or resident of that country after the Attorney
22 General asks whether the government will accept the alien
23 under this section, the Secretary of State shall order con-
24 sular officers in that foreign country to discontinue grant-
25 ing immigrant visas or nonimmigrant visas, or both, to

1 citizens, subjects, nationals, and residents of that country
2 until the Attorney General notifies the Secretary that the
3 country has accepted the alien.

4 **“§ 318. Bringing in and harboring certain aliens**

5 “(a) CRIMINAL PENALTIES.—(1)(A) Whoever—

6 “(i) knowing that a person is an alien, brings
7 to or attempts to bring to the United States in any
8 manner whatsoever such person at a place other
9 than a designated port of entry or place other than
10 as designated by the Commissioner, regardless of
11 whether such alien has received prior official author-
12 ization to come to, enter, or reside in the United
13 States and regardless of any future official action
14 which may be taken with respect to such alien;

15 “(ii) knowing or in reckless disregard of the
16 fact that an alien has come to, entered, or remains
17 in the United States in violation of law, transports,
18 or moves or attempts to transport or move such
19 alien within the United States by means of transpor-
20 tation or otherwise, in furtherance of such violation
21 of law;

22 “(iii) knowing or in reckless disregard of the
23 fact that an alien has come to, entered, or remains
24 in the United States in violation of law, conceals,
25 harbors, or shields from detection, or attempts to

1 conceal, harbor, or shield from detection, such alien
2 in any place, including any building or any means of
3 transportation;

4 “(iv) encourages or induces an alien to come to,
5 enter, or reside in the United States, knowing or in
6 reckless disregard of the fact that such coming to,
7 entry, or residence is or will be in violation of law;
8 or

9 “(v) engages in any conspiracy to commit any
10 of the preceding acts;

11 shall be punished as provided in subparagraph
12 (B).

13 “(B) Whoever violates subparagraph (A)
14 shall, for each alien in respect to whom such a
15 violation occurs—

16 “(i) in the case of a violation of sub-
17 subparagraph (A)(i) or (v)(I) or in the case of
18 a violation of subparagraph (A)(ii), (iii), or
19 (iv) in which the offense was done for the
20 purpose of commercial advantage or pri-
21 vate financial gain, be imprisoned not more
22 than 10 years;

23 “(ii) in the case of a violation of sub-
24 paragraph (A) (ii), (iii), (iv), or (v)(II) be
25 imprisoned not more than 5 years;

1 “(iii) in the case of a violation of sub-
2 paragraph (A) (i), (ii), (iii), (iv), or (v)
3 during and in relation to which the person
4 causes serious bodily injury to, or places in
5 jeopardy the life of, any person, be impris-
6 oned not more than 20 years; and

7 “(iv) in the case of a violation of sub-
8 paragraph (A) (i), (ii), (iii), (iv), or (v) re-
9 sulting in the death of any person, be pun-
10 ished by death or imprisoned for any term
11 of years or for life.

12 “(C) It is not a violation of clause (ii) or
13 (iii) of subparagraph (A), or of clause (iv) of
14 subparagraph (A) except where a person en-
15 courages or induces an alien to come to or enter
16 the United States, for a religious denomination
17 having a bona fide nonprofit, religious organiza-
18 tion in the United States, or the agents or offi-
19 cers of such denomination or organization, to
20 encourage, invite, call, allow, or enable an alien
21 who is present in the United States to perform
22 the vocation of a minister or missionary for the
23 denomination or organization in the United
24 States as a volunteer who is not compensated
25 as an employee, notwithstanding the provision

1 of room, board, travel, medical assistance, and
2 other basic living expenses, provided the min-
3 ister or missionary has been a member of the
4 denomination for at least one year.

5 “(2) Whoever, knowing or in reckless disregard
6 of the fact that an alien has not received prior offi-
7 cial authorization to come to, enter, or reside in the
8 United States, brings to or attempts to bring to the
9 United States in any manner whatsoever, such alien,
10 regardless of any official action which may later be
11 taken with respect to such alien shall, for each alien
12 in respect to whom a violation of this paragraph oc-
13 curs—

14 “(A) be imprisoned not more than one
15 year; or

16 “(B) in the case of—

17 “(i) an offense committed with the in-
18 tent or with reason to believe that the alien
19 unlawfully brought into the United States
20 will commit an offense against the United
21 States or any State punishable by impris-
22 onment for more than 1 year,

23 “(ii) an offense done for the purpose
24 of commercial advantage or private finan-
25 cial gain, or

1 “(iii) an offense in which the alien is
2 not upon arrival immediately brought and
3 presented to an appropriate immigration
4 officer at a designated port of entry,
5 be imprisoned not less than 5 nor more than 15
6 years.

7 “(3)(A) Whoever, during any 12-month period,
8 knowingly hires for employment at least 10 individ-
9 uals with actual knowledge that the individuals are
10 aliens described in subparagraph (B) shall be im-
11 prisoned for not more than 5 years.

12 “(B) An alien described in this subparagraph is
13 an alien who—

14 “(i) is an unauthorized alien (as defined in
15 section 274A(h)(3) of the Immigration and Na-
16 tionality Act), and

17 “(ii) has been brought into the United
18 States in violation of this subsection.

19 “(4) In the case of a person who has brought
20 aliens into the United States in violation of this sub-
21 section, the sentence otherwise provided for may be
22 increased by up to 10 years if—

23 “(A) the offense was part of an ongoing
24 commercial organization or enterprise;

1 “(B) aliens were transported in groups of
2 10 or more; and

3 “(C)(i) aliens were transported in a man-
4 ner that endangered their lives; or

5 “(ii) the aliens presented a life-threatening
6 health risk to people in the United States.

7 “(b) **AUTHORITY TO ARREST.**—No officer or person
8 shall have authority to make any arrest for a violation of
9 any provision of this section except officers and employees
10 of the Service designated by the Attorney General, either
11 individually or as a member of a class, and all other offi-
12 cers whose duty it is to enforce criminal laws.

13 “(c) **AUDIOVISUALLY PRESERVED DEPOSITIONS.**—
14 Notwithstanding any provision of the Federal Rules of
15 Evidence, the videotaped (or otherwise audiovisually pre-
16 served) deposition of a witness to a violation of subsection
17 (a) who has been deported or otherwise expelled from the
18 United States, or is otherwise unable to testify, may be
19 admitted into evidence in an action brought for that viola-
20 tion if the witness was available for cross examination and
21 the deposition otherwise complies with the Federal Rules
22 of Evidence.

23 “(d) **OUTREACH PROGRAM.**—The Secretary of
24 Homeland Security, in consultation with the Attorney
25 General and the Secretary of State, as appropriate, shall

1 develop and implement an outreach program to educate
2 the public in the United States and abroad about the pen-
3 alties for bringing in and harboring aliens in violation of
4 this section.

5 **“§ 319. Entry of alien at improper time or place; mis-**
6 **representation and concealment of facts**

7 “(a) ENTRY.—Any alien who—

8 “(1) enters or attempts to enter the United
9 States at any time or place other than as designated
10 by immigration officers;

11 “(2) eludes examination or inspection by immi-
12 gration officers; or

13 “(3) attempts to enter or obtains entry to the
14 United States by a knowingly false or misleading
15 representation or the knowingly concealment of a
16 material fact;

17 shall, for the first commission of any such offense, be im-
18 prisoned not more than 6 months, and, for a subsequent
19 commission of any such offense, be imprisoned not more
20 than 2 years.

21 “(b) APPREHENSION WHILE ENTERING.—Any alien
22 who is apprehended while entering (or attempting to
23 enter) the United States at a time or place other than
24 as designated by immigration officers shall be subject to
25 a civil penalty of—

1 “(1) at least \$50 and not more than \$250 for
2 each such entry (or attempted entry); or

3 “(2) twice the amount specified in paragraph
4 (1) in the case of an alien who has been previously
5 subject to a civil penalty under this subsection.

6 Civil penalties under this subsection are in addition to,
7 and not in lieu of, any criminal or other civil penalties
8 that may be imposed.

9 “(c) MARRIAGE.—An individual who knowingly en-
10 ters into a marriage for the purpose of evading any provi-
11 sion of the immigration laws shall be imprisoned for not
12 more than 5 years.

13 “(d) COMMERCIAL ENTERPRISE.—Whoever know-
14 ingly establishes a commercial enterprise for the purpose
15 of evading any provision of the immigration laws shall be
16 imprisoned for not more than 5 years.

17 **“§ 320. Reentry of removed alien**

18 “(a) OFFENSE.—Subject to subsection (b), any alien
19 who—

20 “(1) has been denied admission, excluded, de-
21 ported, or removed or has departed the United
22 States while an order of exclusion, deportation, or
23 removal is outstanding; and

24 “(2) thereafter enters, attempts to enter, or is
25 at any time found in, the United States, unless (A)

1 prior to his reembarkation at a place outside the
2 United States or his application for admission from
3 foreign contiguous territory, the Attorney General
4 has expressly consented to such alien's reapplying
5 for admission; or (B) with respect to an alien pre-
6 viously denied admission and removed, unless such
7 alien shall establish that he was not required to ob-
8 tain such advance consent under this or any prior
9 Act,

10 shall be imprisoned not more than 2 years.

11 “(b) INCREASED PENALTY.—In the case of any alien
12 violating subsection (a)—

13 “(1) whose removal was subsequent to a convic-
14 tion for commission of three or more misdemeanors
15 involving drugs, crimes against the person, or both,
16 or a felony (other than an aggravated felony), such
17 alien shall be imprisoned not more than 10 years;

18 “(2) whose removal was subsequent to a convic-
19 tion for commission of an aggravated felony, such
20 alien shall be imprisoned not more than 20 years;

21 “(3) who has been excluded from the United
22 States pursuant to section 235(c) of the Immigra-
23 tion and Nationality Act because the alien was ex-
24 cludable under section 212(a)(3)(B) of such Act or
25 who has been removed from the United States pur-

1 suant to title V of such Act, and who thereafter,
2 without the permission of the Attorney General, en-
3 ters the United States, or attempts to do so, shall
4 be imprisoned for a period of 10 years, which sen-
5 tence shall not run concurrently with any other sen-
6 tence; or

7 “(4) who was removed from the United States
8 pursuant to section 241(a)(4)(B) of such Act who
9 thereafter, without the permission of the Attorney
10 General, enters, attempts to enter, or is at any time
11 found in, the United States (unless the Attorney
12 General has expressly consented to such alien’s re-
13 entry) shall be imprisoned for not more than 10
14 years.

15 For the purposes of this subsection, the term ‘removal’
16 includes any agreement in which an alien stipulates to re-
17 moval during (or not during) a criminal trial under either
18 Federal or State law.

19 “(c) REENTRY.—Any alien deported pursuant to sec-
20 tion 242(h)(2) of the Immigration and Nationality Act
21 who enters, attempts to enter, or is at any time found
22 in, the United States (unless the Attorney General has ex-
23 pressly consented to such alien’s reentry) shall be incarcer-
24 ated for the remainder of the sentence of imprisonment
25 which was pending at the time of deportation without any

1 reduction for parole or supervised release. Such alien shall
2 be subject to such other penalties relating to the reentry
3 of deported aliens as may be available under this section
4 or any other provision of law.

5 “(d) CHALLENGE OF VALIDITY OF ORDER.—In a
6 criminal proceeding under this section, an alien may not
7 challenge the validity of the deportation order described
8 in subsection (a)(1) or subsection (b) unless the alien dem-
9 onstrates that—

10 “(1) the alien exhausted any administrative
11 remedies that may have been available to seek relief
12 against the order;

13 “(2) the deportation proceedings at which the
14 order was issued improperly deprived the alien of the
15 opportunity for judicial review; and

16 “(3) the entry of the order was fundamentally
17 unfair.

18 **“§ 321. Aiding or assisting certain aliens to enter the**

19 **United States**

20 “Whoever knowingly aids or assists any alien inad-
21 missible under section 212(a)(2) of the Immigration and
22 Nationality Act (insofar as an alien inadmissible under
23 such section has been convicted of an aggravated felony)
24 or section 212(a)(3) of such Act (other than subparagraph
25 (E) thereof) to enter the United States, or who connives

1 or conspires with any person or persons to allow, procure,
 2 or permit any such alien to enter the United States, shall
 3 be or imprisoned not more than 10 years.

4 **“§ 322. Increased penalty for certain terrorism re-**
 5 **lated offenses**

6 “Whoever violates this subchapter shall, if the max-
 7 imum imprisonment for the offense is less but for this sec-
 8 tion, be imprisoned not more than 25 years if the offense
 9 was committed to facilitate an act of international ter-
 10 rorism (as defined in section 283), and 20 years (if the
 11 offense was committed to facilitate a drug trafficking
 12 crime (as defined in section 592).

13 **“CHAPTER 17—DRUG CRIMES**

“Sec.

“401. Definitions for chapter.

“402. Basic offenses.

“403. Basic punishment structure.

“404. Offenses involving protected persons.

“405. Enhancement for offenses involving protected places.

“406. Maintaining drug-involved premises.

“407. Distribution in or near schools.

“408. Listed chemicals.

“409. Domestic regulatory offenses.

“410. Additional domestic regulatory offenses.

“411. Penalty for simple possession.

“412. Civil penalty for possession of small amounts of certain controlled sub-
 stances.

“413. Continuing criminal enterprise.

“414. Drug paraphernalia.

“415. Proceedings to establish prior convictions.

“416. Anhydrous ammonia.

“417. Controlled substances import and export listed chemical offenses.

“418. Prohibited Acts related to foreign terrorist organizations or terrorist per-
 sons and groups.

“419. Offenses involving the Internet.

14 **“§ 401. Definitions for chapter**

15 “As used in this chapter—

1 “(1) a term defined for the purposes of the
2 Controlled Substances Act or the Controlled Sub-
3 stances Import and Export Act has the same mean-
4 ing in this chapter;

5 “(2) the term ‘large quantity of a major drug’
6 means—

7 “(A) 1 kilogram or more of a mixture or
8 substance containing a detectable amount of
9 heroin;

10 “(B) 5 kilograms or more of a mixture or
11 substance containing a detectable amount of—

12 “(i) coca leaves, except coca leaves
13 and extracts of coca leaves from which co-
14 caine, ecgonine, and derivatives of ecgonine
15 or their salts have been removed;

16 “(ii) cocaine, its salts, optical and geo-
17 metric isomers, and salts of isomers;

18 “(iii) ecgonine, its derivatives, their
19 salts, isomers, and salts of isomers; or

20 “(iv) any compound, mixture, or prep-
21 aration which contains any quantity of any
22 of the substances referred to in clauses (i)
23 through (iii);

1 “(C) 280 grams or more of a mixture or
2 substance described in subparagraph (B) which
3 contains cocaine base;

4 “(D) 100 grams or more of phencyclidine
5 (PCP) or 1 kilogram or more of a mixture or
6 substance containing a detectable amount of
7 phencyclidine (PCP);

8 “(E) 10 grams or more of a mixture or
9 substance containing a detectable amount of ly-
10 sergic acid diethylamide (LSD);

11 “(F) 400 grams or more of a mixture or
12 substance containing a detectable amount of N-
13 phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]
14 propanamide or 100 grams or more of a mix-
15 ture or substance containing a detectable
16 amount of any analogue of N-phenyl-N-[1-(2-
17 phenylethyl)-4-piperidinyl] propanamide;

18 “(G) 1000 kilograms or more of a mixture
19 or substance containing a detectable amount of
20 marihuana, or 1,000 or more marihuana plants
21 regardless of weight; or

22 “(H) 50 grams or more of methamphet-
23 amine, its salts, isomers, and salts of its iso-
24 mers or 500 grams or more of a mixture or
25 substance containing a detectable amount of

1 methamphetamine, its salts, isomers, or salts of
2 its isomers;

3 “(3) the term ‘substantial quantity of a major
4 drug’ means—

5 “(A) 100 grams or more of a mixture or
6 substance containing a detectable amount of
7 heroin;

8 “(B) 500 grams or more of a mixture or
9 substance containing a detectable amount of—

10 “(i) coca leaves, except coca leaves
11 and extracts of coca leaves from which co-
12 caine, ecgonine, and derivatives of ecgonine
13 or their salts have been removed;

14 “(ii) cocaine, its salts, optical and geo-
15 metric isomers, and salts of isomers;

16 “(iii) ecgonine, its derivatives, their
17 salts, isomers, and salts of isomers; or

18 “(iv) any compound, mixture, or prep-
19 aration which contains any quantity of any
20 of the substances referred to in clauses (i)
21 through (iii);

22 “(C) 28 grams or more of a mixture or
23 substance described in subparagraph (B) which
24 contains cocaine base;

1 “(D) 10 grams or more of phencyclidine
2 (PCP) or 100 grams or more of a mixture or
3 substance containing a detectable amount of
4 phencyclidine (PCP);

5 “(E) 1 gram or more of a mixture or sub-
6 stance containing a detectable amount of lyser-
7 gic acid diethylamide (LSD);

8 “(F) 40 grams or more of a mixture or
9 substance containing a detectable amount of N-
10 phenyl-N-[1-(2-phenylethyl)-4-piperidinyl]
11 propanamide or 10 grams or more of a mixture
12 or substance containing a detectable amount of
13 any analogue of N-phenyl-N-[1-(2-phenylethyl)-
14 4-piperidinyl] propanamide;

15 “(G) 100 kilograms or more of a mixture
16 or substance containing a detectable amount of
17 marihuana, or 100 or more marihuana plants
18 regardless of weight; or

19 “(H) 5 grams or more of methamphet-
20 amine, its salts, isomers, and salts of its iso-
21 mers or 50 grams or more of a mixture or sub-
22 stance containing a detectable amount of meth-
23 amphetamine, its salts, isomers, or salts of its
24 isomers;

1 “(4) the term ‘date rape drug’ means gamma
2 hydroxybutyric acid (including when scheduled as an
3 approved drug product for purposes of section
4 3(a)(1)(B) of the Hillary J. Farias and Samantha
5 Reid Date-Rape Drug Prohibition Act of 2000), or
6 1 gram of flunitrazepam;

7 “(5) the term ‘repeat offender’ means a person
8 who is convicted under this chapter after a prior
9 conviction for a felony drug offense;

10 “(6) the term ‘career offender’ means a person
11 who is convicted under this chapter after two or
12 more prior convictions for a felony drug offense;

13 “(7) the term ‘midlevel quantity of marijuana’
14 means less than 50 kilograms of marihuana, except
15 in the case of 50 or more marihuana plants regard-
16 less of weight; and

17 “(8) the term ‘larger quantity of hashish’
18 means less than ten kilograms of hashish or one
19 kilogram of hashish oil.

20 **“§ 402. Basic offenses**

21 “Except as authorized by this chapter, the Controlled
22 Substances Act, or the Controlled Substances Import and
23 Export Act, whoever knowingly—

1 “(1) manufactures, distributes, or dispenses, or
2 possesses with intent to manufacture, distribute, or
3 dispense, a controlled substance;

4 “(2) creates, distributes, or dispenses, or pos-
5 sesses with intent to distribute or dispense, a coun-
6 terfeit substance;

7 “(3) imports or exports a controlled substance
8 in violation of section 1002, 1003, or 1007 of the
9 Controlled Substances Import and Export Act;

10 “(4) brings or possesses on board a vessel, air-
11 craft, or vehicle a controlled substance in violation of
12 section 1005 of that Act; or

13 “(5) manufactures, possesses with intent to dis-
14 tribute, or distributes a controlled substance in viola-
15 tion of section 1009 of that Act;

16 shall be punished as provided in this chapter.

17 **“§ 403. Basic punishment structure**

18 “(a) LARGE QUANTITIES OF MAJOR DRUGS.—

19 “(1) PRISON.—If the violation of section 402
20 involves a large quantity of a major drug, the of-
21 fender shall be imprisoned not less than ten years,
22 or for life. If the offender is a repeat offender or if
23 death or serious bodily injury results to any person
24 from the offense, the term shall not be less than 20

1 years. If the offender is a career offender, the term
2 shall be life.

3 “(2) FINE.—An offender to whom paragraph
4 (1) applies shall be fined not more than
5 \$10,000,000, and if the offender is a repeat of-
6 fender, not more than \$20,000,000.

7 “(3) SUPERVISED RELEASE.—An offender to
8 whom paragraph (1) applies shall be sentenced to
9 supervised release for a period of at least 5 years,
10 but if the offender is a repeat offender, for a period
11 of 10 years.

12 “(b) SUBSTANTIAL QUANTITIES OF MAJOR
13 DRUGS.—

14 “(1) PRISON.—If the violation of section 402
15 involves a substantial quantity of a major drug, the
16 offender shall be imprisoned not less than five years
17 nor more than 40 years, but if death or serious bod-
18 ily injury results to any person from the offense, not
19 less than 20 years, or for life. If the offender is a
20 repeat offender, the term shall not be less than 10
21 years, or life, but if death or serious bodily injury
22 results to any person from the offense, the term
23 shall be life.

24 “(2) FINE.—An offender to whom paragraph
25 (1) applies shall be fined not more than \$5,000,000

1 if the offender is an individual or \$25,000,000 if the
2 offender is an organization. If the offender is a re-
3 peat offender, the fine shall be not more than
4 \$8,000,000 if the offender is an individual or
5 \$50,000,000 if the offender is an organization.

6 “(3) SUPERVISED RELEASE.—An offender to
7 whom paragraph (1) applies shall be sentenced to
8 supervised release for a period of at least 4 years,
9 but if the offender is a repeat offender, for a period
10 of at least 8 years.

11 “(c) LESSER QUANTITIES OF MAJOR DRUGS AND
12 ANY QUANTITY OF CERTAIN OTHER SUBSTANCES.—

13 “(1) PRISON.—If the violation of section 402
14 involves a controlled substance in schedule I or II,
15 in a lesser quantity than those described in section
16 401(3) if such substance is listed therein, or a date
17 rape drug, the offender shall be imprisoned not more
18 than 20 years, but if death or serious bodily injury
19 results to any person from the offense, not less than
20 20 years, or life. If the offender is a repeat offender,
21 the term shall not be more than 30 years, but if
22 death or serious bodily injury results to any person
23 from the offense, the term shall not be less than 20
24 years, or life.

1 “(2) FINE.—An offender to whom paragraph
2 (1) applies shall be fined not more than \$1,000,000
3 if the offender is an individual or \$5,000,000 if the
4 offender is an organization. If the offender is a re-
5 peat offender, the fine shall be not more than
6 \$2,000,000 if the offender is an individual or
7 \$10,000,000 if the offender is an organization.

8 “(3) SUPERVISED RELEASE.—An offender to
9 whom paragraph (1) applies shall be sentenced to
10 supervised release for a period of at least 3 years,
11 but if the offender is a repeat offender, for a period
12 of at least 6 years.

13 “(d) MIDDLELEVEL QUANTITIES OF MARIJUANA AND
14 LARGER QUANTITIES OF HASHISH.—

15 “(1) PRISON.—If the violation of section 402
16 involves a midlevel quantity of marijuana or a larger
17 quantity of hashish, the offender shall be imprisoned
18 not more than five years, or if a repeat offender, not
19 more than 10 years.

20 “(2) FINE.—An offender to whom paragraph
21 (1) applies shall be fined not more than \$250,000 if
22 the offender is an individual or \$1,000,000 if the of-
23 fender is an organization. If the offender is a repeat
24 offender, the fine shall be not more than \$500,000

1 if the offender is an individual or \$2,000,000 if the
2 offender is an organization.

3 “(3) SUPERVISED RELEASE.—An offender to
4 whom paragraph (1) applies shall be sentenced to
5 supervised release for a period of at least 2 years,
6 but if the offender is a repeat offender, for a period
7 of at least 4 years.

8 “(e) SCHEDULE III SUBSTANCES.—

9 “(1) PRISON.—If the violation of section 402
10 involves a schedule III substance for which a penalty
11 is not imposed in a previous subsection, the offender
12 shall be imprisoned not more than 10 years, but if
13 death or serious bodily injury results to any person
14 from the offense, not more than 15 years. If the of-
15 fender is a repeat offender, the term shall not be
16 more than 20 years, but if death or serious bodily
17 injury results to any person from the offense, the
18 term shall not be more than 30 years

19 “(2) FINE.—An offender to whom paragraph
20 (1) applies shall be fined not more than \$500,000 if
21 the offender is an individual or \$2,500,000 if the of-
22 fender is an organization. If the offender is a repeat
23 offender, the fine shall be not more than \$1,000,000
24 if the offender is an individual or \$5,000,000 if the
25 offender is an organization.

1 “(3) SUPERVISED RELEASE.—An offender to
2 whom paragraph (1) applies shall be sentenced to
3 supervised release for a period of at least 2 years,
4 but if the offender is a repeat offender, for a period
5 of at least 4 years.

6 “(f) SCHEDULE IV SUBSTANCES.—

7 “(1) PRISON.—If the violation of section 402
8 involves a schedule IV substance, the offender shall
9 be imprisoned not more than 5 years. If the offender
10 is a repeat offender, the term shall be not more than
11 10 years.and sentenced to supervised release for at
12 least one year. If the offender is a repeat offender,
13 the offender shall be imprisoned not more than 10
14 years and sentenced to supervised release for at least
15 two years.

16 “(2) FINE.—An offender to whom paragraph
17 (1) applies shall be fined not more than \$250,000 if
18 the offender is an individual or \$1,000,000 if the of-
19 fender is an organization. If the offender is a repeat
20 offender, the fine shall be not more than \$500,000
21 if the offender is an individual or \$2,000,000 if the
22 offender is an organization.

23 “(3) SUPERVISED RELEASE.—An offender to
24 whom paragraph (1) applies shall be sentenced to
25 supervised release for a period of at least one year,

1 but if the offender is a repeat offender, for a period
2 of at least 2 years.

3 “(g) SCHEDULE V SUBSTANCES.—

4 “(1) PRISON.—If the violation of section 402
5 involves a schedule V substance, the offender shall
6 be imprisoned not more than one year. If the of-
7 fender is a repeat offender, the term shall be not
8 more than four years.

9 “(2) FINE.—An offender to whom paragraph
10 (1) applies shall be fined not more than \$100,000 if
11 the offender is an individual or \$250,000 if the of-
12 fender is an organization. If the offender is a repeat
13 offender, the fine shall be not more than \$200,000
14 if the offender is an individual or \$500,000 if the of-
15 fender is an organization.

16 **“§ 404. Offenses involving protected persons**

17 “(a) DISTRIBUTION WITH INTENT TO COMMIT A
18 CRIME OF VIOLENCE.—

19 “(1) IN GENERAL.—Whoever, with intent to
20 commit a crime of violence (including an offense
21 that would also be punishable under section 201 if
22 the conduct occurred in the special maritime and
23 territorial jurisdiction of the United States) against
24 an individual, violates section 402 by distributing a
25 controlled substance or controlled substance ana-

1 logue to that individual without that individual's
2 knowledge, shall be imprisoned not more than 20
3 years.

4 “(2) DEFINITION.—As used in this subsection,
5 the term ‘without that individual’s knowledge’ means
6 that the individual is unaware that a substance with
7 the ability to alter that individual’s ability to ap-
8 praise conduct or to decline participation in or com-
9 municate unwillingness to participate in conduct is
10 administered to the individual.

11 “(b) ENDANGERING HUMAN LIFE WHILE ILLE-
12 GALLY MANUFACTURING CONTROLLED SUBSTANCE.—
13 Whoever, while manufacturing a controlled substance in
14 violation of this chapter or the Controlled Substances Act,
15 or attempting or conspiring to do so, or transporting ma-
16 terials, including chemicals, to do so, knowingly creates
17 a risk of harm to human life shall be imprisoned not more
18 than ten years.

19 “(c) DISTRIBUTION TO MINORS.—

20 “(1) FIRST OFFENSES.—Except as provided in
21 section 407 and in paragraph (2), any person at
22 least 18 years of age who violates section 402 by dis-
23 tributing a controlled substance to a person under
24 21 years of age is subject to (A) twice the maximum
25 punishment authorized by section 403, and (B) at

1 least twice any term of supervised release authorized
2 by section 403, for a first offense involving the same
3 controlled substance and schedule. Except to the ex-
4 tent a greater minimum sentence is otherwise pro-
5 vided by section 403, a term of imprisonment under
6 this subsection shall be not less than one year. The
7 mandatory minimum sentencing provisions of this
8 subsection do not apply to offenses involving 5
9 grams or less of marihuana.

10 “(2) SECOND AND SUBSEQUENT OFFENSES.—

11 Except as provided in section 407, if the offender
12 under paragraph (1) has a prior conviction under
13 paragraph (1) (or under section 303(b)(2) of the
14 Federal Food, Drug, and Cosmetic Act as in effect
15 prior to the effective date of section 701(b) of the
16 Controlled Substances Act) is subject to (A) three
17 times the maximum punishment authorized by sec-
18 tion 403, and (B) at least three times any term of
19 supervised release authorized by section 403, for a
20 second offense or subsequent offense involving the
21 same controlled substance and schedule. Except to
22 the extent a greater minimum sentence is otherwise
23 provided by section 403, a term of imprisonment
24 under this subsection shall be not less than one year.
25 Penalties for third and subsequent convictions shall

1 those provided by section 403(a) for offenses involv-
2 ing large quantities of major drugs under that sec-
3 tion.

4 “(d) ADULTS USING MINORS.—Whoever, being at
5 least 21 years of age, knowingly—

6 “(1) employs, hires, uses, persuades, induces,
7 entices, or coerces a minor to violate section 402; or

8 “(2) employs, hires, uses, persuades, induces,
9 entices, or coerces a minor to assist in avoiding de-
10 tection or apprehension, for any offense under sec-
11 tion 402, by any Federal, State, or local law enforce-
12 ment official,

13 is punishable by a term of imprisonment, a fine, or both,
14 up to triple those authorized by section 403.

15 “(e) YOUNG ADULTS USING MINORS.—

16 “(1) Whoever, not being a minor, knowingly—

17 “(A) employs, hires, uses, persuades, in-
18 duces, entices, or coerces, a minor to violate
19 this chapter, the Controlled Substances Act, or
20 the Controlled Substances Import and Export
21 Act;

22 “(B) employs, hires, uses, persuades, in-
23 duces, entices, or coerces, a minor to assist in
24 avoiding detection or apprehension, for violation
25 of this chapter, the Controlled Substances Act,

1 or the Controlled Substances Import and Ex-
2 port Act, by any Federal, State, or local law en-
3 forcement official; or

4 “(C) receives a controlled substance from a
5 minor, other than an immediate family member,
6 in violation of this chapter, the Controlled Sub-
7 stances Act, or the Controlled Substances Im-
8 port and Export Act;

9 shall be imprisoned for up to twice the maximum term
10 otherwise authorized and sentenced to at least twice any
11 term of supervised release otherwise authorized for a first
12 offense. Except to the extent a greater minimum sentence
13 is otherwise provided, a term of imprisonment under this
14 subsection shall not be less than one year.

15 “(2) Whoever violates paragraph (1) after a
16 prior conviction under paragraph (1) of this section,
17 shall be imprisoned for up to three times the max-
18 imum term otherwise authorized and sentenced to at
19 least three times any term of supervised release oth-
20 erwise authorized for a first offense. Except to the
21 extent a greater minimum sentence is otherwise pro-
22 vided, a term of imprisonment under this subsection
23 shall not be less than one year. Penalties for third
24 and subsequent convictions shall be those provided

1 by section 403(a) for offenses involving large quan-
2 tities of major drugs under that section.

3 “(f) PROVIDING CONTROLLED SUBSTANCES TO
4 MINOR.—Whoever violates subsection (c) or (d)—

5 “(1) by knowingly providing or distributing a
6 controlled substance or a controlled substance ana-
7 logue to a minor; or

8 “(2) if the person employed, hired, or used is
9 14 years of age or younger;

10 shall be subject to a term of imprisonment for not more
11 than five years, in addition to any other punishment au-
12 thorized by this chapter.

13 “(g) PREGNANT PERSONS.—Except as authorized by
14 this chapter or the Controlled Substances Act, it shall be
15 unlawful for any person to knowingly or intentionally pro-
16 vide or distribute any controlled substance to a pregnant
17 individual in violation of any provision of this title. Who-
18 ever violates this subsection shall be subject to the same
19 penalties as are provided for a violation of subsection (c).

20 **“§ 405. Enhancement for offenses involving protected**
21 **places**

22 “(a) CULTIVATION ON FEDERAL PROPERTY.—The
23 maximum fine that may be imposed for a violation of sec-
24 tion 402 by cultivating a controlled substance on Federal

1 property shall be the greater of the amount otherwise pro-
2 vided in this chapter or—

3 “(1) \$500,000 if the defendant is an individual;

4 or

5 “(2) \$1,000,000 if the defendant is an organi-
6 zation.

7 “(b) USE OF HAZARDOUS SUBSTANCE ON FEDERAL
8 LAND.—Whoever, in the course of a violation of section
9 402, knowingly uses a poison, chemical, or other haz-
10 ardous substance on Federal land, and, by such use—

11 “(1) creates a serious hazard to humans, wild-
12 life, or domestic animals,

13 “(2) degrades or harms the environment or nat-
14 ural resources, or

15 “(3) pollutes an aquifer, spring, stream, river,
16 or body of water,

17 shall be imprisoned not more than five years.

18 “(c) BOOBYTRAPS.—

19 “(1) Whoever knowingly assembles, maintains,
20 or places a boobytrap on Federal property where a
21 controlled substance is being manufactured, distrib-
22 uted, or dispensed shall be imprisoned not more
23 than ten years.

1 “(2) If the offender has one or more prior con-
2 victions for an offense under this subsection, the of-
3 fender shall be imprisoned not more than 20 years.

4 “(3) As used in this subsection, the term ‘boo-
5 bytrap’ means any concealed or camouflaged device
6 designed to cause bodily injury when triggered by
7 any action of any unsuspecting person making con-
8 tact with the device. Such term includes guns, am-
9 munition, or explosive devices attached to trip wires
10 or other triggering mechanisms, sharpened stakes,
11 and lines or wires with hooks attached.

12 “(d) SAFETY REST AREAS.—

13 “(1) ENHANCEMENT.—Whoever violates section
14 402 by distributing or possessing with intent to dis-
15 tribute a controlled substance in or on, or within
16 1,000 feet of, a truck stop or safety rest area is sub-
17 ject to—

18 “(A) in the case of a first offense under
19 this subsection subject to—

20 “(i) twice the maximum punishment
21 provided in section 403; and

22 “(ii) twice any term of supervised re-
23 lease authorized by section 403 for a first
24 offense; and

1 “(B) in the case of an offense under this
2 subsection after a prior conviction under this
3 subsection—

4 “(i) three times the maximum punish-
5 ment authorized by section 403; and

6 “(ii) three times any term of super-
7 vised release authorized by section 403 for
8 a first offense.

9 “(2) DEFINITIONS.—As used in this sub-
10 section—

11 “(A) the term ‘safety rest area’ means a
12 roadside facility with parking facilities for the
13 rest or other needs of motorists; and

14 “(B) the term ‘truck stop’ means a facility
15 (including any parking lot appurtenant thereto)
16 that—

17 “(i) has the capacity to provide fuel or
18 service, or both, to any commercial motor
19 vehicle (as defined in section 31301 of title
20 49), operating in commerce (as defined in
21 that section); and

22 “(ii) is located within 2,500 feet of
23 the National System of Interstate and De-
24 fense Highways or the Federal-Aid Pri-
25 mary System.

1 **“§ 406. Maintaining drug-involved premises**

2 “(a) IN GENERAL.—Except as authorized by this
3 chapter or the Controlled Substances Act, it shall be un-
4 lawful to—

5 “(1) knowingly open, lease, rent, use, or main-
6 tain any place, whether permanently or temporarily,
7 for the purpose of manufacturing, distributing, or
8 using any controlled substance; or

9 “(2) manage or control any place, whether per-
10 manently or temporarily, either as an owner, lessee,
11 agent, employee, occupant, or mortgagee, and know-
12 ingly and intentionally rent, lease, profit from, or
13 make available for use, with or without compensa-
14 tion, the place for the purpose of unlawfully manu-
15 facturing, storing, distributing, or using a controlled
16 substance.

17 “(b) PUNISHMENT.—Whoever violates subsection (a)
18 of this section shall be sentenced to a term of imprison-
19 ment of not more than 20 years or a fine of not more
20 than \$500,000, or both, or a fine of \$2,000,000 for an
21 organization.

22 “(c) RESTITUTION.—A violation of subsection (a)
23 shall be considered an offense against property for pur-
24 poses of section 3663A(c)(1)(A)(ii).

25 “(d) CIVIL PENALTY.—

1 “(1) Whoever violates subsection (a) shall be
2 subject to a civil penalty of not more than the great-
3 er of—

4 “(A) \$250,000; or

5 “(B) 2 times the gross receipts, either
6 known or estimated, that were derived from
7 each violation that is attributable to the person.

8 “(2) If a civil penalty is calculated under para-
9 graph (1)(B), and there is more than 1 defendant,
10 the court may apportion the penalty between mul-
11 tiple violators, but each violator shall be jointly and
12 severally liable for the civil penalty under this sub-
13 section.

14 **“§ 407. Distribution in or near schools**

15 “(a) IN GENERAL.—Whoever violates section 402 or
16 406 by distributing, possessing with intent to distribute,
17 or manufacturing a controlled substance in or on, or with-
18 in one thousand feet of, the real property comprising a
19 public or private elementary, vocational, or secondary
20 school or a public or private college, junior college, or uni-
21 versity, or a playground, or housing facility owned by a
22 public housing authority, or within 100 feet of a public
23 or private youth center, public swimming pool, or video
24 arcade facility, is (except as provided in subsection (b))
25 subject to—

1 “(1) twice the maximum punishment authorized
2 by section 403; and

3 “(2) at least twice any term of supervised re-
4 lease authorized by section 403 for a first offense.
5 A fine up to twice that authorized by section 403 may
6 be imposed in addition to any term of imprisonment au-
7 thorized by this subsection. Except to the extent a greater
8 minimum sentence is otherwise provided by section 403,
9 a person shall be sentenced under this subsection to a
10 term of imprisonment of not less than one year. The man-
11 datory minimum sentencing provisions of this paragraph
12 do not apply to offenses involving 5 grams or less of mari-
13 huana.

14 “(b) SECOND OR SUBSEQUENT OFFENSES.—Who-
15 ever violates subsection (a) after a prior conviction under
16 subsection (a) is subject to punishment—

17 “(1) by the greater of—

18 “(A) a term of imprisonment not less than
19 three years and not more than life imprison-
20 ment; or

21 “(B) three times the maximum punishment
22 authorized by section 403 for a first offense;
23 and

24 “(2) at least three times any term of supervised
25 release authorized by section 403 for a first offense.

1 A fine up to three times that authorized by section 403
2 may be imposed in addition to any term of imprisonment
3 authorized by this subsection. Except to the extent a
4 greater minimum sentence is otherwise provided by section
5 403, a person shall be sentenced under this subsection to
6 a term of imprisonment of not less than three years. Pen-
7 alties for third and subsequent convictions shall be gov-
8 erned by section 403.

9 “(c) SPECIAL RULE FOR MANDATORY MINIMUM
10 SENTENCES.—In the case of any mandatory minimum
11 sentence imposed under subsection (b), imposition or exe-
12 cution of such sentence shall not be suspended and proba-
13 tion shall not be granted. An individual convicted under
14 this section shall not be eligible for parole until the indi-
15 vidual has served the mandatory minimum term of impris-
16 onment as provided by this section.

17 “(d) DEFINITIONS.—As used in this section—

18 “(1) the term ‘playground’ means any outdoor
19 facility (including any parking lot appurtenant
20 thereto) intended for recreation, open to the public,
21 and with any portion thereof containing three or
22 more separate apparatus intended for the recreation
23 of children including, but not limited to, sliding
24 boards, swingsets, and teeterboards;

1 “(2) the term ‘youth center’ means any rec-
2 reational facility and/or gymnasium (including any
3 parking lot appurtenant thereto), intended primarily
4 for use by persons under 18 years of age, which reg-
5 ularly provides athletic, civic, or cultural activities;

6 “(3) the term ‘video arcade facility’ means any
7 facility, legally accessible to minors, intended pri-
8 marily for the use of pinball and video machines for
9 amusement containing a minimum of ten machines
10 that are either pinball or video machines; and

11 “(4) the term ‘swimming pool’ includes any
12 parking lot appurtenant thereto.

13 **“§ 408. Listed chemicals**

14 “(a) OFFENSE.—Whoever knowingly—

15 “(1) possesses a listed chemical with intent to
16 manufacture a controlled substance except as au-
17 thorized by this chapter or the Controlled Sub-
18 stances Act;

19 “(2) possesses or distributes, a listed chemical
20 knowing, or having reasonable cause to believe, that
21 the listed chemical will be used to manufacture a
22 controlled substance except as authorized by this
23 chapter or the Controlled Substances Act; or

24 “(3) with the intent of causing the evasion of
25 the recordkeeping or reporting requirements of sec-

1 tion 310 of the Controlled Substances Act, or the
2 regulations issued under that section, receives or dis-
3 tributes a reportable amount of any listed chemical
4 in units small enough so that the making of records
5 or filing of reports under that section is not re-
6 quired;

7 shall be imprisoned not more than 20 years in the case
8 of a violation of paragraph (1) or (2) involving a list I
9 chemical or not more than 10 years in any other case.

10 “(b) INJUNCTIONS.—In addition to any other appli-
11 cable penalty, any person convicted of a felony violation
12 of this section relating to the receipt, distribution, manu-
13 facture, exportation, or importation of a listed chemical
14 may be enjoined from engaging in any transaction involv-
15 ing a listed chemical for not more than ten years.

16 “(c) ADDITIONAL OFFENSES.—

17 “(1) Whoever knowingly distributes a listed
18 chemical in violation of this chapter or the Con-
19 trolled Substances Act (other than in violation of a
20 recordkeeping or reporting requirement of section
21 310 of such Act) shall be imprisoned not more than
22 5 years.

23 “(2) Whoever knowingly possesses any listed
24 chemical, with knowledge that the recordkeeping or
25 reporting requirements of section 310 of such Act

1 have not been adhered to, if, after such knowledge
2 is acquired, such person does not take immediate
3 steps to remedy the violation shall be imprisoned not
4 more than one year.

5 **“§ 409. Domestic regulatory offenses**

6 “(a) UNLAWFUL CONDUCT GENERALLY.—It shall be
7 unlawful for any person—

8 “(1) who is subject to the requirements of part
9 C of the Controlled Substances Act to distribute or
10 dispense a controlled substance in violation of sec-
11 tion 309 of that Act;

12 “(2) who is a registrant to distribute or dis-
13 pense a controlled substance not authorized by his
14 registration to another registrant or other author-
15 ized person or to manufacture a controlled substance
16 not authorized by his registration;

17 “(3) who is a registrant to distribute a con-
18 trolled substance in violation of section 305 of the
19 Controlled Substances Act;

20 “(4) to remove, alter, or obliterate a symbol or
21 label required by section 305 of the Controlled Sub-
22 stances Act;

23 “(5) to refuse or negligently fail to make, keep,
24 or furnish any record, report, notification, declara-
25 tion, order or order form, statement, invoice, or in-

1 formation required under the Controlled Substances
2 Act or the Controlled Substances Import and Export
3 Act;

4 “(6) to refuse any entry into any premises or
5 inspection authorized by the Controlled Substances
6 Act or the Controlled Substances Import and Export
7 Act;

8 “(7) to remove, break, injure, or deface a seal
9 placed upon controlled substances pursuant to sec-
10 tion 304(f) or 511 of the Controlled Substances Act
11 or to remove or dispose of substances so placed
12 under seal;

13 “(8) to use, to his own advantage, or to reveal,
14 other than to duly authorized officers or employees
15 of the United States, or to the courts when relevant
16 in any judicial proceeding under this title or title III,
17 any information acquired in the course of an inspec-
18 tion authorized by the Controlled Substances Act
19 concerning any method or process which as a trade
20 secret is entitled to protection, or to use to his own
21 advantage or reveal (other than as authorized by
22 section 310 of that Act) any information that is con-
23 fidential under such section;

24 “(9) who is a regulated person to engage in a
25 regulated transaction without obtaining the identi-

1 fication required by 310(a)(3) of the Controlled Sub-
2 stances Act;

3 “(10) negligently to fail to keep a record, make
4 a report, or self-certify as required under section
5 310 of the Controlled Substances Act; or

6 “(11) to distribute a laboratory supply to a per-
7 son who uses, or attempts to use, that laboratory
8 supply to manufacture a controlled substance or a
9 listed chemical, in violation of this chapter, the Con-
10 trolled Substances Act, or the Controlled Substances
11 Import and Export Act, with reckless disregard for
12 the illegal uses to which such a laboratory supply
13 will be put.

14 “(12) who is a regulated seller, or a distributor
15 required to submit reports under subsection (b)(3)
16 of section 310 of the Controlled Substances Act—

17 “(A) to sell at retail a scheduled listed
18 chemical product in violation of paragraph (1)
19 of subsection (d) of such section, knowing at
20 the time of the transaction involved (inde-
21 pendent of consulting the logbook under sub-
22 section (e)(1)(A)(iii) of such section) that the
23 transaction is a violation; or

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

4 “(13) who is a regulated seller to knowingly or
5 recklessly sell at retail a scheduled listed chemical
6 product in violation of subsection (e) of section 310
7 of the Controlled Substances Act;

8 “(14) who is a regulated seller or an employee
9 or agent of such seller to disclose, in violation of reg-
10 ulations under subparagraph (C) of section
11 310(e)(1) of the Controlled Substances Act, informa-
12 tion in logbooks under subparagraph (A)(iii) of such
13 section, or to refuse to provide such a logbook to
14 Federal, State, or local law enforcement authorities.

15 “(15) to distribute a scheduled listed chemical
16 product to a regulated seller, or to a regulated per-
17 son referred to in section 310(b)(3)(B) of the Con-
18 trolled Substances Act, unless such regulated seller
19 or regulated person is, at the time of such distribu-
20 tion, currently registered with the Drug Enforce-
21 ment Administration, or on the list of persons re-
22 ferred to under section 310(e)(1)(B)(v) of that Act.
23 For purposes of paragraph (15), if the distributor is tem-
24 porarily unable to access the list of persons referred to
25 under section 310(e)(1)(B)(v) of the Controlled Sub-

1 stances Act, the distributor may rely on a written, faxed,
2 or electronic copy of a certificate of self-certification sub-
3 mitted by the regulated seller or regulated person, pro-
4 vided the distributor confirms within 7 business days of
5 the distribution that such regulated seller or regulated
6 person is on the list referred to under section
7 310(e)(1)(B)(v) of that Act.

8 “(b) DEFINITION.—As used in paragraph (11) of
9 subsection (a), the term ‘laboratory supply’ means a listed
10 chemical or any chemical, substance, or item on a special
11 surveillance list published by the Attorney General, which
12 contains chemicals, products, materials, or equipment
13 used in the manufacture of controlled substances and list-
14 ed chemicals. For purposes of that paragraph, there is a
15 rebuttable presumption of reckless disregard at trial if the
16 Attorney General notifies a firm in writing that a labora-
17 tory supply sold by the firm, or any other person or firm,
18 has been used by a customer of the notified firm, or dis-
19 tributed further by that customer, for the unlawful pro-
20 duction of controlled substances or listed chemicals a firm
21 distributes and 2 weeks or more after the notification the
22 notified firm distributes a laboratory supply to the cus-
23 tomer.

1 “(c) SCHEDULE I AND II SUBSTANCES.—It shall be
2 unlawful for any person who is a registrant to manufac-
3 ture a controlled substance in schedule I or II which is—

4 “(1) not expressly authorized by the registra-
5 tion and by a quota assigned to that registrant pur-
6 suant to section 306 of the Controlled Substances
7 Act; or

8 “(2) in excess of a quota assigned to that reg-
9 istrant pursuant to section 306.

10 “(d) CIVIL PENALTY.—

11 “(1)(A) Except as provided in subparagraph
12 (B) of this paragraph and paragraph (2), whoever
13 violates this section shall, with respect to any such
14 violation, be subject to a civil penalty of not more
15 than \$25,000.

16 “(B) In the case of a violation of paragraph (5) or
17 (10) of subsection (a), the civil penalty shall not exceed
18 \$10,000.

19 “(2)(A) Whoever knowingly violates this section
20 shall, except as otherwise provided in subparagraph
21 (B), be imprisoned not more than one year.

22 “(B) If a violation referred to in subpara-
23 graph (A) was committed after one or more
24 prior convictions of the offender for an offense
25 punishable under this paragraph (2), or for a

1 crime under any other provision of any law of
2 the United States relating to controlled sub-
3 stances, narcotic drugs, marihuana, or depres-
4 sant or stimulant substances, have become
5 final, such person shall be sentenced to a term
6 of imprisonment of not more than 2 years.

7 “(C) In addition to the penalties set forth
8 elsewhere in this title, any business that violates
9 paragraph (11) of subsection (a) shall, with re-
10 spect to the first such violation, be subject to
11 a civil penalty of not more than \$250,000, but
12 shall not be subject to criminal penalties under
13 this section, and shall, for any succeeding viola-
14 tion, be subject to a civil fine of not more than
15 \$250,000 or double the last previously imposed
16 penalty, whichever is greater.

17 “(3) Except under the conditions specified in
18 paragraph (2) of this subsection, a violation of this
19 section does not constitute a crime, and a judgment
20 for the United States and imposition of a civil pen-
21 alty pursuant to paragraph (1) shall not give rise to
22 any disability or legal disadvantage based on convic-
23 tion for a criminal offense.

1 **“§ 410. Additional domestic regulatory offenses**

2 “(a) GENERALLY.—It shall be unlawful for any per-
3 son knowingly—

4 “(1) as a registrant to distribute a controlled
5 substance classified in schedule I or II, in the course
6 of legitimate business, except pursuant to an order
7 or an order form as required by section 308 of the
8 Controlled Substances Act;

9 “(2) to use in the course of the manufacture,
10 distribution, or dispensing of a controlled substance,
11 or to use for the purpose of acquiring or obtaining
12 a controlled substance, a registration number which
13 is fictitious, revoked, suspended, expired, or issued
14 to another person;

15 “(3) to acquire or obtain possession of a con-
16 trolled substance by misrepresentation, fraud, for-
17 gery, deception, or subterfuge;

18 “(4)(A) to furnish false or fraudulent material
19 information in, or omit any material information
20 from, any application, report, record, or other docu-
21 ment required to be made, kept, or filed under this
22 chapter, the Controlled Substances Act, or the Con-
23 trolled Substances Import and Export Act; or

24 “(B) to present false or fraudulent identifica-
25 tion where the person is receiving or purchasing a
26 listed chemical and the person is required to present

1 identification under section 310(a) of the Controlled
2 Substances Act;

3 “(5) to make, distribute, or possess any punch,
4 die, plate, stone, or other thing designed to print,
5 imprint, or reproduce the trademark, trade name, or
6 other identifying mark, imprint, or device of another
7 or any likeness of any of the foregoing upon any
8 drug or container or labeling thereof so as to render
9 such drug a counterfeit substance;

10 “(6) to possess any three-neck round-bottom
11 flask, tableting machine, encapsulating machine, or
12 gelatin capsule, or any equipment, chemical, prod-
13 uct, or material which may be used to manufacture
14 a controlled substance or listed chemical, knowing,
15 intending, or having reasonable cause to believe, that
16 it will be used to manufacture a controlled substance
17 or listed chemical in violation of this chapter, the
18 Controlled Substances Act, or the Controlled Sub-
19 stances Import and Export Act;

20 “(7) to manufacture, distribute, export, or im-
21 port any three-neck round-bottom flask, tableting
22 machine, encapsulating machine, or gelatin capsule,
23 or any equipment, chemical, product, or material
24 which may be used to manufacture a controlled sub-
25 stance or listed chemical, knowing, intending, or

1 having reasonable cause to believe, that it will be
2 used to manufacture a controlled substance or listed
3 chemical in violation of this chapter, the Controlled
4 Substances Act, or the Controlled Substances Im-
5 port and Export Act, or, in the case of an expor-
6 tation, in violation of this chapter, the Controlled
7 Substances Act, the Controlled Substances Import
8 and Export Act, or of the laws of the country to
9 which it is exported;

10 “(8) to create a chemical mixture for the pur-
11 pose of evading a requirement of section 310 of the
12 Controlled Substances Act or to receive a chemical
13 mixture created for that purpose; or

14 “(9) to distribute, import, or export a list I
15 chemical without the registration required by the
16 Controlled Substances Act or the Controlled Sub-
17 stances Import and Export Act.

18 “(b) USE OF COMMUNICATION FACILITY.—

19 “(1) It shall be unlawful for any person know-
20 ingly or intentionally to use any communication fa-
21 cility in committing or in causing or facilitating the
22 commission of any felony under this chapter, the
23 Controlled Substances Act, or the Controlled Sub-
24 stances Import and Export Act.

1 “(2) Each separate use of a communication fa-
2 cility shall be a separate offense under this sub-
3 section.

4 “(3) As used in this subsection, the term ‘com-
5 munication facility’ means any and all public and
6 private instrumentalities used or useful in the trans-
7 mission of writing, signs, signals, pictures, or sounds
8 of all kinds and includes mail, telephone, wire, radio,
9 and all other means of communication.

10 “(c) ADVERTISING.—

11 “(1) It shall be unlawful for any person to place
12 in any newspaper, magazine, handbill, or other pub-
13 lications, any written advertisement knowing that it
14 has the purpose of seeking or offering illegally to re-
15 ceive, buy, or distribute a schedule I controlled sub-
16 stance.

17 “(2) As used in this subsection the term ‘adver-
18 tisement’ includes such advertisements as those for
19 a catalog of schedule I controlled substances and
20 any similar written advertisement that has the pur-
21 pose of seeking or offering illegally to receive, buy,
22 or distribute a schedule I controlled substance. The
23 term ‘advertisement’ does not include material which
24 merely advocates the use of a similar material, which
25 advocates a position or practice, and does not at-

1 tempt to propose or facilitate an actual transaction
2 in a schedule I controlled substance.

3 “(d) PENALTIES.—

4 “(1) Except as provided in paragraph (2), who-
5 ever knowingly violates this section shall be impris-
6 oned not more than 4 years; except that if any per-
7 son commits such a violation after being convicted
8 for a felony under any law of the United States re-
9 lating to controlled substances, narcotic drugs, mari-
10 huana, or depressant or stimulant substances, such
11 person shall be sentenced to a term of imprisonment
12 of not more than 8 years.

13 “(2) Whoever, with the intent to manufacture
14 or to facilitate the manufacture of methamphet-
15 amine, violates paragraph (6) or (7) of subsection
16 (a), shall be imprisoned not more than 10 years; ex-
17 cept that if any person commits such a violation
18 after one or more prior convictions of that persons
19 for a violation of any law of the United States or
20 any State relating to controlled substances or listed
21 chemicals, such person shall be imprisoned not more
22 than 20 years.

23 “(e) INJUNCTION RELATING TO ENGAGING IN
24 TRANSACTIONS.—In addition to any other applicable pen-
25 alty, any person convicted of a felony violation of this sec-

1 tion relating to the receipt, distribution, manufacture, ex-
2 portation, or importation of a listed chemical may be en-
3 joined from engaging in any transaction involving a listed
4 chemical for not more than ten years.

5 “(f) DECLARATORY AND OTHER RELIEF.—

6 “(1) In addition to any penalty provided in this
7 section, the Attorney General is authorized to com-
8 mence a civil action for appropriate declaratory or
9 injunctive relief relating to a violation of this section,
10 section 406, or section 409.

11 “(2) Any action under this subsection may be
12 brought in the district court of the United States for
13 the district in which the defendant is located or re-
14 sides or is doing business.

15 “(3) Any order or judgment issued by the court
16 pursuant to this subsection shall be tailored to re-
17 strain the violation.

18 “(4) The court shall proceed as soon as prac-
19 ticable to the hearing and determination of such an
20 action. An action under this subsection is governed
21 by the Federal Rules of Civil Procedure except that,
22 if an indictment has been returned against the re-
23 spondent, discovery is governed by the Federal Rules
24 of Criminal Procedure.

1 **“§ 411. Penalty for simple possession**

2 “(a) ELEMENTS OF OFFENSE.—It shall be unlawful
3 for any person knowingly—

4 “(1) to possess a controlled substance unless
5 such substance was obtained directly, or pursuant to
6 a valid prescription or order, from a practitioner act-
7 ing in the course of professional practice, or except
8 as otherwise authorized by this chapter, the Con-
9 trolled Substances Act, or the Controlled Substances
10 Import and Export Act; or

11 “(2) to possess any list I chemical obtained
12 pursuant to or under authority of a registration
13 issued to that person under section 303 of the Con-
14 trolled Substances Act or section 1008 of the Con-
15 trolled Substances Import and Export Act, if that
16 registration has been revoked or suspended, if that
17 registration has expired, or if the registrant has
18 ceased to do business in the manner contemplated
19 by his registration.

20 “(b) PUNISHMENT.—

21 “(1) GENERALLY.—Whoever violates subsection
22 (a) shall be imprisoned not more than 1 year, except
23 that if the offense is after a prior conviction of the
24 offender under this chapter, the Controlled Sub-
25 stances Act, or the Controlled Substances Import
26 and Export Act, or for any drug, narcotic, or chem-

1 ical offense chargeable under the law of any State,
2 the offender shall be imprisoned not less than 15
3 days nor more than 2 years and if the offense is
4 after two or more such convictions, the offender
5 shall be sentenced to a term of imprisonment for not
6 less than 90 days but not more than 3 years.

7 “(2) FLUNITRAZEPAM.—Notwithstanding any
8 penalty provided in this subsection, any person con-
9 victed under this subsection for the possession of
10 flunitrazepam shall be imprisoned for not more than
11 3 years. The imposition or execution of a minimum
12 sentence required to be imposed under this sub-
13 section shall not be suspended or deferred.

14 “(3) COSTS.—Further, upon conviction, a per-
15 son who violates this subsection shall be fined the
16 reasonable costs of the investigation and prosecution
17 of the offense, including the costs of prosecution of
18 an offense as defined in sections 1918 and 1920 of
19 title 28, except that this sentence does not apply and
20 a fine under this section need not be imposed if the
21 court determines the defendant lacks the ability to
22 pay.

23 “(c) DEFINITION.—As used in this section, the term
24 ‘drug, narcotic, or chemical offense’ means any offense
25 which proscribes the possession, distribution, manufac-

1 ture, cultivation, sale, transfer, or the attempt or con-
2 spiracy to possess, distribute, manufacture, cultivate, sell
3 or transfer any substance the possession of which is pro-
4 hibited under this chapter or the Controlled Substances
5 Act.

6 **“§ 412. Civil penalty for possession of small amounts**
7 **of certain controlled substances**

8 “(a) IN GENERAL.—An individual who knowingly
9 possesses a controlled substance listed in section 401(2)
10 in violation of section 411 in an amount that, as specified
11 by regulation of the Attorney General, is a personal use
12 amount shall be liable to the United States for a civil pen-
13 alty in an amount not to exceed \$10,000.

14 “(b) INCOME AND NET ASSETS.—The income and
15 net assets of an individual shall not be relevant to the de-
16 termination whether to assess a civil penalty under this
17 section or to prosecute the individual criminally. However,
18 in determining the amount of a penalty under this section,
19 the income and net assets of an individual shall be consid-
20 ered.

21 “(c) PRIOR CONVICTION.—A civil penalty may not be
22 assessed under this section if the individual previously was
23 convicted of a Federal or State offense relating to a con-
24 trolled substance.

1 “(d) LIMITATION ON NUMBER OF ASSESSMENTS.—
2 A civil penalty may not be assessed on an individual under
3 this section on more than two separate occasions.

4 “(e) ASSESSMENT.—A civil penalty under this section
5 may be assessed by the Attorney General only by an order
6 made on the record after opportunity for a hearing in ac-
7 cordance with section 554 of title 5. The Attorney General
8 shall provide written notice to the individual who is the
9 subject of the proposed order informing the individual of
10 the opportunity to receive such a hearing with respect to
11 the proposed order. The hearing may be held only if the
12 individual makes a request for the hearing before the expi-
13 ration of the 30-day period beginning on the date such
14 notice is issued.

15 “(f) COMPROMISE.—The Attorney General may com-
16 promise, modify, or remit, with or without conditions, any
17 civil penalty imposed under this section.

18 “(g) JUDICIAL REVIEW.—If the Attorney General
19 issues an order pursuant to subsection (e) after a hearing
20 described in such subsection, the individual who is the sub-
21 ject of the order may, before the expiration of the 30-day
22 period beginning on the date the order is issued, bring
23 a civil action in the appropriate district court of the
24 United States. In such action, the law and the facts of
25 the violation and the assessment of the civil penalty shall

1 be determined de novo, and shall include the right of a
2 trial by jury, the right to counsel, and the right to confront
3 witnesses. The facts of the violation shall be proved beyond
4 a reasonable doubt.

5 “(h) CIVIL ACTION.—If an individual does not re-
6 quest a hearing pursuant to subsection (e) and the Attor-
7 ney General issues an order pursuant to such subsection,
8 or if an individual does not under subsection (g) seek judi-
9 cial review of such an order, the Attorney General may
10 commence a civil action in any appropriate district court
11 of the United States for the purpose of recovering the
12 amount assessed and an amount representing interest at
13 a rate computed in accordance with section 1961 of title
14 28. Such interest shall accrue from the expiration of the
15 30-day period described in subsection (g). In such an ac-
16 tion, the decision of the Attorney General to issue the
17 order, and the amount of the penalty assessed by the At-
18 torney General, shall not be subject to review.

19 “(i) LIMITATION.—The Attorney General may not
20 under this section commence proceeding against an indi-
21 vidual after the expiration of the 5-year period beginning
22 on the date on which the individual allegedly violated sub-
23 section (a).

24 “(j) EXPUNGEMENT PROCEDURES.—The Attorney
25 General shall dismiss the proceedings under this section

1 against an individual upon application of such individual
2 at any time after the expiration of 3 years if—

3 “(1) the individual has not previously been as-
4 sessed a civil penalty under this section;

5 “(2) the individual has paid the assessment;

6 “(3) the individual has complied with any con-
7 ditions imposed by the Attorney General;

8 “(4) the individual has not been convicted of a
9 Federal or State offense relating to a controlled sub-
10 stance; and

11 “(5) the individual agrees to submit to a drug
12 test, and such test shows the individual to be drug
13 free.

14 A nonpublic record of a disposition under this subsection
15 shall be retained by the Department of Justice solely for
16 the purpose of determining in any subsequent proceeding
17 whether the person qualified for a civil penalty or
18 expungement under this section. If a record is expunged
19 under this subsection, an individual concerning whom such
20 an expungement has been made shall not be held there-
21 after under any provision of law to be guilty of perjury,
22 false swearing, or making a false statement by reason of
23 his failure to recite or acknowledge a proceeding under
24 this section or the results thereof in response to an inquiry
25 made of him for any purpose.

1 **“§ 413. Continuing criminal enterprise**

2 “(a) ENGAGING IN ENTERPRISE.—

3 “(1) Whoever engages in a continuing criminal
4 enterprise shall be imprisoned for any term of years
5 not less than 20, or for life.

6 “(2) If a person engages in such activity after
7 a prior conviction of that person under this section,
8 the offender shall be imprisoned any term of years
9 not less than 30, or for life.

10 “(b) AGGRAVATED OFFENSE.—Whoever engages in
11 a continuing criminal enterprise shall be imprisoned for
12 life under subsection (a), if—

13 “(1) such person is the principal administrator,
14 organizer, or leader of the enterprise or is one of
15 several such principal administrators, organizers, or
16 leaders; and

17 “(2)(A) the violation referred to in subsection
18 (c)(1) involved at least 300 times the quantity of a
19 substance described in section 401(3); or

20 “(B) the enterprise, or any other enterprise in
21 which the defendant was the principal or one of sev-
22 eral principal administrators, organizers, or leaders,
23 received \$10 million dollars in gross receipts during
24 any twelve-month period of its existence for the
25 manufacture, importation, or distribution of a sub-
26 stance described in section 401(3).

1 “(c) DEFINITION OF ‘CONTINUING CRIMINAL EN-
2 TERPRISE’.—For purposes of this section, a ‘continuing
3 criminal enterprise’ occurs when—

4 “(1) a person violates any provision of this
5 chapter the punishment for which is a felony, and

6 “(2) such violation is a part of a continuing se-
7 ries of violations of this chapter—

8 “(A) which are undertaken by such person
9 in concert with five or more other persons with
10 respect to whom such person occupies a posi-
11 tion of organizer, a supervisory position, or any
12 other position of management, and

13 “(B) from which such person obtains sub-
14 stantial income or resources.

15 “(d) SPECIAL RULE FOR SENTENCING.—In the case
16 of any sentence imposed under this section, imposition or
17 execution of such sentence shall not be suspended, proba-
18 tion shall not be granted, and the Act of July 15, 1932
19 (D.C. Code, secs. 24–203—24–207), does not apply.

20 “(e) DEATH PENALTY.—

21 “(1) In addition to the other penalties set forth
22 in this section, whoever—

23 “(A) while engaging in or working in fur-
24 therance of a continuing criminal enterprise, or
25 engaging in an offense punishable under section

1 403(a) intentionally kills or counsels, com-
2 mands, induces, procures, or causes the inten-
3 tional killing of an individual and such killing
4 results; and

5 “(B) during the commission of, in further-
6 ance of, or while attempting to avoid apprehen-
7 sion, prosecution or service of a prison sentence
8 for, a felony violation of this chapter inten-
9 tionally kills or counsels, commands, induces,
10 procures, or causes the intentional killing of
11 any Federal, State, or local law enforcement of-
12 ficer engaged in, or on account of, the perform-
13 ance of such officer’s official duties and such
14 killing results;

15 shall be imprisoned any term of year not less than 20,
16 or for life, or may be sentenced to death.

17 “(2) As used in paragraph (1)(B), the term ‘law en-
18 forcement officer’ means a public servant authorized by
19 law to conduct or engage in the prevention, investigation,
20 prosecution or adjudication of an offense, and includes
21 those engaged in corrections, probation, or parole func-
22 tions.

23 **“§ 414. Drug paraphernalia**

24 “(a) OFFENSE.—Whoever—

25 “(1) sells or offers for sale drug paraphernalia;

1 “(2) uses a facility of interstate or foreign com-
2 merce to transport drug paraphernalia; or

3 “(3) imports or exports drug paraphernalia;
4 shall be imprisoned not more than three years.

5 “(b) DEFINITION.—The term ‘drug paraphernalia’
6 means any equipment, product, or material of any kind
7 which is primarily intended or designed for use in manu-
8 facturing, compounding, converting, concealing, pro-
9 ducing, processing, preparing, injecting, ingesting, inhal-
10 ing, or otherwise introducing into the human body a con-
11 trolled substance, possession of which is unlawful under
12 this chapter or the Controlled Substances Act. It includes
13 items primarily intended or designed for use in ingesting,
14 inhaling, or otherwise introducing marijuana, cocaine,
15 hashish, hashish oil, PCP, methamphetamine, or amphet-
16 amines into the human body, such as—

17 “(1) metal, wooden, acrylic, glass, stone, plas-
18 tic, or ceramic pipes with or without screens, perma-
19 nent screens, hashish heads, or punctured metal
20 bowls;

21 “(2) water pipes;

22 “(3) carburetion tubes and devices;

23 “(4) smoking and carburetion masks;

24 “(5) roach clips: meaning objects used to hold
25 burning material, such as a marijuana cigarette,

1 that has become too small or too short to be held
2 in the hand;

3 “(6) miniature spoons with level capacities of
4 one-tenth cubic centimeter or less;

5 “(7) chamber pipes;

6 “(8) carburetor pipes;

7 “(9) electric pipes;

8 “(10) air-driven pipes;

9 “(11) chillums;

10 “(12) bonges;

11 “(13) ice pipes or chillers;

12 “(14) wired cigarette papers; or

13 “(15) cocaine freebase kits.

14 “(c) FACTORS WHICH MAY BE CONSIDERED.—In
15 determining whether an item constitutes drug para-
16 phernalia, in addition to all other logically relevant factors,
17 the following may be considered:

18 “(1) Instructions, oral or written, provided with
19 the item concerning its use.

20 “(2) Descriptive materials accompanying the
21 item which explain or depict its use.

22 “(3) National and local advertising concerning
23 its use.

24 “(4) The manner in which the item is displayed
25 for sale.

1 “(5) Whether the owner, or anyone in control
2 of the item, is a legitimate supplier of like or related
3 items to the community, such as a licensed dis-
4 tributor or dealer of tobacco products.

5 “(6) Direct or circumstantial evidence of the
6 ratio of sales of the item to the total sales of the
7 business enterprise.

8 “(7) The existence and scope of legitimate uses
9 of the item in the community.

10 “(8) Expert testimony concerning its use.

11 “(d) EXCLUSIONS.—This section does not apply to—

12 “(1) any person authorized by local, State, or
13 Federal law to manufacture, possess, or distribute
14 such items; or

15 “(2) any item that, in the normal lawful course
16 of business, is imported, exported, transported, or
17 sold through the mail or by any other means, and
18 traditionally intended for use with tobacco products,
19 including any pipe, paper, or accessory.

20 **“§ 415. Proceedings to establish prior convictions**

21 “(a) FILING OF INFORMATION.—

22 “(1) No person who is convicted of an offense
23 under this chapter shall be sentenced to increased
24 punishment by reason of one or more prior convic-
25 tions, unless before trial, or before entry of a plea

1 of guilty, the United States attorney files an infor-
2 mation with the court (and serves a copy of such in-
3 formation on the person or counsel for the person)
4 stating in writing the previous convictions to be re-
5 lied upon. Upon a showing by the United States at-
6 torney that facts regarding prior convictions could
7 not with due diligence be obtained prior to trial or
8 before entry of a plea of guilty, the court may post-
9 pone the trial or the taking of the plea of guilty for
10 a reasonable period for the purpose of obtaining
11 such facts. Clerical mistakes in the information may
12 be amended at any time prior to the pronouncement
13 of sentence.

14 “(2) An information may not be filed under this
15 section if the increased punishment which may be
16 imposed is imprisonment for a term in excess of
17 three years unless the person either waived or was
18 afforded prosecution by indictment for the offense
19 for which such increased punishment may be im-
20 posed.

21 “(b) AFFIRMATION OR DENIAL OF PREVIOUS CON-
22 VICTION.—If the United States attorney files an informa-
23 tion under this section, the court shall after conviction but
24 before pronouncement of sentence inquire of the person
25 with respect to whom the information was filed whether

1 he affirms or denies that he has been previously convicted
2 as alleged in the information, and shall inform him that
3 any challenge to a prior conviction which is not made be-
4 fore sentence is imposed may not thereafter be raised to
5 attack the sentence.

6 “(c) DENIAL, WRITTEN RESPONSE, AND HEAR-
7 ING.—

8 “(1) If the person denies any allegation of the
9 information of prior conviction, or claims that any
10 conviction alleged is invalid, he shall file a written
11 response to the information. A copy of the response
12 shall be served upon the United States attorney. The
13 court shall hold a hearing to determine any issues
14 raised by the response which would except the per-
15 son from increased punishment. The failure of the
16 United States attorney to include in the information
17 the complete criminal record of the person or any
18 facts in addition to the convictions to be relied upon
19 shall not constitute grounds for invalidating the no-
20 tice given in the information required by subsection
21 (a)(1). The hearing shall be before the court without
22 a jury and either party may introduce evidence. Ex-
23 cept as otherwise provided in paragraph (2) of this
24 subsection, the United States attorney shall have the
25 burden of proof beyond a reasonable doubt on any

1 issue of fact. At the request of either party, the
2 court shall enter findings of fact and conclusions of
3 law.

4 “(2) A person claiming that a conviction alleged
5 in the information was obtained in violation of the
6 Constitution of the United States shall set forth his
7 claim, and the factual basis therefor, with particu-
8 larity in his response to the information. The person
9 shall have the burden of proof by a preponderance
10 of the evidence on any issue of fact raised by the re-
11 sponse. Any challenge to a prior conviction, not
12 raised by response to the information before an in-
13 creased sentence is imposed in reliance thereon, shall
14 be waived unless good cause be shown for failure to
15 make a timely challenge.

16 “(d) IMPOSITION OF SENTENCE.—

17 “(1) If the person files no response to the infor-
18 mation, or if the court determines, after hearing,
19 that the person is subject to increased punishment
20 by reason of prior convictions, the court shall pro-
21 ceed to impose sentence upon him as provided by
22 this part.

23 “(2) If the court determines that the person
24 has not been convicted as alleged in the information,
25 that a conviction alleged in the information is in-

1 valid, or that the person is otherwise not subject to
2 an increased sentence as a matter of law, the court
3 shall, at the request of the United States attorney,
4 postpone sentence to allow an appeal from that de-
5 termination. If no such request is made, the court
6 shall impose sentence as provided by this part. The
7 person may appeal from an order postponing sen-
8 tence as if sentence had been pronounced and a final
9 judgment of conviction entered.

10 “(e) CHALLENGES OF VALIDITY OF PRIOR CONVIC-
11 TIONS.—No person who is convicted of an offense under
12 this chapter may challenge the validity of any prior convic-
13 tion alleged under this section which occurred more than
14 five years before the date of the information alleging such
15 prior conviction.

16 **“§ 416. Anhydrous ammonia**

17 “(a) IN GENERAL.—It is unlawful for any person—
18 “(1) to steal anhydrous ammonia, or
19 “(2) to transport stolen anhydrous ammonia
20 across State lines,
21 knowing, intending, or having reasonable cause to believe
22 that such anhydrous ammonia will be used to manufacture
23 a controlled substance in violation of this part.

24 “(b) PUNISHMENT.—Whoever violates subsection (a)
25 shall be imprisoned in accordance with section 410(d) as

1 if such violation were a violation of a provision of section
2 410.

3 **“§ 417. Controlled substances import and export list-**
4 **ed chemical offenses**

5 “Whoever knowingly—

6 “(1) imports or exports a listed chemical with
7 intent to manufacture a controlled substance in vio-
8 lation of this chapter, the Controlled Substances
9 Act, or the Controlled Substances Import and Ex-
10 port Act;

11 “(2) exports a listed chemical in violation of the
12 laws of the country to which the chemical is ex-
13 ported or serves as a broker or trader for an inter-
14 national transaction involving a listed chemical, if
15 the transaction is in violation of the laws of the
16 country to which the chemical is exported;

17 “(3) imports or exports a listed chemical know-
18 ing, or having reasonable cause to believe, that the
19 chemical will be used to manufacture a controlled
20 substance in violation of this chapter, the Controlled
21 Substances Act, or the Controlled Substances Im-
22 port or Export Act;

23 “(4) exports a listed chemical, or serves as a
24 broker or trader for an international transaction in-
25 volving a listed chemical, knowing, or having reason-

1 able cause to believe, that the chemical will be used
2 to manufacture a controlled substance in violation of
3 the laws of the country to which the chemical is ex-
4 ported;

5 “(5) imports or exports a listed chemical, with
6 the intent to evade the reporting or recordkeeping
7 requirements of section 1018 applicable to such im-
8 portation or exportation by falsely representing to
9 the Attorney General that the importation or expor-
10 tation qualifies for a waiver of the 15-day notifica-
11 tion requirement granted pursuant to section
12 1018(e) (2) or (3) of the Controlled Substances Im-
13 port and Export Act by misrepresenting the actual
14 country of final destination of the listed chemical or
15 the actual listed chemical being imported or ex-
16 ported;

17 “(6) imports or exports a listed chemical in vio-
18 lation of section 1007 or 1018 of the Controlled
19 Substances Import and Export Act; or

20 “(7) manufactures, possesses with intent to dis-
21 tribute, or distributes a listed chemical in violation
22 of section 1009 of the Controlled Substances Import
23 and Export Act;

24 shall be imprisoned not more than 20 years in the case
25 of a violation of paragraph (1) or (3) involving a list I

1 chemical or not more than 10 years in the case of a viola-
2 tion of this subsection other than a violation of paragraph
3 (1) or (3) involving a list I chemical, or both.

4 **“§ 418. Prohibited Acts related to foreign terrorist or-**
5 **ganizations or terrorist persons and**
6 **groups**

7 “(a) OFFENSE.—Whoever, as made applicable in sub-
8 section (b), engages in conduct that would be punishable
9 under section 402(1) or 402(2) if committed within the
10 jurisdiction of the United States, knowing or intending to
11 provide, directly or indirectly, anything of pecuniary value
12 to any person or organization that has engaged or engages
13 in terrorist activity (as defined in section 212(a)(3)(B) of
14 the Immigration and Nationality Act) or terrorism (as de-
15 fined in section 140(d)(2) of the Foreign Relations Au-
16 thorization Act, Fiscal Years 1988 and 1989), shall be
17 sentenced to a term of imprisonment of not less than twice
18 the minimum punishment under section 403, and not
19 more than life. Notwithstanding section 3583, any sen-
20 tence imposed under this subsection shall include a term
21 of supervised release of at least 5 years in addition to such
22 term of imprisonment.

23 “(b) APPLICABILITY.—The conduct described in sub-
24 section (a) is an offense if—

1 “(1) the prohibited drug activity or the terrorist
2 offense is in violation of the criminal laws of the
3 United States;

4 “(2) the offense, the prohibited drug activity, or
5 the terrorist offense occurs in or affects interstate or
6 foreign commerce;

7 “(3) an offender provides anything of pecuniary
8 value for a terrorist offense that causes or is de-
9 signed to cause death or serious bodily injury to a
10 national of the United States while that national is
11 outside the United States, or substantial damage to
12 the property of a legal entity organized under the
13 laws of the United States (including any of its
14 States, districts, commonwealths, territories, or pos-
15 sessions) while that property is outside of the United
16 States;

17 “(4) the offense or the prohibited drug activity
18 occurs in whole or in part outside of the United
19 States (including on the high seas), and a pepe-
20 trator of the offense or the prohibited drug activity
21 is a national of the United States or a legal entity
22 organized under the laws of the United States (in-
23 cluding any of its States, districts, commonwealths,
24 territories, or possessions); or

1 “(5) after the conduct required for the offense
2 occurs an offender is brought into or found in the
3 United States, even if the conduct required for the
4 offense occurs outside the United States.

5 “(c) PROOF REQUIREMENTS.—To violate subsection
6 (a), a person must have knowledge that the person or or-
7 ganization has engaged or engages in terrorist activity (as
8 defined in section 212(a)(3)(B) of the Immigration and
9 Nationality Act) or terrorism (as defined in section
10 140(d)(2) of the Foreign Relations Authorization Act, Fis-
11 cal Years 1988 and 1989).

12 “(d) DEFINITION.—As used in this section, the term
13 ‘anything of pecuniary value’ has the meaning given the
14 term in section 506.

15 **“§ 419. Offenses involving the Internet**

16 “(a) INTERNET SALES OF DATE RAPE DRUGS.—

17 “(1) Whoever knowingly uses the Internet to
18 distribute a date rape drug to any person, knowing
19 or with reasonable cause to believe that—

20 “(A) the drug would be used in the com-
21 mission of criminal sexual conduct; or

22 “(B) the person is not an authorized pur-
23 chaser;

24 shall be imprisoned not more than 20 years.

25 “(2) As used in this subsection:

1 “(A) The term ‘date rape drug’ means—
2 “(i) gamma hydroxybutyric acid
3 (GHB) or any controlled substance ana-
4 logue of GHB, including gamma butyro-
5 lactone (GBL) or 1,4-butanediol;
6 “(ii) ketamine;
7 “(iii) flunitrazepam; or
8 “(iv) any substance which the Attor-
9 ney General designates, pursuant to the
10 rulemaking procedures prescribed by sec-
11 tion 553 of title 5, to be used in commit-
12 ting rape or sexual assault.

13 The Attorney General is authorized to remove
14 any substance from the list of date rape drugs
15 pursuant to the same rulemaking authority.

16 “(B) The term ‘authorized purchaser’
17 means any of the following persons, provided
18 such person has acquired the controlled sub-
19 stance in accordance with this chapter:

20 “(i) A person with a valid prescription
21 that is issued for a legitimate medical pur-
22 pose in the usual course of professional
23 practice that is based upon a qualifying
24 medical relationship by a practitioner reg-
25 istered by the Attorney General. A ‘quali-

1 fying medical relationship’ means a med-
2 ical relationship that exists when the prac-
3 titioner has conducted at least 1 medical
4 evaluation with the authorized purchaser
5 in the physical presence of the practitioner,
6 without regard to whether portions of the
7 evaluation are conducted by other health
8 professionals. The preceding sentence shall
9 not be construed to imply that 1 medical
10 evaluation demonstrates that a prescription
11 has been issued for a legitimate medical
12 purpose within the usual course of profes-
13 sional practice.

14 “(ii) Any practitioner or other reg-
15 istrant who is otherwise authorized by
16 their registration to dispense, procure, pur-
17 chase, manufacture, transfer, distribute,
18 import, or export the substance under this
19 chapter.

20 “(iii) A person or entity providing
21 documentation that establishes the name,
22 address, and business of the person or en-
23 tity and which provides a legitimate pur-
24 pose for using any ‘date rape drug’ for
25 which a prescription is not required.

1 “(3) The Attorney General is authorized to pro-
2 mulgate regulations for record-keeping and reporting
3 by persons handling 1,4-butanediol in order to im-
4 plement and enforce the provisions of this section.
5 Any record or report required by such regulations
6 shall be considered a record or report required under
7 this chapter.

8 “(b) OFFENSES INVOLVING DISPENSING OF CON-
9 TROLLED SUBSTANCES BY MEANS OF THE INTERNET.—

10 “(1) IN GENERAL.—It shall be unlawful for any
11 person to knowingly or intentionally—

12 “(A) deliver, distribute, or dispense a con-
13 trolled substance by means of the Internet, ex-
14 cept as authorized by this subchapter; or

15 “(B) aid or abet any activity described in
16 subparagraph (A) that is not authorized by this
17 subchapter.

18 “(2) EXAMPLES.—Examples of activities that
19 violate paragraph (1) include, but are not limited to,
20 knowingly or intentionally—

21 “(A) delivering, distributing, or dispensing
22 a controlled substance by means of the Internet
23 by an online pharmacy that is not validly reg-
24 istered with a modification authorizing such ac-
25 tivity as required by section 823(f) of the Con-

1 trolled Substances Act (unless exempt from
2 such registration);

3 “(B) writing a prescription for a controlled
4 substance for the purpose of delivery, distribu-
5 tion, or dispensation by means of the Internet
6 in violation of section 829(e) of the Controlled
7 Substances Act;

8 “(C) serving as an agent, intermediary, or
9 other entity that causes the Internet to be used
10 to bring together a buyer and seller to engage
11 in the dispensing of a controlled substance in a
12 manner not authorized by section 823(f) or
13 829(e) of the Controlled Substances Act;

14 “(D) offering to fill a prescription for a
15 controlled substance based solely on a con-
16 sumer’s completion of an online medical ques-
17 tionnaire; and

18 “(E) making a material false, fictitious, or
19 fraudulent statement or representation in a no-
20 tification or declaration under subsection (d) or
21 (e), respectively, of section 831 of the Con-
22 trolled Substances Act.

23 “(3) INAPPLICABILITY.—

24 “(A) This subsection does not apply to—

1 “(i) the delivery, distribution, or dis-
2 pensation of controlled substances by non-
3 practitioners to the extent authorized by
4 their registration under this subchapter;

5 “(ii) the placement on the Internet of
6 material that merely advocates the use of
7 a controlled substance or includes pricing
8 information without attempting to propose
9 or facilitate an actual transaction involving
10 a controlled substance; or

11 “(iii) except as provided in subpara-
12 graph (B), any activity that is limited to—

13 “(I) the provision of a tele-
14 communications service, or of an
15 Internet access service or Internet in-
16 formation location tool (as those
17 terms are defined in section 231 of
18 title 47); or

19 “(II) the transmission, storage,
20 retrieval, hosting, formatting, or
21 translation (or any combination there-
22 of) of a communication, without selec-
23 tion or alteration of the content of the
24 communication, except that deletion of
25 a particular communication or mate-

1 rial made by another person in a man-
 2 ner consistent with section 230(c) of
 3 title 47 does not constitute such selec-
 4 tion or alteration of the content of the
 5 communication.

6 “(B) The exceptions under subclauses (I)
 7 and (II) of subparagraph (A)(iii) do not apply
 8 to a person acting in concert with a person who
 9 violates paragraph (1).

10 “(4) KNOWING OR INTENTIONAL VIOLATION.—
 11 Any person who knowingly or intentionally violates
 12 this subsection shall be sentenced in accordance with
 13 section 403.

14 **“CHAPTER 19—ORGANIZED CRIME**

“Subchapter

“A. Racketeering

“B. Racketeer influenced and corrupt organizations

“C. Criminal street gangs

15 **“SUBCHAPTER A—RACKETEERING**

“Sec.

“501. Interference with commerce by threats or violence.

“502. Interstate and foreign travel or transportation in aid of racketeering en-
 terprises.

“503. Interstate transportation of wagering paraphernalia.

“504. Offer, acceptance, or solicitation to influence operations of employee ben-
 efit plan.

“505. Prohibition of illegal gambling businesses.

“506. Use of interstate commerce facilities in the Commission of murder-for-
 hire.

“507. Violent crimes in aid of racketeering activity.

“508. Prohibition of unlicensed money transmitting businesses.

1 **“§ 501. Interference with commerce by threats or vio-**
2 **lence**

3 “(a) OFFENSE.—Whoever affects interstate or for-
4 eign commerce, by robbery or extortion or commits or
5 threatens physical violence to any person or property in
6 furtherance of a plan or purpose to do anything in viola-
7 tion of this section shall be imprisoned not more than 20
8 years.

9 “(b) DEFINITIONS.—As used in this section—

10 “(1) The term ‘robbery’ means the unlawful
11 taking or obtaining of personal property from the
12 person or presence of another, against his will, by
13 means of actual or threatened force, or violence, or
14 fear of injury, immediate or future, to his person or
15 property, or property in his custody or possession, or
16 the person or property of a relative or member of his
17 family or of anyone in his company at the time of
18 the taking or obtaining.

19 “(2) The term ‘extortion’ means the obtaining
20 of property from another, with his consent, induced
21 by wrongful use of actual or threatened force, vio-
22 lence, or fear, or under color of official right.

23 “(c) EXCLUSIONS.—This section does not repeal,
24 modify, or affect section 6 or 20 of the Clayton Act, the
25 Act of March 23, 1932 (47 Stat. 70) (commonly known

1 as the Norris-LaGuardia Act), the Labor Management Re-
2 lations Act, 1947, or the Railway Labor Act.

3 **“§ 502. Interstate and foreign travel or transportation**
4 **in aid of racketeering enterprises**

5 “(a) ELEMENTS OF OFFENSE.—

6 “(1) Whoever travels in interstate or foreign
7 commerce or uses the mail or any facility in inter-
8 state or foreign commerce, with intent to—

9 “(A) distribute the proceeds of any unlaw-
10 ful activity;

11 “(B) commit any crime of violence to fur-
12 ther any unlawful activity; or

13 “(C) otherwise promote, manage, establish,
14 carry on, or facilitate the promotion, manage-
15 ment, establishment, or carrying on, of any un-
16 lawful activity;

17 and thereafter performs or attempts to engage in the con-
18 duct so intended shall be punished as provided in sub-
19 section (b).

20 “(b) PUNISHMENT.—The punishment for an offense
21 under subsection (a)—

22 “(1) with respect to conduct described in sub-
23 paragraph (A) or (C) shall be imprisoned not more
24 than 5 years; or

1 “(2) wagering pools with respect to a sporting
2 event; or

3 “(3) in a numbers, policy, bolita, or similar
4 game;

5 shall be imprisoned for not more than five years.

6 “(b) EXCLUSION.—This section does not apply to—

7 “(1) parimutuel betting equipment, parimutuel
8 tickets where legally acquired, or parimutuel mate-
9 rials used or designed for use at racetracks or other
10 sporting events in connection with which betting is
11 legal under applicable State law;

12 “(2) the transportation of betting materials to
13 be used in the placing of bets or wagers on a sport-
14 ing event into a State in which such betting is legal
15 under the statutes of that State;

16 “(3) the carriage or transportation in interstate
17 or foreign commerce of any newspaper or similar
18 publication;

19 “(4) equipment, tickets, or materials used or
20 designed for use within a State in a lottery con-
21 ducted by that State acting under authority of State
22 law; or

23 “(5) the transportation in foreign commerce to
24 a destination in a foreign country of equipment,
25 tickets, or materials designed to be used within that

1 foreign country in a lottery which is authorized by
2 the laws of that foreign country.

3 “(c) EFFECT ON STATE PROSECUTIONS.—Nothing in
4 this section creates immunity from criminal prosecution
5 under any laws of a State.

6 “(d) DEFINITIONS.—As used in this section—

7 “(1) the term ‘foreign country’ means any em-
8 pire, country, dominion, colony, or protectorate, or
9 any subdivision thereof (other than the United
10 States, its territories or possessions); and

11 “(2) the term ‘lottery’ means the pooling of
12 proceeds derived from the sale of tickets or chances
13 and allotting those proceeds or parts thereof by
14 chance to one or more chance takers or ticket pur-
15 chasers, but does not include the placing or accept-
16 ing of bets or wagers on sporting events or contests.

17 **“§ 504. Offer, acceptance, or solicitation to influence**
18 **operations of employee benefit plan**

19 “(a) OFFENSE.—Whoever, being—

20 “(1) an administrator, officer, trustee, custo-
21 dian, counsel, agent, or employee of any employee
22 welfare benefit plan or employee pension benefit
23 plan;

1 “(2) an officer, counsel, agent, or employee of
2 an employer or an employer any of whose employees
3 are covered by such plan;

4 “(3) an officer, counsel, agent, or employee of
5 an employee organization any of whose members are
6 covered by such plan; or

7 “(4) a person who, or an officer, counsel, agent,
8 or employee of an organization which, provides ben-
9 efit plan services to such plan;
10 receives or agrees to receive or solicits anything of value
11 because of or with intent to be influenced with respect to,
12 any of the actions, decisions, or other duties relating to
13 any question or matter concerning such plan or any person
14 who directly or indirectly gives or offers, or promises to
15 give or offer, anything prohibited by this section shall be
16 imprisoned not more than three years.

17 “(b) EXCLUSION.—This section does not prohibit the
18 payment to or acceptance by any person of bona fide sal-
19 ary, compensation, or other payments made for goods or
20 facilities actually furnished or for services actually per-
21 formed in the regular course of his duties as such person,
22 administrator, officer, trustee, custodian, counsel, agent,
23 or employee of such plan, employer, employee organiza-
24 tion, or organization providing benefit plan services to
25 such plan.

1 “(c) DEFINITIONS.—As used in this section—

2 “(1) the term ‘any employee welfare benefit
3 plan’ or ‘employee pension benefit plan’ means any
4 employee welfare benefit plan or employee pension
5 benefit plan, respectively, subject to any provision of
6 title I of the Employee Retirement Income Security
7 Act of 1974; and

8 “(2) the term ‘employee organization’ and ‘ad-
9 ministrator’ have the meanings given those terms,
10 respectively, in sections 3(4) and (3)(16) of the Em-
11 ployee Retirement Income Security Act of 1974.

12 **“§ 505. Prohibition of illegal gambling businesses**

13 “(a) OFFENSE.—Whoever conducts, finances, man-
14 ages, supervises, directs, or owns all or part of an illegal
15 gambling business shall be imprisoned not more than five
16 years.

17 “(b) DEFINITIONS.—As used in this section—

18 “(1) the term ‘illegal gambling business’ means
19 a gambling business which—

20 “(A) is a violation of the law of a State or
21 political subdivision in which it is conducted;

22 “(B) involves five or more persons who
23 conduct, finance, manage, supervise, direct, or
24 own all or part of such business; and

1 “(C) has been or remains in substantially
2 continuous operation for a period in excess of
3 30 days or has a gross revenue of \$2,000 in
4 any single day;

5 “(2) the term ‘gambling’ includes pool-selling,
6 bookmaking, maintaining slot machines, roulette
7 wheels or dice tables, and conducting lotteries, pol-
8 icy, bolita or numbers games, or selling chances
9 therein.

10 “(c) ESTABLISHMENT OF PROBABLE CAUSE.—If five
11 or more persons conduct, finance, manage, supervise, di-
12 rect, or own all or part of a gambling business and such
13 business operates for two or more successive days, then,
14 for the purpose of obtaining warrants for arrests, intercep-
15 tions, and other searches and seizures, probable cause that
16 the business receives gross revenue in excess of \$2,000 in
17 any single day shall be deemed to have been established.

18 “(d) EXCLUSION.—This section does not apply to any
19 bingo game, lottery, or similar game of chance conducted
20 by an organization exempt from tax under paragraph (3)
21 of subsection (c) of section 501 of the Internal Revenue
22 Code of 1986, as amended, if no part of the gross receipts
23 derived from such activity inures to the benefits of any
24 private shareholder, member, or employee of such organi-

1 zation except as compensation for actual expenses in-
2 curred by him in the conduct of such activity.

3 **“§ 506. Use of interstate commerce facilities in the**
4 **Commission of murder-for-hire**

5 “(a) OFFENSE.—Whoever travels in or causes an-
6 other (including the intended victim) to travel in interstate
7 or foreign commerce, or uses or causes another (including
8 the intended victim) to use the mail or any facility of inter-
9 state or foreign commerce, with intent that a murder be
10 committed in violation of the laws of any State or the
11 United States as consideration for the receipt of, or as
12 consideration for a promise or agreement to pay, anything
13 of pecuniary value shall be imprisoned for not more than
14 ten years; and if personal injury results, shall be impris-
15 oned for not more than twenty years, and if death results,
16 shall be punished by death or life imprisonment.

17 “(b) DEFINITION.—As used in this section and sec-
18 tion 507, the term ‘anything of pecuniary value’ means
19 anything of value in the form of money, a negotiable in-
20 strument, a commercial interest, or anything else the pri-
21 mary significance of which is economic advantage.

22 **“§ 507. Violent crimes in aid of racketeering activity**

23 “(a) OFFENSE.—Whoever, as consideration for the
24 receipt of, or as consideration for a promise or agreement
25 to pay, anything of pecuniary value from an enterprise en-

1 gaged in racketeering activity, or for the purpose of gain-
2 ing entrance to or maintaining or increasing position in
3 an enterprise engaged in racketeering activity, murders,
4 kidnaps, maims, assaults with a dangerous weapon, com-
5 mits assault resulting in serious bodily injury upon, or
6 threatens to commit a crime of violence against any indi-
7 vidual in violation of the laws of any State or the United
8 States shall be punished—

9 “(1) for murder, by death or life imprisonment;
10 and for kidnapping, by imprisonment for any term
11 of years or for life;

12 “(2) for maiming, by imprisonment for not
13 more than thirty years;

14 “(3) for assault with a dangerous weapon or as-
15 sault resulting in serious bodily injury, by imprison-
16 ment for not more than twenty years;

17 “(4) for threatening to commit a crime of vio-
18 lence, by imprisonment for not more than five years;

19 “(5) for attempting or conspiring to commit
20 murder or kidnapping, by imprisonment for not
21 more than ten years; and

22 “(6) for attempting or conspiring to commit a
23 crime involving maiming, assault with a dangerous
24 weapon, or assault resulting in serious bodily injury,
25 by imprisonment for not more than three years.

1 “(b) DEFINITIONS.—As used in this section—

2 “(1) the term ‘racketeering activity’ has the
3 meaning set forth in section 511; and

4 “(2) the term ‘enterprise’ includes any partner-
5 ship, corporation, association, or other legal entity,
6 and any union or group of individuals associated in
7 fact although not a legal entity, which is engaged in,
8 or the activities of which affect, interstate or foreign
9 commerce.

10 **“§ 508. Prohibition of unlicensed money transmitting**
11 **businesses**

12 “(a) OFFENSE.—Whoever knowingly conducts, con-
13 trols, manages, supervises, directs, or owns all or part of
14 an unlicensed money transmitting business, shall be im-
15 prisoned not more than 5 years.

16 “(b) DEFINITION.—As used in this section—

17 “(1) the term ‘unlicensed money transmitting
18 business’ means a money transmitting business
19 which affects interstate or foreign commerce in any
20 manner or degree and—

21 “(A) is operated without an appropriate
22 money transmitting license in a State where
23 such operation is punishable as a misdemeanor
24 or a felony under State law, whether or not the
25 defendant knew that the operation was required

1 to be licensed or that the operation was so pun-
2 ishable;

3 “(B) fails to comply with the money trans-
4 mitting business registration requirements
5 under section 5330 of title 31, or regulations
6 prescribed under such section; or

7 “(C) otherwise involves the transportation
8 or transmission of funds that are known to the
9 defendant to have been derived from a criminal
10 offense or are intended to be used to promote
11 or support unlawful activity; and

12 “(2) the term ‘money transmitting’ includes
13 transferring funds on behalf of the public by any
14 and all means including but not limited to transfers
15 within this country or to locations abroad by wire,
16 check, draft, facsimile, or courier.

17 “SUBCHAPTER B—RACKETEER INFLUENCED
18 AND CORRUPT ORGANIZATIONS

“Sec.

“511. Definitions.

“512. Prohibited activities.

“513. Criminal penalties.

“514. Civil remedies.

“515. Venue and process.

“516. Expedition of actions.

“517. Evidence.

“518. Civil investigative demand.

19 “§ 511. Definitions

20 “As used in this subchapter—

21 “(1) the term ‘racketeering activity’ means—

1 “(A) any act or threat involving murder,
2 kidnapping, gambling, arson, robbery, bribery,
3 extortion, dealing in obscene matter, or dealing
4 in a controlled substance or listed chemical (as
5 defined in section 102 of the Controlled Sub-
6 stances Act), which is chargeable under State
7 law and punishable by imprisonment for more
8 than one year;

9 “(B) any act which is indictable under any
10 of the following provisions of this title: Section
11 991 (relating to bribery), section 1007 (relating
12 to sports bribery), sections 692, 693, and 694
13 (relating to counterfeiting), section 647 (relat-
14 ing to theft from interstate shipment) if the act
15 indictable under section 647 is felonious, sec-
16 tion 651 (relating to embezzlement from pen-
17 sion and welfare funds), sections 155, 156, and
18 157 (relating to extortionate credit trans-
19 actions), section 783 (relating to fraud and re-
20 lated activity in connection with identification
21 documents), section 786 (relating to fraud and
22 related activity in connection with access de-
23 vices), section 1381 (relating to the trans-
24 mission of gambling information), section 801
25 (relating to mail fraud), section 803 (relating to

1 wire fraud), section 804 (relating to financial
2 institution fraud), section 315 (relating to the
3 procurement of citizenship or nationalization
4 unlawfully), section 316 (relating to the sale of
5 naturalization or citizenship papers), 318 (relat-
6 ing to bringing in or harboring certain aliens),
7 321 (relating to aiding or assisting certain
8 aliens to enter the United States), (if the viola-
9 tion of section 318 or 321 was committed for
10 financial gain) sections 1441–1443 (relating to
11 obscene matter), section 1132 (relating to ob-
12 struction of justice), section 1135 (relating to
13 obstruction of criminal investigations), section
14 1136 (relating to the obstruction of State or
15 local law enforcement), section 1137 (relating
16 to tampering with a witness, victim, or an in-
17 formant), section 1138 (relating to retaliating
18 against a witness, victim, or an informant), sec-
19 tion 311 (relating to false statement in applica-
20 tion and use of passport), section 312 (relating
21 to forgery or false use of passport), section 313
22 (relating to misuse of passport), section 314
23 (relating to fraud and misuse of visas, permits,
24 and other documents), sections 1261–1266 (re-
25 lating to peonage, slavery, and trafficking in

1 persons), section 501 (relating to interference
2 with commerce, robbery, or extortion), section
3 502 (relating to racketeering), section 503 (re-
4 lating to interstate transportation of wagering
5 paraphernalia), section 504 (relating to unlaw-
6 ful welfare fund payments), section 505 (relat-
7 ing to the prohibition of illegal gambling busi-
8 nesses), section 1451 (relating to the laun-
9 dering of monetary instruments), section 1452
10 (relating to engaging in monetary transactions
11 in property derived from specified unlawful ac-
12 tivity), section 506 (relating to use of interstate
13 commerce facilities in the commission of mur-
14 der-for-hire), section 508 (relating to prohibi-
15 tion of unlicensed money transmitting busi-
16 nesses), sections 221, 222, and 223 (relating to
17 sexual exploitation of children), sections 671
18 and 672 (relating to interstate transportation of
19 stolen motor vehicles), sections 673 and 674
20 (relating to interstate transportation of stolen
21 property), section 675 (relating to trafficking in
22 counterfeit labels for phonorecords, computer
23 programs or computer program documentation
24 or packaging and copies of motion pictures or
25 other audiovisual works), section 676 (relating

1 to criminal infringement of a copyright), section
2 678 (relating to unauthorized fixation of and
3 trafficking in sound recordings and music vid-
4 eos of live musical performances), section 680
5 (relating to trafficking in counterfeit goods or
6 services), section 681 (relating to trafficking in
7 certain motor vehicles or motor vehicle parts),
8 sections 1411–1416 (relating to trafficking in
9 contraband cigarettes), sections 211–213 (relat-
10 ing to white slave traffic), sections 621–627
11 (relating to biological weapons), sections 631-
12 636 (relating to chemical weapons), section 601
13 (relating to nuclear materials);

14 “(C) any act which is indictable under sec-
15 tion 186 (dealing with restrictions on payments
16 and loans to labor organizations) or section
17 501(c) (relating to embezzlement from union
18 funds) of title 29, United States Code;

19 “(D) any offense involving fraud connected
20 with a case under title 11 (except a case under
21 section 885), fraud in the sale of securities, or
22 the felonious manufacture, importation, receiv-
23 ing, concealment, buying, selling, or otherwise
24 dealing in a controlled substance or listed chem-
25 ical (as defined in section 102 of the Controlled

1 Substances Act), punishable under any law of
2 the United States;

3 “(E) any act which is indictable under the
4 Currency and Foreign Transactions Reporting
5 Act;

6 “(F) any act which is indictable under sec-
7 tion 278 of the Immigration and Nationality
8 Act, if the act indictable under such section of
9 such Act was committed for the purpose of fi-
10 nancial gain; or

11 “(G) any act that is indictable under any
12 provision listed in section 273(g)(3)(B);

13 “(2) the term ‘enterprise’ includes any indi-
14 vidual, partnership, corporation, association, or
15 other legal entity, and any union or group of individ-
16 uals associated in fact although not a legal entity;

17 “(3) the term ‘pattern of racketeering activity’
18 requires at least two acts of racketeering activity,
19 one of which occurred after October 15, 1970 and
20 the last of which occurred within ten years (exclud-
21 ing any period of imprisonment) after the commis-
22 sion of a prior act of racketeering activity;

23 “(4) the term ‘unlawful debt’ means a debt—

24 “(A) incurred or contracted in gambling
25 activity which was in violation of the law of the

1 United States, a State or political subdivision
2 thereof, or which is unenforceable under State
3 or Federal law in whole or in part as to prin-
4 cipal or interest because of the laws relating to
5 usury; and

6 “(B) which was incurred in connection
7 with the business of gambling in violation of the
8 law of the United States, a State or political
9 subdivision thereof, or the business of lending
10 money or a thing of value at a rate usurious
11 under State or Federal law, where the usurious
12 rate is at least twice the enforceable rate;

13 “(5) the term ‘racketeering investigator’ means
14 any attorney or investigator so designated by the At-
15 torney General and charged with the duty of enforc-
16 ing or carrying into effect this chapter;

17 “(6) the term ‘racketeering investigation’ means
18 any inquiry conducted by any racketeering investi-
19 gator for the purpose of ascertaining whether any
20 person has been involved in any violation of this sub-
21 chapter or of any final order, judgment, or decree of
22 any court of the United States, duly entered in any
23 case or proceeding arising under this subchapter;

1 “(7) the term ‘documentary material’ includes
2 any book, paper, document, record, recording, or
3 other material; and

4 “(8) the term ‘Attorney General’ includes the
5 Attorney General of the United States, the Deputy
6 Attorney General of the United States, the Associate
7 Attorney General of the United States, any Assist-
8 ant Attorney General of the United States, or any
9 employee of the Department of Justice or any em-
10 ployee of any department or agency of the United
11 States so designated by the Attorney General to
12 carry out the powers conferred on the Attorney Gen-
13 eral by this chapter, and any department or agency
14 so designated may use in investigations authorized
15 by this subchapter either the investigative provisions
16 of this subchapter or the investigative power of such
17 department or agency otherwise conferred by law.

18 **“§ 512. Prohibited activities**

19 “(a) USING OR INVESTING PROCEEDS.—It shall be
20 unlawful for any person who has received any income de-
21 rived, directly or indirectly, from a pattern of racketeering
22 activity or through collection of an unlawful debt in which
23 such person has participated as a principal within the
24 meaning of section 2, to use or invest, directly or indi-
25 rectly, any part of such income, or the proceeds of such

1 income, in acquisition of any interest in, or the establish-
2 ment or operation of, any enterprise which is engaged in,
3 or the activities of which affect, interstate or foreign com-
4 merce. A purchase of securities on the open market for
5 purposes of investment, and without the intention of con-
6 trolling or participating in the control of the issuer, or of
7 assisting another to do so, shall not be unlawful under
8 this subsection if the securities of the issuer held by the
9 purchaser, the members of his immediate family, and his
10 or their accomplices in any pattern or racketeering activity
11 or the collection of an unlawful debt after such purchase
12 do not amount in the aggregate to one percent of the out-
13 standing securities of any one class, and do not confer,
14 either in law or in fact, the power to elect one or more
15 directors of the issuer.

16 “(b) MAINTAINING INTEREST OR CONTROL.—It shall
17 be unlawful for any person through a pattern of racket-
18 eering activity or through collection of an unlawful debt
19 to acquire or maintain, directly or indirectly, any interest
20 in or control of any enterprise which is engaged in, or the
21 activities of which affect, interstate or foreign commerce.

22 “(c) CONDUCTING AFFAIRS.—It shall be unlawful for
23 any person employed by or associated with any enterprise
24 engaged in, or the activities of which affect, interstate or
25 foreign commerce, to conduct or participate, directly or

1 indirectly, in the conduct of such enterprise's affairs
2 through a pattern of racketeering activity or collection of
3 unlawful debt.

4 **“§ 513. Criminal penalties**

5 “Whoever violates section 512 shall be imprisoned
6 not more than 20 years (or for life if the violation is based
7 on a racketeering activity for which the maximum penalty
8 includes life imprisonment).

9 **“§ 514. Civil remedies**

10 “(a) PREVENTION AND RESTRAINT OF VIOLA-
11 TIONS.—The district courts of the United States shall
12 have jurisdiction to prevent and restrain violations of sec-
13 tion 512 by issuing appropriate orders, including—

14 “(1) ordering any person to divest any interest
15 in any enterprise; and

16 “(2) imposing reasonable restrictions on the fu-
17 ture activities or investments of any person, includ-
18 ing—

19 “(A) prohibiting that person from engag-
20 ing in the same type of endeavor as the enter-
21 prise engaged in, the activities of which affect
22 interstate or foreign commerce; or

23 “(B) ordering dissolution or reorganization
24 of any enterprise, making due provision for the
25 rights of innocent persons.

1 “(b) PRELIMINARY MATTERS.—The Attorney Gen-
2 eral may institute proceedings under this section. Pending
3 final determination thereof, the court may at any time
4 enter such restraining orders or prohibitions, or take such
5 other actions, including the acceptance of satisfactory per-
6 formance bonds, as it shall deem proper.

7 “(c) PRIVATE RIGHT OF ACTION.—Any person in-
8 jured in his business or property by reason of a violation
9 of section 512 may sue therefor in any appropriate United
10 States district court and shall recover threefold the dam-
11 ages he sustains and the cost of the suit, including a rea-
12 sonable attorney’s fee, except that no person may rely
13 upon any conduct that would have been actionable as
14 fraud in the purchase or sale of securities to establish a
15 violation of section 512. The exception contained in the
16 preceding sentence does not apply to an action against any
17 person that is criminally convicted in connection with the
18 fraud, in which case the statute of limitations shall start
19 to run on the date on which the conviction becomes final.

20 “(d) ESTOPPEL.—A final judgment or decree ren-
21 dered in favor of the United States in any criminal pro-
22 ceeding brought by the United States under this chapter
23 shall estop the defendant from denying the essential alle-
24 gations of the criminal offense in any subsequent civil pro-
25 ceeding brought by the United States.

1 **“§ 515. Venue and process**

2 “(a) VENUE.—Any civil action or proceeding under
3 this subchapter may be instituted in the district court of
4 the United States for any district in which such person
5 resides, is found, has an agent, or transacts his affairs.

6 “(b) SUMMONS.—In any action under section 514 in
7 any district court of the United States in which it is shown
8 that the ends of justice require that other parties residing
9 in any other district be brought before the court, the court
10 may cause such parties to be summoned, and process for
11 that purpose may be served in any judicial district of the
12 United States by the marshal thereof.

13 “(c) SUBPOENAS.—In any civil or criminal action or
14 proceeding instituted by the United States under this sub-
15 chapter in the district court of the United States for any
16 judicial district, subpoenas issued by such court to compel
17 the attendance of witnesses may be served in any other
18 judicial district, except that in any civil action or pro-
19 ceeding no such subpoena shall be issued for service upon
20 any individual who resides in another district at a place
21 more than one hundred miles from the place at which such
22 court is held without approval given by a judge of such
23 court upon a showing of good cause.

24 “(d) OTHER PROCESS.—All other process in any ac-
25 tion or proceeding under this subchapter may be served

1 on any person in any judicial district in which such person
2 resides, is found, has an agent, or transacts affairs.

3 **“§ 516. Expedition of actions**

4 “In any civil action instituted under this subchapter
5 by the United States in any district court of the United
6 States, the Attorney General may file with the clerk of
7 such court a certificate stating that in the Attorney Gen-
8 eral’s opinion the case is of general public importance. A
9 copy of that certificate shall be furnished immediately by
10 such clerk to the chief judge or, in the absence of the chief
11 judge, to the presiding district judge of the district in
12 which such action is pending. Upon receipt of such copy,
13 such judge shall designate immediately a judge of that dis-
14 trict to hear and determine the action.

15 **“§ 517. Evidence**

16 “In any proceeding ancillary to or in any civil action
17 instituted by the United States under this subchapter the
18 proceedings may be open or closed to the public at the
19 discretion of the court after consideration of the rights of
20 affected persons.

21 **“§ 518. Civil investigative demand**

22 “(a) ISSUANCE.—If the Attorney General has reason
23 to believe that any person or enterprise may be in posses-
24 sion, custody, or control of any documentary materials rel-
25 evant to a racketeering investigation, the Attorney General

1 may, before the institution of a civil or criminal proceeding
2 thereon, issue in writing, and cause to be served upon such
3 person, a civil investigative demand requiring such person
4 to produce such material for examination.

5 “(b) CONTENTS.—Each such demand shall—

6 “(1) state the nature of the conduct consti-
7 tuting the alleged racketeering violation which is
8 under investigation and the provision of law applica-
9 ble thereto;

10 “(2) describe the class or classes of documen-
11 tary material produced thereunder with such defi-
12 niteness and certainty as to permit such material to
13 be fairly identified;

14 “(3) state that the demand is returnable forth-
15 with or prescribe a return date which will provide a
16 reasonable period of time within which the material
17 so demanded may be assembled and made available
18 for inspection and copying or reproduction; and

19 “(4) identify the custodian to whom such mate-
20 rial shall be made available.

21 “(c) LIMITATION.—No such demand shall—

22 “(1) contain any requirement which would be
23 held to be unreasonable if contained in a subpoena
24 duces tecum issued by a court of the United States

1 in aid of a grand jury investigation of such alleged
2 racketeering violation; or

3 “(2) require the production of any documentary
4 evidence which would be privileged from disclosure if
5 demanded by a subpoena duces tecum issued by a
6 court of the United States in aid of a grand jury in-
7 vestigation of such alleged racketeering violation.

8 “(d) SERVICE.—Service of any such demand or any
9 petition filed under this section may be made upon a per-
10 son by—

11 “(1) delivering a duly executed copy thereof to
12 any partner, executive officer, managing agent, or
13 general agent thereof, or to any agent thereof au-
14 thorized by appointment or by law to receive service
15 of process on behalf of such person, or upon any in-
16 dividual person;

17 “(2) delivering a duly executed copy thereof to
18 the principal office or place of business of the person
19 to be served; or

20 “(3) depositing such copy in the United States
21 mail, by registered or certified mail duly addressed
22 to such person at its principal office or place of busi-
23 ness.

24 “(e) RETURN.—A verified return by the individual
25 serving any such demand or petition setting forth the

1 manner of such service shall be prima facie proof of such
2 service. In the case of service by registered or certified
3 mail, such return shall be accompanied by the return post
4 office receipt of delivery of such demand.

5 “(f) DOCUMENT CUSTODIAN.—

6 “(1) The Attorney General shall designate a
7 racketeering investigator to serve as racketeer docu-
8 ment custodian, and such additional racketeering in-
9 vestigators as the Attorney General shall determine
10 from time to time to be necessary to serve as depu-
11 ties to such officer.

12 “(2) Any person upon whom any demand issued
13 under this section has been duly served shall make
14 such material available for inspection and copying or
15 reproduction to the custodian designated therein at
16 the principal place of business of such person, or at
17 such other place as such custodian and such person
18 thereafter may agree and prescribe in writing or as
19 the court may direct, pursuant to this section on the
20 return date specified in such demand, or on such
21 later date as such custodian may prescribe in writ-
22 ing. Such person may upon written agreement be-
23 tween such person and the custodian substitute for
24 copies of all or any part of such material originals
25 thereof.

1 “(3) The custodian to whom any documentary
2 material is so delivered shall take physical possession
3 thereof, and shall be responsible for the use made
4 thereof and for the return thereof pursuant to this
5 chapter. The custodian may cause the preparation of
6 such copies of such documentary material as may be
7 required for official use under regulations which
8 shall be promulgated by the Attorney General. While
9 in the possession of the custodian, no material so
10 produced shall be available for examination, without
11 the consent of the person who produced such mate-
12 rial, by any individual other than the Attorney Gen-
13 eral. Under such reasonable terms and conditions as
14 the Attorney General shall prescribe, documentary
15 material while in the possession of the custodian
16 shall be available for examination by the person who
17 produced such material or any duly authorized rep-
18 resentatives of such person.

19 “(4) Whenever any attorney has been des-
20 ignated to appear on behalf of the United States be-
21 fore any court or grand jury in any case or pro-
22 ceeding involving any alleged violation of this chap-
23 ter, the custodian may deliver to such attorney such
24 documentary material in the possession of the custo-
25 dian as such attorney determines to be required for

1 use in the presentation of such case or proceeding
2 on behalf of the United States. Upon the conclusion
3 of any such case or proceeding, such attorney shall
4 return to the custodian any documentary material so
5 withdrawn which has not passed into the control of
6 such court or grand jury through the introduction
7 thereof into the record of such case or proceeding.

8 “(5) Upon the completion of—

9 “(A) the racketeering investigation for
10 which any documentary material was produced
11 under this subchapter, and

12 “(B) any case or proceeding arising from
13 such investigation,

14 the custodian shall return to the person who pro-
15 duced such material all such material other than
16 copies thereof made by the Attorney General pursu-
17 ant to this subsection which has not passed into the
18 control of any court or grand jury through the intro-
19 duction thereof into the record of such case or pro-
20 ceeding.

21 “(6) When any documentary material has been
22 produced by any person under this section for use in
23 any racketeering investigation, and no such case or
24 proceeding arising therefrom has been instituted
25 within a reasonable time after completion of the ex-

1 amination and analysis of all evidence assembled in
2 the course of such investigation, such person shall be
3 entitled, upon written demand made upon the Attor-
4 ney General, to the return of all documentary mate-
5 rial other than copies thereof made pursuant to this
6 subsection so produced by such person.

7 “(7) In the event of the death, disability, or
8 separation from service of the custodian of any docu-
9 mentary material produced under any demand
10 issued under this section or the official relief of such
11 custodian from responsibility for the custody and
12 control of such material, the Attorney General shall
13 promptly—

14 “(A) designate another racketeering inves-
15 tigator to serve as custodian thereof, and

16 “(B) transmit notice in writing to the per-
17 son who produced such material as to the iden-
18 tity and address of the successor so designated.

19 Any successor so designated shall have with regard
20 to such materials all duties and responsibilities im-
21 posed by this section upon the predecessor custodian
22 with regard thereto, except that the successor shall
23 not be held responsible for any default or dereliction
24 which occurred before the successor’s designation as
25 custodian.

1 “(g) ENFORCEMENT PETITION.—Whenever any per-
2 son fails to comply with any civil investigative demand
3 duly served upon him under this section or whenever satis-
4 factory copying or reproduction of any such material can-
5 not be done and such person refuses to surrender such
6 material, the Attorney General may file, in the district
7 court of the United States for any judicial district in which
8 such person resides, is found, or transacts business, and
9 serve upon such person a petition for an order of such
10 court for the enforcement of this section, except that if
11 such person transacts business in more than one such dis-
12 trict such petition shall be filed in the district in which
13 such person maintains his principal place of business, or
14 in such other district in which such person transacts busi-
15 ness as may be agreed upon by the parties to such peti-
16 tion.

17 “(h) MODIFICATION OR SETTING ASIDE.—Within 20
18 days after the service of any such demand upon any per-
19 son, or at any time before the return date specified in the
20 demand, whichever period is shorter, such person may file,
21 in the district court of the United States for the judicial
22 district within which such person resides, is found, or
23 transacts business, and serve upon such custodian a peti-
24 tion for an order of such court modifying or setting aside
25 such demand. The time allowed for compliance with the

1 demand in whole or in part as deemed proper and ordered
2 by the court shall not run during the pendency of such
3 petition in the court. Such petition shall specify each
4 ground upon which the petitioner relies in seeking such
5 relief, and may be based upon any failure of such demand
6 to comply with the provisions of this section or upon any
7 constitutional or other legal right or privilege of such per-
8 son.

9 “(i) ORDERING CUSTODIAN TO PERFORM DUTY.—At
10 any time during which any custodian is in custody or con-
11 trol of any documentary material delivered by any person
12 in compliance with any such demand, such person may
13 file, in the district court of the United States for the judi-
14 cial district within which the office of such custodian is
15 situated, and serve upon such custodian a petition for an
16 order of such court requiring the performance by such cus-
17 todian of any duty imposed upon him by this section.

18 “(j) JURISDICTION.—Whenever any petition is filed
19 in any district court of the United States under this sec-
20 tion, such court shall have jurisdiction to hear and deter-
21 mine the matter so presented, and to enter such order or
22 orders as may be required to carry into effect the provi-
23 sions of this section.

24 “SUBCHAPTER C—CRIMINAL STREET GANGS

“Sec.

“521. Criminal street gangs.

1 **“§ 521. Criminal street gangs**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘conviction’ includes a finding,
4 under State or Federal law, that a person has com-
5 mitted an act of juvenile delinquency involving a vio-
6 lent or controlled substances felony; and

7 “(2) the term ‘criminal street gang’ means an
8 ongoing group, club, organization, or association of
9 5 or more persons—

10 “(A) that has as 1 of its primary purposes
11 the commission of 1 or more of the criminal of-
12 fenses described in subsection (c);

13 “(B) the members of which engage, or
14 have engaged within the past 5 years, in a con-
15 tinuing series of offenses described in sub-
16 section (c); and

17 “(C) the activities of which affect inter-
18 state or foreign commerce.

19 “(b) PENALTY.—The sentence of a person convicted
20 of an offense described in subsection (c) shall be increased
21 by not more than 10 years if the offense is committed
22 under the circumstances described in subsection (d).

23 “(c) OFFENSES.—The offenses described in this sec-
24 tion are—

1 “(1) a Federal felony involving a controlled sub-
2 stance for which the maximum penalty is not less
3 than 5 years;

4 “(2) a Federal felony crime of violence that has
5 as an element the use or attempted use of physical
6 force against the person of another; and

7 “(3) a conspiracy to commit an offense de-
8 scribed in paragraph (1) or (2).

9 “(d) CIRCUMSTANCES.—The circumstances described
10 in this section are that the offense described in subsection
11 (c) was committed by a person who—

12 “(1) participates in a criminal street gang with
13 knowledge that its members engage in or have en-
14 gaged in a continuing series of offenses described in
15 subsection (c);

16 “(2) intends to promote or further the felonious
17 activities of the criminal street gang or maintain or
18 increase his or her position in the gang; and

19 “(3) has been convicted within the past 5 years
20 for—

21 “(A) an offense described in subsection (c);

22 “(B) a State offense—

23 “(i) involving a controlled substance
24 for which the maximum penalty is not less
25 than 5 years imprisonment; or

1 “(ii) that is a felony crime of violence
2 that has as an element the use or at-
3 tempted use of physical force against the
4 person of another;

5 “(C) any Federal or State felony offense
6 that by its nature involves a substantial risk
7 that physical force against the person of an-
8 other may be used in the course of committing
9 the offense; or

10 “(D) a conspiracy to commit an offense de-
11 scribed in subparagraph (A), (B), or (C).

12 **“CHAPTER 21—ARSON, FIREARMS,**
13 **EXPLOSIVES, AND WEAPONS CRIMES**

“Subchapter

“A. Arson

“B. Firearms

“C. Explosives

“D. Importation, manufacture, distribution, and storage of Explosive Materials

“E. Biological weapons

“F. Chemical weapons

14 “SUBCHAPTER A—ARSON

“Sec.

“571. Arson within special maritime and territorial jurisdiction.

15 **“§ 571. Arson within special maritime and territorial**
16 **jurisdiction**

17 “Whoever, within the special maritime and territorial
18 jurisdiction of the United States, willfully and maliciously
19 sets fire to or burns any building, structure or vessel, any
20 machinery or building materials or supplies, military or

1 naval stores, munitions of war, or any structural aids or
 2 appliances for navigation or shipping shall be imprisoned
 3 for not more than 25 years. If the building is a dwelling
 4 or if the life of any person is placed in jeopardy, the of-
 5 fender shall be imprisoned for any term of years or for
 6 life.

7 “SUBCHAPTER B—FIREARMS

“Sec.

“581. Definitions.

“582. Unlawful Acts.

“583. Licensing.

“584. Penalties.

“585. Exceptions: relief from disabilities.

“586. Remedy for erroneous denial of firearm.

“587. Rules and regulations.

“588. Interstate transportation of firearms.

“589. Carrying of concealed firearms by qualified law enforcement officers.

“590. Carrying of concealed firearms by qualified retired law enforcement offi-
 cers.

“591. Use of restricted ammunition.

“592. Possession of firearms and dangerous weapons in Federal facilities.

“593. Prohibition on purchase, ownership, or possession of body armor by vio-
 lent felons.

8 **“§ 581. Definitions**

9 “For the purposes of this subchapter—

10 “(1) The term ‘firearm’ means (A) any weapon
 11 (including a starter gun) which will or is designed to
 12 or may readily be converted to expel a projectile by
 13 the action of an explosive; (B) the frame or receiver
 14 of any such weapon; (C) any firearm muffler or fire-
 15 arm silencer; or (D) any destructive device. Such
 16 term does not include an antique firearm.

17 “(2) The term ‘destructive device’ means—

1 “(A) any explosive, incendiary, or poison
2 gas—

3 “(i) bomb,

4 “(ii) grenade,

5 “(iii) rocket having a propellant
6 charge of more than four ounces,

7 “(iv) missile having an explosive or in-
8 incendiary charge of more than one-quarter
9 ounce,

10 “(v) mine, or

11 “(vi) device similar to any of the de-
12 vices described in the preceding clauses;

13 “(B) any type of weapon (other than a
14 shotgun or a shotgun shell which the Attorney
15 General finds is generally recognized as particu-
16 larly suitable for sporting purposes) by what-
17 ever name known which will, or which may be
18 readily converted to, expel a projectile by the
19 action of an explosive or other propellant, and
20 which has any barrel with a bore of more than
21 one-half inch in diameter; and

22 “(C) any combination of parts either de-
23 signed or intended for use in converting any de-
24 vice into any destructive device described in

1 subparagraph (A) or (B) and from which a de-
2 structive device may be readily assembled.

3 Such term does not include any device which is nei-
4 ther designed nor redesigned for use as a weapon;
5 any device, although originally designed for use as a
6 weapon, which is redesigned for use as a signaling,
7 pyrotechnic, line throwing, safety, or similar device;
8 surplus ordnance sold, loaned, or given by the Sec-
9 retary of the Army pursuant to section 4684(2),
10 4685, or 4686 of title 10; or any other device which
11 the Attorney General finds is not likely to be used
12 as a weapon, is an antique, or is a rifle which the
13 owner intends to use solely for sporting, recreational
14 or cultural purposes.

15 “(3) The term ‘shotgun’ means a weapon de-
16 signed or redesigned, made or remade, and intended
17 to be fired from the shoulder and designed or rede-
18 signed and made or remade to use the energy of an
19 explosive to fire through a smooth bore either a
20 number of ball shot or a single projectile for each
21 single pull of the trigger.

22 “(4) The term ‘short-barreled shotgun’ means a
23 shotgun having one or more barrels less than eight-
24 teen inches in length and any weapon made from a
25 shotgun (whether by alteration, modification or oth-

1 erwise) if such a weapon as modified has an overall
2 length of less than twenty-six inches.

3 “(5) The term ‘rifle’ means a weapon designed
4 or redesigned, made or remade, and intended to be
5 fired from the shoulder and designed or redesigned
6 and made or remade to use the energy of an explo-
7 sive to fire only a single projectile through a rifled
8 bore for each single pull of the trigger.

9 “(6) The term ‘short-barreled rifle’ means a
10 rifle having one or more barrels less than sixteen
11 inches in length and any weapon made from a rifle
12 (whether by alteration, modification, or otherwise) if
13 such weapon, as modified, has an overall length of
14 less than twenty-six inches.

15 “(7) The term ‘importer’ means any person en-
16 gaged in the business of importing or bringing fire-
17 arms or ammunition into the United States for pur-
18 poses of sale or distribution; and the term ‘licensed
19 importer’ means any such person licensed under this
20 chapter.

21 “(8) The term ‘manufacturer’ means any per-
22 son engaged in the business of manufacturing fire-
23 arms or ammunition for purposes of sale or distribu-
24 tion; and the term ‘licensed manufacturer’ means
25 any such person licensed under this chapter.

1 “(9) The term ‘dealer’ means (A) any person
2 engaged in the business of selling firearms at whole-
3 sale or retail, (B) any person engaged in the busi-
4 ness of repairing firearms or of making or fitting
5 special barrels, stocks, or trigger mechanisms to fire-
6 arms, or (C) any person who is a pawnbroker. The
7 term ‘licensed dealer’ means any dealer who is li-
8 censed under this chapter.

9 “(10) The term ‘pawnbroker’ means any person
10 whose business or occupation includes the taking or
11 receiving, by way of pledge or pawn, of any firearm
12 as security for the payment or repayment of money.

13 “(11) The term ‘collector’ means any person
14 who acquires, holds, or disposes of firearms as curios
15 or relics, as the Attorney General shall by regulation
16 define, and the term ‘licensed collector’ means any
17 such person licensed under this chapter.

18 “(12) The term ‘indictment’ includes an indict-
19 ment or information in any court under which a
20 crime punishable by imprisonment for a term ex-
21 ceeding one year may be prosecuted.

22 “(13) The term ‘fugitive from justice’ means
23 any person who has fled from any State to avoid
24 prosecution for a crime or to avoid giving testimony
25 in any criminal proceeding.

1 “(14) The term ‘antique firearm’ means—

2 “(A) any firearm (including any firearm
3 with a matchlock, flintlock, percussion cap, or
4 similar type of ignition system) manufactured
5 in or before 1898; or

6 “(B) any replica of any firearm described
7 in subparagraph (A) if such replica—

8 “(i) is not designed or redesigned for
9 using rimfire or conventional centerfire
10 fixed ammunition; or

11 “(ii) uses rimfire or conventional
12 centerfire fixed ammunition which is no
13 longer manufactured in the United States
14 and which is not readily available in the
15 ordinary channels of commercial trade; or

16 “(C) any muzzle loading rifle, muzzle load-
17 ing shotgun, or muzzle loading pistol, which is
18 designed to use black powder, or a black powder
19 substitute, and which cannot use fixed ammuni-
20 tion. For purposes of this subparagraph, the
21 term ‘antique firearm’ shall not include any
22 weapon which incorporates a firearm frame or
23 receiver, any firearm which is converted into a
24 muzzle loading weapon, or any muzzle loading
25 weapon which can be readily converted to fire

1 fixed ammunition by replacing the barrel, bolt,
2 breechblock, or any combination thereof.

3 “(15)(A) The term ‘ammunition’ means ammu-
4 nition or cartridge cases, primers, bullets, or propel-
5 lent powder designed for use in any firearm.

6 “(B) The term ‘armor piercing ammunition’
7 means—

8 “(i) a projectile or projectile core which
9 may be used in a handgun and which is con-
10 structed entirely (excluding the presence of
11 traces of other substances) from one or a com-
12 bination of tungsten alloys, steel, iron, brass,
13 bronze, beryllium copper, or depleted uranium;
14 or

15 “(ii) a full jacketed projectile larger than
16 .22 caliber designed and intended for use in a
17 handgun and whose jacket has a weight of more
18 than 25 percent of the total weight of the pro-
19 jectile.

20 “(C) The term ‘armor piercing ammunition’
21 does not include shotgun shot required by Federal or
22 State environmental or game regulations for hunting
23 purposes, a frangible projectile designed for target
24 shooting, a projectile which the Attorney General
25 finds is primarily intended to be used for sporting

1 purposes, or any other projectile or projectile core
2 which the Attorney General finds is intended to be
3 used for industrial purposes, including a charge used
4 in an oil and gas well perforating device.

5 “(16) The term ‘published ordinance’ means a
6 published law of any political subdivision of a State
7 which the Attorney General determines to be rel-
8 evant to the enforcement of this subchapter and
9 which is contained on a list compiled by the Attor-
10 ney General, which list shall be published in the
11 Federal Register, revised annually, and furnished to
12 each licensee under this subchapter.

13 “(17) The term ‘crime punishable by imprison-
14 ment for a term exceeding one year’ does not in-
15 clude—

16 “(A) any Federal or State offenses per-
17 taining to antitrust violations, unfair trade
18 practices, restraints of trade, or other similar
19 offenses relating to the regulation of business
20 practices, or

21 “(B) any State offense classified by the
22 laws of the State as a misdemeanor and punish-
23 able by a term of imprisonment of two years or
24 less.

1 What constitutes a conviction of such a crime shall
2 be determined in accordance with the law of the ju-
3 risdiction in which the proceedings were held. Any
4 conviction which has been expunged, or set aside or
5 for which a person has been pardoned or has had
6 civil rights restored shall not be considered a convic-
7 tion for purposes of this subchapter, unless such
8 pardon, expungement, or restoration of civil rights
9 expressly provides that the person may not ship,
10 transport, possess, or receive firearms.

11 “(18) The term ‘engaged in the business’
12 means—

13 “(A) as applied to a manufacturer of fire-
14 arms, a person who devotes time, attention, and
15 labor to manufacturing firearms as a regular
16 course of trade or business with the principal
17 objective of livelihood and profit through the
18 sale or distribution of the firearms manufac-
19 tured;

20 “(B) as applied to a manufacturer of am-
21 munition, a person who devotes time, attention,
22 and labor to manufacturing ammunition as a
23 regular course of trade or business with the
24 principal objective of livelihood and profit

1 through the sale or distribution of the ammuni-
2 tion manufactured;

3 “(C) as applied to a dealer in firearms, as
4 defined in paragraph (9)(A), a person who de-
5 votes time, attention, and labor to dealing in
6 firearms as a regular course of trade or busi-
7 ness with the principal objective of livelihood
8 and profit through the repetitive purchase and
9 resale of firearms, but such term does not in-
10 clude a person who makes occasional sales, ex-
11 changes, or purchases of firearms for the en-
12 hancement of a personal collection or for a
13 hobby, or who sells all or part of his personal
14 collection of firearms;

15 “(D) as applied to a dealer in firearms, as
16 defined in paragraph (9)(B), a person who de-
17 votes time, attention, and labor to engaging in
18 such activity as a regular course of trade or
19 business with the principal objective of liveli-
20 hood and profit, but such term does not include
21 a person who makes occasional repairs of fire-
22 arms, or who occasionally fits special barrels,
23 stocks, or trigger mechanisms to firearms;

24 “(E) as applied to an importer of firearms,
25 a person who devotes time, attention, and labor

1 to importing firearms as a regular course of
2 trade or business with the principal objective of
3 livelihood and profit through the sale or dis-
4 tribution of the firearms imported; and

5 “(F) as applied to an importer of ammuni-
6 tion, a person who devotes time, attention, and
7 labor to importing ammunition as a regular
8 course of trade or business with the principal
9 objective of livelihood and profit through the
10 sale or distribution of the ammunition im-
11 ported.

12 “(19) The term ‘with the principal objective of
13 livelihood and profit’ means that the intent under-
14 lying the sale or disposition of firearms is predomi-
15 nantly one of obtaining livelihood and pecuniary
16 gain, as opposed to other intents, such as improving
17 or liquidating a personal firearms collection, but
18 proof of profit is not required as to a person who en-
19 gages in the regular and repetitive purchase and dis-
20 position of firearms for criminal purposes or ter-
21 rorism. In this paragraph, the term ‘terrorism’
22 means activity, directed against United States per-
23 sons, which—

1 “(A) is committed by an individual who is
2 not a national or permanent resident alien of
3 the United States;

4 “(B) involves violent acts or acts dan-
5 gerous to human life which would be a criminal
6 violation if committed within the jurisdiction of
7 the United States; and

8 “(C) is intended—

9 “(i) to intimidate or coerce a civilian
10 population;

11 “(ii) to influence the policy of a gov-
12 ernment by intimidation or coercion; or

13 “(iii) to affect the conduct of a gov-
14 ernment by assassination or kidnapping.

15 “(20) The term ‘machinegun’ has the meaning
16 given such term in section 5845(b) of the National
17 Firearms Act.

18 “(21) The terms ‘firearm silencer’ and ‘firearm
19 muffler’ mean any device for silencing, muffling, or
20 diminishing the report of a portable firearm, includ-
21 ing any combination of parts, designed or rede-
22 signed, and intended for use in assembling or fabri-
23 cating a firearm silencer or firearm muffler, and any
24 part intended only for use in such assembly or fab-
25 rication.

1 “(22) The term ‘school zone’ means—

2 “(A) in, or on the grounds of, a public, pa-
3 rochial or private school; or

4 “(B) within a distance of 1,000 feet from
5 the grounds of a public, parochial or private
6 school.

7 “(23) The term ‘school’ means a school which
8 provides elementary or secondary education, as de-
9 termined under State law.

10 “(24) The term ‘motor vehicle’ has the meaning
11 given such term in section 13102 of title 49.

12 “(25) The term ‘semiautomatic rifle’ means any
13 repeating rifle which utilizes a portion of the energy
14 of a firing cartridge to extract the fired cartridge
15 case and chamber the next round, and which re-
16 quires a separate pull of the trigger to fire each car-
17 tridge.

18 “(26) The term ‘handgun’ means—

19 “(A) a firearm which has a short stock and
20 is designed to be held and fired by the use of
21 a single hand; and

22 “(B) any combination of parts from which
23 a firearm described in subparagraph (A) can be
24 assembled.

1 “(27) The term ‘intimate partner’ means, with
2 respect to a person, the spouse of the person, a
3 former spouse of the person, an individual who is a
4 parent of a child of the person, and an individual
5 who cohabitates or has cohabited with the person.

6 “(28)(A) The term ‘misdemeanor crime of do-
7 mestic violence’ means an offense that—

8 “(i) is a misdemeanor under Federal,
9 State, or Tribal law; and

10 “(ii) has, as an element, the use or at-
11 tempted use of physical force, or the threatened
12 use of a deadly weapon, committed by a current
13 or former spouse, parent, or guardian of the
14 victim, by a person with whom the victim
15 shares a child in common, by a person who is
16 cohabiting with or has cohabited with the victim
17 as a spouse, parent, or guardian, or by a person
18 similarly situated to a spouse, parent, or guard-
19 ian of the victim.

20 “(B)(i) A person shall not be considered to have
21 been convicted of such an offense for purposes of
22 this subchapter, unless—

23 “(I) the person was represented by counsel
24 in the case, or knowingly and intelligently
25 waived the right to counsel in the case; and

1 “(II) in the case of a prosecution for an of-
2 fense described in this paragraph for which a
3 person was entitled to a jury trial in the juris-
4 diction in which the case was tried, either—

5 “(aa) the case was tried by a jury; or

6 “(bb) the person knowingly and intel-
7 ligently waived the right to have the case
8 tried by a jury, by guilty plea or otherwise.

9 “(ii) A person shall not be considered to have
10 been convicted of such an offense for purposes of
11 this subchapter if the conviction has been expunged
12 or set aside, or is an offense for which the person
13 has been pardoned or has had civil rights restored
14 (if the law of the applicable jurisdiction provides for
15 the loss of civil rights under such an offense) unless
16 the pardon, expungement, or restoration of civil
17 rights expressly provides that the person may not
18 ship, transport, possess, or receive firearms.

19 “(29) The term ‘secure gun storage or safety
20 device’ means—

21 “(A) a device that, when installed on a
22 firearm, is designed to prevent the firearm from
23 being operated without first deactivating the de-
24 vice;

1 “(B) a device incorporated into the design
2 of the firearm that is designed to prevent the
3 operation of the firearm by anyone not having
4 access to the device; or

5 “(C) a safe, gun safe, gun case, lock box,
6 or other device that is designed to be or can be
7 used to store a firearm and that is designed to
8 be unlocked only by means of a key, a combina-
9 tion, or other similar means.

10 “(30) The term ‘body armor’ means any prod-
11 uct sold or offered for sale, in interstate or foreign
12 commerce, as personal protective body covering in-
13 tended to protect against gunfire, regardless of
14 whether the product is to be worn alone or is sold
15 as a complement to another product or garment.

16 “(31) A member of the Armed Forces on active
17 duty is a resident of the State in which his perma-
18 nent duty station is located.

19 **“§ 582. Unlawful Acts**

20 “(a) REGULATORY OFFENSES.—It shall be unlaw-
21 ful—

22 “(1) for any person—

23 “(A) except a licensed importer, licensed
24 manufacturer, or licensed dealer, to engage in
25 the business of importing, manufacturing, or

1 dealing in firearms, or in the course of such
2 business to ship, transport, or receive any fire-
3 arm in interstate or foreign commerce; or

4 “(B) except a licensed importer or licensed
5 manufacturer, to engage in the business of im-
6 porting or manufacturing ammunition, or in the
7 course of such business, to ship, transport, or
8 receive any ammunition in interstate or foreign
9 commerce;

10 “(2) for any importer, manufacturer, dealer, or
11 collector licensed under this chapter to ship or trans-
12 port in interstate or foreign commerce any firearm
13 to any person other than a licensed importer, li-
14 censed manufacturer, licensed dealer, or licensed col-
15 lector, except that—

16 “(A) this paragraph and subsection (b)(3)
17 shall not be held to preclude a licensed im-
18 porter, licensed manufacturer, licensed dealer,
19 or licensed collector from returning a firearm or
20 replacement firearm of the same kind and type
21 to a person from whom it was received; and this
22 paragraph does not preclude an individual from
23 mailing a firearm owned in compliance with
24 Federal, State, and local law to a licensed im-

1 porter, licensed manufacturer, licensed dealer,
2 or licensed collector;

3 “(B) this paragraph does not preclude a li-
4 censed importer, licensed manufacturer, or li-
5 censed dealer from depositing a firearm for con-
6 veyance in the mails to any officer, employee,
7 agent, or watchman who, pursuant to section
8 950, is eligible to receive through the mails pis-
9 tols, revolvers, and other firearms capable of
10 being concealed on the person, for use in con-
11 nection with his official duty; and

12 “(C) nothing in this paragraph shall be
13 construed as applying in any manner in the
14 District of Columbia, the Commonwealth of
15 Puerto Rico, or any possession of the United
16 States differently than it would apply if the
17 District of Columbia, the Commonwealth of
18 Puerto Rico, or the possession were in fact a
19 State of the United States;

20 “(3) for any person, other than a licensed im-
21 porter, licensed manufacturer, licensed dealer, or li-
22 censed collector to transport into or receive in the
23 State where he resides (or if the person is a corpora-
24 tion or other business entity, the State where it
25 maintains a place of business) any fire arm pur-

1 chased or otherwise obtained by such person outside
2 that State, except that this paragraph—

3 “(A) does not preclude any person who
4 lawfully acquires a firearm by bequest or intes-
5 tate succession in a State other than his State
6 of residence from transporting the firearm into
7 or receiving it in that State, if it is lawful for
8 such person to purchase or possess such fire-
9 arm in that State;

10 “(B) does not apply to the transportation
11 or receipt of a firearm obtained in conformity
12 with subsection (b)(3); and

13 “(C) does not apply to the transportation
14 of any firearm acquired in any State before De-
15 cember 16, 1968.

16 “(4) for any person, other than a licensed im-
17 porter, licensed manufacturer, licensed dealer, or li-
18 censed collector, to transport in interstate or foreign
19 commerce any destructive device, machinegun, short-
20 barreled shotgun, or short-barreled rifle, except as
21 specifically authorized by the Attorney General con-
22 sistent with public safety and necessity;

23 “(5) for any person (other than a licensed im-
24 porter, licensed manufacturer, licensed dealer, or li-
25 censed collector) to transfer, sell, trade, give, trans-

1 port, or deliver any firearm to any person (other
2 than a licensed importer, licensed manufacturer, li-
3 censed dealer, or licensed collector) who the trans-
4 feror knows or has reasonable cause to believe does
5 not reside in (or if the person is a corporation or
6 other business entity, does not maintain a place of
7 business in) the State in which the transferor re-
8 sides; except that this paragraph does not apply to
9 (A) the transfer, transportation, or delivery of a fire-
10 arm made to carry out a bequest of a firearm to, or
11 an acquisition by intestate succession of a firearm
12 by, a person who is permitted to acquire or possess
13 a firearm under the laws of the State of his resi-
14 dence, and (B) the loan or rental of a firearm to any
15 person for temporary use for lawful sporting pur-
16 poses;

17 “(6) for any person in connection with the ac-
18 quisition or attempted acquisition of any firearm or
19 ammunition from a licensed importer, licensed man-
20 ufacturer, licensed dealer, or licensed collector,
21 knowingly to make any false or fictitious oral or
22 written statement or to furnish or exhibit any false,
23 fictitious, or misrepresented identification, intended
24 or likely to deceive such importer, manufacturer,
25 dealer, or collector with respect to any fact material

1 to the lawfulness of the sale or other disposition of
2 such firearm or ammunition under this chapter;

3 “(7) for any person to manufacture or import
4 armor piercing ammunition, unless—

5 “(A) the manufacture of such ammunition
6 is for the use of the United States, any depart-
7 ment or agency of the United States, any State,
8 or any department, agency, or political subdivi-
9 sion of a State;

10 “(B) the manufacture of such ammunition
11 is for the purpose of exportation; or

12 “(C) the manufacture or importation of
13 such ammunition is for the purpose of testing
14 or experimentation and has been authorized by
15 the Attorney General;

16 “(8) for any manufacturer or importer to sell or
17 deliver armor piercing ammunition, unless such sale
18 or delivery—

19 “(A) is for the use of the United States,
20 any department or agency of the United States,
21 any State, or any department, agency, or polit-
22 ical subdivision of a State;

23 “(B) is for the purpose of exportation; or

1 “(C) is for the purpose of testing or ex-
2 perimentation and has been authorized by the
3 Attorney General; and

4 “(9) for any person, other than a licensed im-
5 porter, licensed manufacturer, licensed dealer, or li-
6 censed collector, who does not reside in any State to
7 receive any firearms unless such receipt is for lawful
8 sporting purposes.

9 “(b) LICENSEE OFFENSES.—It shall be unlawful for
10 any licensed importer, licensed manufacturer, licensed
11 dealer, or licensed collector to sell or deliver—

12 “(1) any firearm or ammunition to any indi-
13 vidual who the licensee knows or has reasonable
14 cause to believe is less than eighteen years of age,
15 and, if the firearm, or ammunition is other than a
16 shotgun or rifle, or ammunition for a shotgun or
17 rifle, to any individual who the licensee knows or has
18 reasonable cause to believe is less than twenty-one
19 years of age;

20 “(2) any firearm to any person in any State
21 where the purchase or possession by such person of
22 such firearm would be in violation of any State law
23 or any published ordinance applicable at the place of
24 sale, delivery or other disposition, unless the licensee
25 knows or has reasonable cause to believe that the

1 purchase or possession would not be in violation of
2 such State law or such published ordinance;

3 “(3) any firearm to any person who the licensee
4 knows or has reasonable cause to believe does not
5 reside in (or if the person is a corporation or other
6 business entity, does not maintain a place of busi-
7 ness in) the State in which the licensee’s place of
8 business is located, except that this paragraph (A)
9 does not apply to the sale or delivery of any rifle or
10 shotgun to a resident of a State other than a State
11 in which the licensee’s place of business is located if
12 the transferee meets in person with the transferor to
13 accomplish the transfer, and the sale, delivery, and
14 receipt fully comply with the legal conditions of sale
15 in both such States (and any licensed manufacturer,
16 importer or dealer shall be presumed, for purposes
17 of this subparagraph, in the absence of evidence to
18 the contrary, to have had actual knowledge of the
19 State laws and published ordinances of both States),
20 and (B) does not apply to the loan or rental of a
21 firearm to any person for temporary use for lawful
22 sporting purposes;

23 “(4) to any person any destructive device, ma-
24 chinegun, short-barreled shotgun, or short-barreled
25 rifle, except as specifically authorized by the Attor-

1 ney General consistent with public safety and neces-
2 sity; and

3 “(5) any firearm or armor-piercing ammunition
4 to any person unless the licensee notes in his
5 records, required to be kept pursuant to section 583,
6 the name, age, and place of residence of such person
7 if the person is an individual, or the identity and
8 principal and local places of business of such person
9 if the person is a corporation or other business enti-
10 ty.

11 Paragraphs (1), (2), (3), and (4) of this subsection does
12 not apply to transactions between licensed importers, li-
13 censed manufacturers, licensed dealers, and licensed col-
14 lectors. Paragraph (4) of this subsection does not apply
15 to a sale or delivery to any research organization des-
16 igned by the Attorney General.

17 “(c) BACKGROUND CHECK FOR PERSONS NOT AP-
18 PEARING IN PERSON.—In any case not otherwise prohib-
19 ited by this chapter, a licensed importer, licensed manu-
20 facturer, or licensed dealer may sell a firearm to a person
21 who does not appear in person at the licensee’s business
22 premises (other than another licensed importer, manufac-
23 turer, or dealer) only if—

24 “(1) the transferee submits to the transferor a
25 sworn statement in the following form:

1 ‘Subject to penalties provided by law, I swear that, in the
2 case of any firearm other than a shotgun or a rifle, I am
3 twenty-one years or more of age, or that, in the case of
4 a shotgun or a rifle, I am eighteen years or more of age;
5 that I am not prohibited by the provisions of subchapter
6 B of chapter 21 of title 18, United States Code, from re-
7 ceiving a firearm in interstate or foreign commerce; and
8 that my receipt of this firearm will not be in violation of
9 any statute of the State and published ordinance applica-
10 ble to the locality in which I reside. Further, the true title,
11 name, and address of the principal law enforcement officer
12 of the locality to which the firearm will be delivered are
13 — — — — —
14 — — — — — Signature —
15 — — — — — Date — — — — —.’ and con-
16 taining blank spaces for the attachment of a true copy
17 of any permit or other information required pursuant to
18 such statute or published ordinance;

19 “(2) the transferor has, prior to the shipment
20 or delivery of the firearm, forwarded by registered or
21 certified mail (return receipt requested) a copy of
22 the sworn statement, together with a description of
23 the firearm, in a form prescribed by the Attorney
24 General, to the chief law enforcement officer of the
25 transferee’s place of residence, and has received a

1 return receipt evidencing delivery of the statement
2 or has had the statement returned due to the refusal
3 of the named addressee to accept such letter in ac-
4 cordance with United States Post Office Department
5 regulations; and

6 “(3) the transferor has delayed shipment or de-
7 livery for a period of at least seven days following
8 receipt of the notification of the acceptance or re-
9 fusal of delivery of the statement.

10 A copy of the sworn statement and a copy of the notifica-
11 tion to the local law enforcement officer, together with evi-
12 dence of receipt or rejection of that notification shall be
13 retained by the licensee as a part of the records required
14 to be kept under section 583(g).

15 “(d) SALES AND DISPOSITIONS TO PROHIBITED
16 CLASSES OF PERSONS.—It shall be unlawful for any per-
17 son to sell or otherwise dispose of any firearm or ammuni-
18 tion to any person knowing or having reasonable cause to
19 believe that such person—

20 “(1) is under indictment for, or has been con-
21 victed in any court of, a crime punishable by impris-
22 onment for a term exceeding one year;

23 “(2) is a fugitive from justice;

24 “(3) is an unlawful user of or addicted to any
25 controlled substance;

1 “(4) has been adjudicated as a mental defective
2 or has been committed to any mental institution;

3 “(5) is an alien and—

4 “(A) is illegally or unlawfully in the United
5 States; or

6 “(B) except as provided in subsection
7 (y)(2), has been admitted to the United States
8 under a nonimmigrant visa (as that term is de-
9 fined in section 101(a)(26) of the Immigration
10 and Nationality Act);

11 “(6) has been discharged from the Armed
12 Forces under dishonorable conditions;

13 “(7) was a citizen of the United States, and has
14 renounced that citizenship;

15 “(8) is subject to a court order that restrains
16 such person from harassing, stalking, or threatening
17 an intimate partner of such person or child of such
18 intimate partner or person, or engaging in other
19 conduct that would place an intimate partner in rea-
20 sonable fear of bodily injury to the partner or child,
21 except that this paragraph shall only apply to a
22 court order that—

23 “(A) was issued after a hearing of which
24 such person received actual notice, and at which

1 such person had the opportunity to participate;
2 and

3 “(B)(i) includes a finding that such person
4 represents a credible threat to the physical safe-
5 ty of such intimate partner or child; or

6 “(ii) by its terms explicitly prohibits the
7 use, attempted use, or threatened use of phys-
8 ical force against such intimate partner or child
9 that would reasonably be expected to cause bod-
10 ily injury; or

11 “(9) has been convicted in any court of a mis-
12 demeanor crime of domestic violence.

13 This subsection does not apply with respect to the sale
14 or disposition of a firearm or ammunition to a licensed
15 importer, licensed manufacturer, licensed dealer, or li-
16 censed collector who pursuant to subsection (b) of section
17 585 is not precluded from dealing in firearms or ammuni-
18 tion, or to a person who has been granted relief from dis-
19 abilities pursuant to subsection (c) of section 585.

20 “(e) NOTICE TO CARRIER.—It shall be unlawful for
21 any person knowingly to deliver or cause to be delivered
22 to any common or contract carrier for transportation or
23 shipment in interstate or foreign commerce, to persons
24 other than licensed importers, licensed manufacturers, li-
25 censed dealers, or licensed collectors, any package or other

1 container in which there is any firearm or ammunition
2 without written notice to the carrier that such firearm or
3 ammunition is being transported or shipped; except that
4 any passenger who owns or legally possesses a firearm or
5 ammunition being transported aboard any common or con-
6 tract carrier for movement with the passenger in inter-
7 state or foreign commerce may deliver said firearm or am-
8 munition into the custody of the pilot, captain, conductor
9 or operator of such common or contract carrier for the
10 duration of the trip without violating this chapter. No
11 common or contract carrier shall require or cause any
12 label, tag, or other written notice to be placed on the out-
13 side of any package, luggage, or other container that such
14 package, luggage, or other container contains a firearm.

15 “(f) COMMON OR CONTRACT CARRIER OFFENSES.—

16 “(1) It shall be unlawful for any common or
17 contract carrier to transport or deliver in interstate
18 or foreign commerce any firearm or ammunition
19 with knowledge or reasonable cause to believe that
20 the shipment transportation, or receipt thereof
21 would be in violation of this subchapter.

22 “(2) It shall be unlawful for any common or
23 contract carrier to deliver in interstate or foreign
24 commerce any firearm without obtaining written ac-
25 knowledgement of receipt from the recipient of the

1 package or other container in which there is a fire-
2 arm.

3 “(g) PROHIBITIONS ON FIREARM-RELATED ACTIVI-
4 TIES BY CERTAIN PERSONS.—It shall be unlawful for any
5 person—

6 “(1) who has been convicted in any court of, a
7 crime punishable by imprisonment for a term ex-
8 ceeding one year;

9 “(2) who is a fugitive from justice;

10 “(3) who is an unlawful user of or addicted to
11 any controlled substance;

12 “(4) who has been adjudicated as a mental de-
13 fective or who has been committed to a mental insti-
14 tution;

15 “(5) who, being an alien—

16 “(A) is illegally or unlawfully in the United
17 States; or

18 “(B) except as provided in subsection
19 (y)(2), has been admitted to the United States
20 under a nonimmigrant visa (as that term is de-
21 fined in section 101(a)(26) of the Immigration
22 and Nationality Act);

23 “(6) who has been discharged from the Armed
24 Forces under dishonorable conditions;

1 “(7) who, having been a citizen of the United
2 States, has renounced his citizenship;

3 “(8) who is subject to a court order that—

4 “(A) was issued after a hearing of which
5 such person received actual notice, and at which
6 such person had an opportunity to participate;

7 “(B) restrains such person from harassing,
8 stalking, or threatening an intimate partner of
9 such person or child of such intimate partner or
10 person, or engaging in other conduct that would
11 place an intimate partner in reasonable fear of
12 bodily injury to the partner or child; and

13 “(C)(i) includes a finding that such person
14 represents a credible threat to the physical safe-
15 ty of such intimate partner or child; or

16 “(ii) by its terms explicitly prohibits the
17 use, attempted use, or threatened use of phys-
18 ical force against such intimate partner or child
19 that would reasonably be expected to cause bod-
20 ily injury; or

21 “(9) who has been convicted in any court of a
22 misdemeanor crime of domestic violence,
23 to ship or transport in interstate or foreign commerce, or
24 possess in or affecting commerce, any firearm or ammuni-
25 tion; or to receive any firearm or ammunition which has

1 been shipped or transported in interstate or foreign com-
2 merce.

3 “(h) EMPLOYEE OFFENSE.—It shall be unlawful for
4 any individual, who to that individual’s knowledge and
5 while being employed for any person described in any
6 paragraph of subsection (g) of this section, in the course
7 of such employment—

8 “(1) to receive, possess, or transport any fire-
9 arm or ammunition in or affecting interstate or for-
10 eign commerce; or

11 “(2) to receive any firearm or ammunition
12 which has been shipped or transported in interstate
13 or foreign commerce.

14 “(i) TRANSPORT OF STOLEN FIREARMS AND AMMU-
15 NITION.—It shall be unlawful for any person to transport
16 or ship in interstate or foreign commerce, any stolen fire-
17 arms or stolen ammunition, knowing or having reasonable
18 cause to believe that the firearm or ammunition was sto-
19 len.

20 “(j) POSSESSION AND DISPOSITION OF STOLEN
21 FIREARMS AND AMMUNITION.—It shall be unlawful for
22 any person to receive, possess, conceal, store, barter, sell,
23 or dispose of any stolen firearm or stolen ammunition, or
24 pledge or accept as security for a loan any stolen firearm
25 or stolen ammunition, which is moving as, which is a part

1 of, which constitutes, or which has been shipped or trans-
2 ported in, interstate or foreign commerce, either before or
3 after it was stolen, knowing or having reasonable cause
4 to believe that the firearm or ammunition was stolen.

5 “(k) SERIAL NUMBER OFFENSE.—It shall be unlaw-
6 ful for any person knowingly to transport, ship, or receive,
7 in interstate or foreign commerce, any firearm which has
8 had the importer’s or manufacturer’s serial number re-
9 moved, obliterated, or altered or to possess or receive any
10 firearm which has had the importer’s or manufacturer’s
11 serial number removed, obliterated, or altered and has, at
12 any time, been shipped or transported in interstate or for-
13 eign commerce.

14 “(l) IMPORTATION.—Except as provided in section
15 585(d), it shall be unlawful for any person knowingly to
16 import or bring into the United States or any possession
17 thereof any firearm or ammunition; and it shall be unlaw-
18 ful for any person knowingly to receive any firearm or am-
19 munition which has been imported or brought into the
20 United States or any possession thereof in violation of this
21 subchapter.

22 “(m) FALSE ENTRY.—It shall be unlawful for any
23 licensed importer, licensed manufacturer, licensed dealer,
24 or licensed collector knowingly to make any false entry in,
25 to fail to make appropriate entry in, or to fail to properly

1 maintain, any record which he is required to keep pursu-
2 ant to section 583 or regulations promulgated thereunder.

3 “(n) INDICTED PERSONS.—It shall be unlawful for
4 any person who is under indictment for a crime punishable
5 by imprisonment for a term exceeding one year to ship
6 or transport in interstate or foreign commerce any firearm
7 or ammunition or receive any firearm or ammunition
8 which has been shipped or transported in interstate or for-
9 eign commerce.

10 “(o) TRANSFER OR POSSESSION OF MACHINE-
11 GUNS.—

12 “(1) Except as provided in paragraph (2), it
13 shall be unlawful for any person to transfer or pos-
14 sess a machinegun.

15 “(2) This subsection does not apply with re-
16 spect to—

17 “(A) a transfer to or by, or possession by
18 or under the authority of, the United States or
19 any department or agency thereof or a State, or
20 a department, agency, or political subdivision
21 thereof; or

22 “(B) any lawful transfer or lawful posses-
23 sion of a machinegun that was lawfully pos-
24 sessed before the date this subsection takes ef-
25 fect.

1 “(p) NONDETECTABLE FIREARMS.—

2 “(1) It shall be unlawful for any person to man-
3 ufacture, import, sell, ship, deliver, possess, transfer,
4 or receive any firearm—

5 “(A) that, after removal of grips, stocks,
6 and magazines, is not as detectable as the Se-
7 curity Exemplar, by walk-through metal detec-
8 tors calibrated and operated to detect the Secu-
9 rity Exemplar; or

10 “(B) any major component of which, when
11 subjected to inspection by the types of x-ray
12 machines commonly used at airports, does not
13 generate an image that accurately depicts the
14 shape of the component. Barium sulfate or
15 other compounds may be used in the fabrication
16 of the component.

17 “(2) For purposes of this subsection—

18 “(A) the term ‘firearm’ does not include
19 the frame or receiver of any such weapon;

20 “(B) the term ‘major component’ means,
21 with respect to a firearm, the barrel, the slide
22 or cylinder, or the frame or receiver of the fire-
23 arm; and

1 “(C) the term ‘Security Exemplar’ means
2 an object, to be fabricated at the direction of
3 the Attorney General, that is—

4 “(i) constructed of, during the 12-
5 month period beginning on the date of the
6 enactment of this subsection, 3.7 ounces of
7 material type 17–4 PH stainless steel in a
8 shape resembling a handgun; and

9 “(ii) suitable for testing and cali-
10 brating metal detectors;

11 but, at the close of such 12-month period, and
12 at appropriate times thereafter the Attorney
13 General shall prescribe regulations to permit
14 the manufacture, importation, sale, shipment,
15 delivery, possession, transfer, or receipt of fire-
16 arms previously prohibited under this subpara-
17 graph that are as detectable as a ‘Security Ex-
18 emplar’ which contains 3.7 ounces of material
19 type 17–4 PH stainless steel, in a shape resem-
20 bling a handgun, or such lesser amount as is
21 detectable in view of advances in state-of-the-
22 art developments in weapons detection tech-
23 nology

24 “(3) Under such rules and regulations as the
25 Attorney General shall prescribe, this subsection

1 does not apply to the manufacture, possession,
2 transfer, receipt, shipment, or delivery of a firearm
3 by a licensed manufacturer or any person acting
4 pursuant to a contract with a licensed manufacturer,
5 for the purpose of examining and testing such fire-
6 arm to determine whether paragraph (1) applies to
7 such firearm. The Attorney General shall ensure
8 that rules and regulations adopted pursuant to this
9 paragraph do not impair the manufacture of proto-
10 type firearms or the development of new technology.

11 “(4) The Attorney General shall permit the
12 conditional importation of a firearm by a licensed
13 importer or licensed manufacturer, for examination
14 and testing to determine whether or not the uncon-
15 ditional importation of such firearm would violate
16 this subsection.

17 “(5) This subsection does not apply to any fire-
18 arm which—

19 “(A) has been certified by the Secretary of
20 Defense or the Director of Central Intelligence,
21 after consultation with the Attorney General
22 and the Administrator of the Federal Aviation
23 Administration, as necessary for military or in-
24 telligence applications; and

1 “(B) is manufactured for and sold exclu-
2 sively to military or intelligence agencies of the
3 United States.

4 “(6) This subsection does not apply with re-
5 spect to any firearm manufactured in, imported into,
6 or possessed in the United States before the date of
7 the enactment of the Undetectable Firearms Act of
8 1988.

9 “(q) SCHOOL ZONES.—

10 “(1) The Congress finds and declares that—

11 “(A) crime, particularly crime involving
12 drugs and guns, is a pervasive, nationwide
13 problem;

14 “(B) crime at the local level is exacerbated
15 by the interstate movement of drugs, guns, and
16 criminal gangs;

17 “(C) firearms and ammunition move easily
18 in interstate commerce and have been found in
19 increasing numbers in and around schools, as
20 documented in numerous hearings in both the
21 Committee on the Judiciary of the House of
22 Representatives and the Committee on the Ju-
23 diciary of the Senate;

24 “(D) in fact, even before the sale of a fire-
25 arm, the gun, its component parts, ammunition,

1 and the raw materials from which they are
2 made have considerably moved in interstate
3 commerce;

4 “(E) while criminals freely move from
5 State to State, ordinary citizens and foreign
6 visitors may fear to travel to or through certain
7 parts of the country due to concern about vio-
8 lent crime and gun violence, and parents may
9 decline to send their children to school for the
10 same reason;

11 “(F) the occurrence of violent crime in
12 school zones has resulted in a decline in the
13 quality of education in our country;

14 “(G) this decline in the quality of edu-
15 cation has an adverse impact on interstate com-
16 merce and the foreign commerce of the United
17 States;

18 “(H) States, localities, and school systems
19 find it almost impossible to handle gun-related
20 crime by themselves--even States, localities, and
21 school systems that have made strong efforts to
22 prevent, detect, and punish gun-related crime
23 find their efforts unavailing due in part to the
24 failure or inability of other States or localities
25 to take strong measures; and

1 “(I) the Congress has the power, under the
2 interstate commerce clause and other provisions
3 of the Constitution, to enact measures to ensure
4 the integrity and safety of the Nation’s schools
5 by enactment of this subsection.

6 “(2)(A) It shall be unlawful for any individual
7 knowingly to possess a firearm that has moved in or
8 that otherwise affects interstate or foreign commerce
9 at a place that the individual knows, or has reason-
10 able cause to believe, is a school zone.

11 “(B) Subparagraph (A) does not apply to the
12 possession of a firearm—

13 “(i) on private property not part of school
14 grounds;

15 “(ii) if the individual possessing the fire-
16 arm is licensed to do so by the State in which
17 the school zone is located or a political subdivi-
18 sion of the State, and the law of the State or
19 political subdivision requires that, before an in-
20 dividual obtains such a license, the law enforce-
21 ment authorities of the State or political sub-
22 division verify that the individual is qualified
23 under law to receive the license;

24 “(iii) that is—

25 “(I) not loaded; and

1 “(II) in a locked container, or a
2 locked firearms rack that is on a motor ve-
3 hicle;

4 “(iv) by an individual for use in a program
5 approved by a school in the school zone;

6 “(v) by an individual in accordance with a
7 contract entered into between a school in the
8 school zone and the individual or an employer
9 of the individual;

10 “(vi) by a law enforcement officer acting in
11 his or her official capacity; or

12 “(vii) that is unloaded and is possessed by
13 an individual while traversing school premises
14 for the purpose of gaining access to public or
15 private lands open to hunting, if the entry on
16 school premises is authorized by school authori-
17 ties.

18 “(3)(A) Except as provided in subparagraph
19 (B), it shall be unlawful for any person, knowingly
20 or with reckless disregard for the safety of another,
21 to discharge or attempt to discharge a firearm that
22 has moved in or that otherwise affects interstate or
23 foreign commerce at a place that the person knows
24 is a school zone.

1 “(B) Subparagraph (A) does not apply to the
2 discharge of a firearm—

3 “(i) on private property not part of school
4 grounds;

5 “(ii) as part of a program approved by a
6 school in the school zone, by an individual who
7 is participating in the program;

8 “(iii) by an individual in accordance with a
9 contract entered into between a school in a
10 school zone and the individual or an employer
11 of the individual; or

12 “(iv) by a law enforcement officer acting in
13 his or her official capacity.

14 “(r) IMPORTATION OF PARTS.—It shall be unlawful
15 for any person to assemble from imported parts any semi-
16 automatic rifle or any shotgun which is identical to any
17 rifle or shotgun prohibited from importation under section
18 585(d)(3) as not being particularly suitable for or readily
19 adaptable to sporting purposes except that this subsection
20 does not apply to—

21 “(1) the assembly of any such rifle or shotgun
22 for sale or distribution by a licensed manufacturer to
23 the United States or any department or agency
24 thereof or to any State or any department, agency,
25 or political subdivision thereof; or

1 “(2) the assembly of any such rifle or shotgun
2 for the purposes of testing or experimentation au-
3 thorized by the Attorney General.

4 “(s) BACKGROUND CHECK FOR HANDGUNS.—

5 “(1) Beginning on the date that is 90 days
6 after the date of enactment of this subsection and
7 ending on the day before the date that is 60 months
8 after such date of enactment, it shall be unlawful for
9 any licensed importer, licensed manufacturer, or li-
10 censed dealer to sell, deliver, or transfer a handgun
11 (other than the return of a handgun to the person
12 from whom it was received) to an individual who is
13 not licensed under section 583, unless—

14 “(A) after the most recent proposal of such
15 transfer by the transferee—

16 “(i) the transferor has—

17 “(I) received from the transferee a
18 statement of the transferee containing the
19 information described in paragraph (3);

20 “(II) verified the identity of the trans-
21 feree by examining the identification docu-
22 ment presented;

23 “(III) within 1 day after the trans-
24 feree furnishes the statement, provided no-
25 tice of the contents of the statement to the

1 chief law enforcement officer of the place
2 of residence of the transferee; and

3 “(IV) within 1 day after the trans-
4 feree furnishes the statement, transmitted
5 a copy of the statement to the chief law
6 enforcement officer of the place of resi-
7 dence of the transferee; and

8 “(ii)(I) 5 business days (meaning days on
9 which State offices are open) have elapsed from
10 the date the transferor furnished notice of the
11 contents of the statement to the chief law en-
12 forcement officer, during which period the
13 transferor has not received information from
14 the chief law enforcement officer that receipt or
15 possession of the handgun by the transferee
16 would be in violation of Federal, State, or local
17 law; or

18 “(II) the transferor has received notice
19 from the chief law enforcement officer that the
20 officer has no information indicating that re-
21 ceipt or possession of the handgun by the trans-
22 feree would violate Federal, State, or local law;

23 “(B) the transferee has presented to the trans-
24 feror a written statement, issued by the chief law en-
25 forcement officer of the place of residence of the

1 transferee during the 10-day period ending on the
2 date of the most recent proposal of such transfer by
3 the transferee, stating that the transferee requires
4 access to a handgun because of a threat to the life
5 of the transferee or of any member of the household
6 of the transferee;

7 “(C)(i) the transferee has presented to the
8 transferor a permit that—

9 “(I) allows the transferee to possess or ac-
10 quire a handgun; and

11 “(II) was issued not more than 5 years
12 earlier by the State in which the transfer is to
13 take place; and

14 “(ii) the law of the State provides that such a
15 permit is to be issued only after an authorized gov-
16 ernment official has verified that the information
17 available to such official does not indicate that pos-
18 session of a handgun by the transferee would be in
19 violation of the law;

20 “(D) the law of the State requires that, before
21 any licensed importer, licensed manufacturer, or li-
22 censed dealer completes the transfer of a handgun to
23 an individual who is not licensed under section 583,
24 an authorized government official verify that the in-
25 formation available to such official does not indicate

1 that possession of a handgun by the transferee
2 would be in violation of law;

3 “(E) the Attorney General has approved the
4 transfer under section 5812 of the Internal Revenue
5 Code of 1986; or

6 “(F) on application of the transferor, the Attor-
7 ney General has certified that compliance with sub-
8 paragraph (A)(i)(III) is impracticable because—

9 “(i) the ratio of the number of law enforce-
10 ment officers of the State in which the transfer
11 is to occur to the number of square miles of
12 land area of the State does not exceed 0.0025;

13 “(ii) the business premises of the trans-
14 feror at which the transfer is to occur are ex-
15 tremely remote in relation to the chief law en-
16 forcement officer; and

17 “(iii) there is an absence of telecommuni-
18 cations facilities in the geographical area in
19 which the business premises are located.

20 “(2) A chief law enforcement officer to whom a trans-
21 feror has provided notice pursuant to paragraph
22 (1)(A)(i)(III) shall make a reasonable effort to ascertain
23 within 5 business days whether receipt or possession would
24 be in violation of the law, including research in whatever

1 State and local recordkeeping systems are available and
2 in a national system designated by the Attorney General.

3 “(3) The statement referred to in paragraph
4 (1)(A)(i)(I) shall contain only—

5 “(A) the name, address, and date of birth ap-
6 pearing on a valid identification document (as de-
7 fined in section 783(d)(3)) of the transferee con-
8 taining a photograph of the transferee and a de-
9 scription of the identification used;

10 “(B) a statement that the transferee—

11 “(i) is not under indictment for, and has
12 not been convicted in any court of, a crime pun-
13 ishable by imprisonment for a term exceeding 1
14 year, and has not been convicted in any court
15 of a misdemeanor crime of domestic violence;

16 “(ii) is not a fugitive from justice;

17 “(iii) is not an unlawful user of or addicted
18 to any controlled substance;

19 “(iv) has not been adjudicated as a mental
20 defective or been committed to a mental institu-
21 tion;

22 “(v) is not an alien who—

23 “(I) is illegally or unlawfully in the
24 United States; or

1 “(II) subject to subsection (y)(2), has
2 been admitted to the United States under
3 a nonimmigrant visa (as that term is de-
4 fined in section 101(a)(26) of the Immi-
5 gration and Nationality Act);

6 “(vi) has not been discharged from the
7 Armed Forces under dishonorable conditions;
8 and

9 “(vii) is not a person who, having been a
10 citizen of the United States, has renounced
11 such citizenship;

12 “(C) the date the statement is made; and

13 “(D) notice that the transferee intends to ob-
14 tain a handgun from the transferor.

15 “(4) Any transferor of a handgun who, after such
16 transfer, receives a report from a chief law enforcement
17 officer containing information that receipt or possession
18 of the handgun by the transferee violates Federal, State,
19 or local law shall, within 1 business day after receipt of
20 such request, communicate any information related to the
21 transfer that the transferor has about the transfer and
22 the transferee to—

23 “(A) the chief law enforcement officer of the
24 place of business of the transferor; and

1 “(B) the chief law enforcement officer of the
2 place of residence of the transferee.

3 “(5) Any transferor who receives information, not
4 otherwise available to the public, in a report under this
5 subsection shall not disclose such information except to
6 the transferee, to law enforcement authorities, or pursuant
7 to the direction of a court of law.

8 “(6)(A) Any transferor who sells, delivers, or other-
9 wise transfers a handgun to a transferee shall retain the
10 copy of the statement of the transferee with respect to
11 the handgun transaction, and shall retain evidence that
12 the transferor has complied with subclauses (III) and (IV)
13 of paragraph (1)(A)(i) with respect to the statement.

14 “(B) Unless the chief law enforcement officer to
15 whom a statement is transmitted under paragraph
16 (1)(A)(i)(IV) determines that a transaction would violate
17 Federal, State, or local law—

18 “(i) the officer shall, within 20 business days
19 after the date the transferee made the statement on
20 the basis of which the notice was provided, destroy
21 the statement, any record containing information de-
22 rived from the statement, and any record created as
23 a result of the notice required by paragraph
24 (1)(A)(i)(III);

1 “(ii) the information contained in the statement
2 shall not be conveyed to any person except a person
3 who has a need to know in order to carry out this
4 subsection; and

5 “(iii) the information contained in the state-
6 ment shall not be used for any purpose other than
7 to carry out this subsection.

8 “(C) If a chief law enforcement officer determines
9 that an individual is ineligible to receive a handgun and
10 the individual requests the officer to provide the reason
11 for such determination, the officer shall provide such rea-
12 sons to the individual in writing within 20 business days
13 after receipt of the request.

14 “(7) A chief law enforcement officer or other person
15 responsible for providing criminal history background in-
16 formation pursuant to this subsection shall not be liable
17 in an action at law for damages—

18 “(A) for failure to prevent the sale or transfer
19 of a handgun to a person whose receipt or posses-
20 sion of the handgun is unlawful under this section;
21 or

22 “(B) for preventing such a sale or transfer to
23 a person who may lawfully receive or possess a
24 handgun.

1 “(8) For purposes of this subsection, the term ‘chief
2 law enforcement officer’ means the chief of police, the
3 sheriff, or an equivalent officer or the designee of any such
4 individual.

5 “(9) The Attorney General shall take necessary ac-
6 tions to ensure that the provisions of this subsection are
7 published and disseminated to licensed dealers, law en-
8 forcement officials, and the public.

9 “(t) INSTANT BACKGROUND CHECK.—

10 “(1) Beginning on the date that is 30 days
11 after the Attorney General notifies licensees under
12 section 103(d) of the Brady Handgun Violence Pre-
13 vention Act that the national instant criminal back-
14 ground check system is established, a licensed im-
15 porter, licensed manufacturer, or licensed dealer
16 shall not transfer a firearm to any other person who
17 is not licensed under this chapter, unless—

18 “(A) before the completion of the transfer,
19 the licensee contacts the national instant crimi-
20 nal background check system established under
21 section 103 of that Act;

22 “(B)(i) the system provides the licensee
23 with a unique identification number; or

24 “(ii) 3 business days (meaning a day on
25 which State offices are open) have elapsed since

1 the licensee contacted the system, and the sys-
2 tem has not notified the licensee that the re-
3 ceipt of a firearm by such other person would
4 violate subsection (g) or (n) of this section; and

5 “(C) the transferor has verified the iden-
6 tity of the transferee by examining a valid iden-
7 tification document (as defined in section
8 783(d)) of the transferee containing a photo-
9 graph of the transferee.

10 “(2) If receipt of a firearm would not violate
11 subsection (g) or (n) or State law, the system
12 shall—

13 “(A) assign a unique identification number
14 to the transfer;

15 “(B) provide the licensee with the number;
16 and

17 “(C) destroy all records of the system with
18 respect to the call (other than the identifying
19 number and the date the number was assigned)
20 and all records of the system relating to the
21 person or the transfer.

22 “(3) Paragraph (1) does not apply to a firearm
23 transfer between a licensee and another person if—

24 “(A)(i) such other person has presented to
25 the licensee a permit that—

1 “(I) allows such other person to pos-
2 sess or acquire a firearm; and

3 “(II) was issued not more than 5
4 years earlier by the State in which the
5 transfer is to take place; and

6 “(ii) the law of the State provides that
7 such a permit is to be issued only after an au-
8 thorized government official has verified that
9 the information available to such official does
10 not indicate that possession of a firearm by
11 such other person would be in violation of law;

12 “(B) the Attorney General has approved
13 the transfer under section 5812 of the Internal
14 Revenue Code of 1986; or

15 “(C) on application of the transferor, the
16 Attorney General has certified that compliance
17 with paragraph (1)(A) is impracticable be-
18 cause—

19 “(i) the ratio of the number of law en-
20 forcement officers of the State in which
21 the transfer is to occur to the number of
22 square miles of land area of the State does
23 not exceed 0.0025;

24 “(ii) the business premises of the li-
25 censee at which the transfer is to occur are

1 extremely remote in relation to the chief
2 law enforcement officer (as defined in sub-
3 section (s)(8)); and

4 “(iii) there is an absence of tele-
5 communications facilities in the geo-
6 graphical area in which the business prem-
7 ises are located.

8 “(4) If the national instant criminal back-
9 ground check system notifies the licensee that the
10 information available to the system does not dem-
11 onstrate that the receipt of a firearm by such other
12 person would violate subsection (g) or (n) or State
13 law, and the licensee transfers a firearm to such
14 other person, the licensee shall include in the record
15 of the transfer the unique identification number pro-
16 vided by the system with respect to the transfer.

17 “(5) If the licensee knowingly transfers a fire-
18 arm to such other person and knowingly fails to
19 comply with paragraph (1) of this subsection with
20 respect to the transfer and, at the time such other
21 person most recently proposed the transfer, the na-
22 tional instant criminal background check system was
23 operating and information was available to the sys-
24 tem demonstrating that receipt of a firearm by such
25 other person would violate subsection (g) or (n) of

1 this section or State law, the Attorney General may,
2 after notice and opportunity for a hearing, suspend
3 for not more than 6 months or revoke any license
4 issued to the licensee under section 583, and may
5 impose on the licensee a civil fine of not more than
6 \$5,000.

7 “(6) Neither a local government nor an em-
8 ployee of the Federal Government or of any State or
9 local government, responsible for providing informa-
10 tion to the national instant criminal background
11 check system shall be liable in an action at law for
12 damages—

13 “(A) for failure to prevent the sale or
14 transfer of a firearm to a person whose receipt
15 or possession of the firearm is unlawful under
16 this section; or

17 “(B) for preventing such a sale or transfer
18 to a person who may lawfully receive or possess
19 a firearm.

20 “(u) THEFT.—It shall be unlawful for a person to
21 steal or unlawfully take or carry away from the person
22 or the premises of a person who is licensed to engage in
23 the business of importing, manufacturing, or dealing in
24 firearms, any firearm in the licensee’s business inventory

1 that has been shipped or transported in interstate or for-
2 eign commerce.

3 “(v) TRANSFERS TO JUVENILES.—

4 “(1) It shall be unlawful for a person to sell,
5 deliver, or otherwise transfer to a person who the
6 transferor knows or has reasonable cause to believe
7 is a juvenile—

8 “(A) a handgun; or

9 “(B) ammunition that is suitable for use
10 only in a handgun.

11 “(2) It shall be unlawful for any person who is
12 a juvenile to knowingly possess—

13 “(A) a handgun; or

14 “(B) ammunition that is suitable for use
15 only in a handgun.

16 “(3) This subsection does not apply to—

17 “(A) a temporary transfer of a handgun or
18 ammunition to a juvenile or to the possession or
19 use of a handgun or ammunition by a juvenile
20 if the handgun and ammunition are possessed
21 and used by the juvenile—

22 “(i) in the course of employment, in
23 the course of ranching or farming related
24 to activities at the residence of the juvenile
25 (or on property used for ranching or farm-

1 ing at which the juvenile, with the permis-
2 sion of the property owner or lessee, is per-
3 forming activities related to the operation
4 of the farm or ranch), target practice,
5 hunting, or a course of instruction in the
6 safe and lawful use of a handgun;

7 “(ii) with the prior written consent of
8 the juvenile’s parent or guardian who is
9 not prohibited by Federal, State, or local
10 law from possessing a firearm, except—

11 “(I) during transportation by the
12 juvenile of an unloaded handgun in a
13 locked container directly from the
14 place of transfer to a place at which
15 an activity described in clause (i) is to
16 take place and transportation by the
17 juvenile of that handgun, unloaded
18 and in a locked container, directly
19 from the place at which such an activ-
20 ity took place to the transferor; or

21 “(II) with respect to ranching or
22 farming activities as described in
23 clause (i), a juvenile may possess and
24 use a handgun or ammunition with
25 the prior written approval of the juve-

1 nile’s parent or legal guardian and at
2 the direction of an adult who is not
3 prohibited by Federal, State or local
4 law from possessing a firearm; or

5 “(iii) the juvenile has the prior writ-
6 ten consent in the juvenile’s possession at
7 all times when a handgun is in the posses-
8 sion of the juvenile; and

9 “(iv) in accordance with State and
10 local law;

11 “(B) a juvenile who is a member of the
12 Armed Forces of the United States or the Na-
13 tional Guard who possesses or is armed with a
14 handgun in the line of duty;

15 “(C) a transfer by inheritance of title (but
16 not possession) of a handgun or ammunition to
17 a juvenile; or

18 “(D) the possession of a handgun or am-
19 munition by a juvenile taken in defense of the
20 juvenile or other persons against an intruder
21 into the residence of the juvenile or a residence
22 in which the juvenile is an invited guest.

23 “(4) A handgun or ammunition, the possession
24 of which is transferred to a juvenile in circumstances
25 in which the transferor is not in violation of this

1 subsection shall not be subject to permanent confis-
2 cation by the Government if its possession by the ju-
3 venile subsequently becomes unlawful because of the
4 conduct of the juvenile, but shall be returned to the
5 lawful owner when such handgun or ammunition is
6 no longer required by the Government for the pur-
7 poses of investigation or prosecution.

8 “(5) For purposes of this subsection, the term
9 ‘juvenile’ means a person who is less than 18 years
10 of age.

11 “(6)(A) In a prosecution of a violation of this
12 subsection, the court shall require the presence of a
13 juvenile defendant’s parent or legal guardian at all
14 proceedings.

15 “(B) The court may use the contempt power to
16 enforce subparagraph (A).

17 “(C) The court may excuse attendance of a par-
18 ent or legal guardian of a juvenile defendant at a
19 proceeding in a prosecution of a violation of this
20 subsection for good cause shown.

21 “(w) PROVISIONS RELATING TO ALIENS ADMITTED
22 UNDER NONIMMIGRANT VISAS.—

23 “(1) DEFINITIONS.—In this subsection—

1 “(A) the term ‘alien’ has the same mean-
2 ing as in section 101(a)(3) of the Immigration
3 and Nationality Act; and

4 “(B) the term ‘nonimmigrant visa’ has the
5 same meaning as in section 101(a)(26) of the
6 Immigration and Nationality Act.

7 “(2) EXCEPTIONS.—Subsections (d)(5)(B),
8 (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any
9 alien who has been lawfully admitted to the United
10 States under a nonimmigrant visa, if that alien is—

11 “(A) admitted to the United States for
12 lawful hunting or sporting purposes or is in
13 possession of a hunting license or permit law-
14 fully issued in the United States;

15 “(B) an official representative of a foreign
16 government who is—

17 “(i) accredited to the United States
18 Government or the Government’s mission
19 to an international organization having its
20 headquarters in the United States; or

21 “(ii) en route to or from another
22 country to which that alien is accredited;

23 “(C) an official of a foreign government or
24 a distinguished foreign visitor who has been so
25 designated by the Department of State; or

1 “(D) a foreign law enforcement officer of
2 a friendly foreign government entering the
3 United States on official law enforcement busi-
4 ness.

5 “(3) WAIVER.—

6 “(A) CONDITIONS FOR WAIVER.—Any indi-
7 vidual who has been admitted to the United
8 States under a nonimmigrant visa may receive
9 a waiver from the requirements of subsection
10 (g)(5), if—

11 “(i) the individual submits to the At-
12 torney General a petition that meets the
13 requirements of subparagraph (C); and

14 “(ii) the Attorney General approves
15 the petition.

16 “(B) PETITION.—Each petition under sub-
17 paragraph (B) shall—

18 “(i) demonstrate that the petitioner
19 has resided in the United States for a con-
20 tinuous period of not less than 180 days
21 before the date on which the petition is
22 submitted under this paragraph; and

23 “(ii) include a written statement from
24 the embassy or consulate of the petitioner,
25 authorizing the petitioner to acquire a fire-

1 arm or ammunition and certifying that the
2 alien would not, absent the application of
3 subsection (g)(5)(B), otherwise be prohib-
4 ited from such acquisition under subsection
5 (g).

6 “(C) APPROVAL OF PETITION.—The Attor-
7 ney General shall approve a petition submitted
8 in accordance with this paragraph, if the Attor-
9 ney General determines that waiving the re-
10 quirements of subsection (g)(5)(B) with respect
11 to the petitioner—

12 “(i) would be in the interests of jus-
13 tice; and

14 “(ii) would not jeopardize the public
15 safety.

16 “(x) SECURE GUN STORAGE OR SAFETY DEVICE.—

17 “(1) IN GENERAL.—Except as provided under
18 paragraph (2), it shall be unlawful for any licensed
19 importer, licensed manufacturer, or licensed dealer
20 to sell, deliver, or transfer any handgun to any per-
21 son other than any person licensed under this chap-
22 ter, unless the transferee is provided with a secure
23 gun storage or safety device (as defined in section
24 581(29)) for that handgun.

1 “(2) EXCEPTIONS.—Paragraph (1) does not
2 apply to—

3 “(A)(i) the manufacture for, transfer to, or
4 possession by, the United States, a department
5 or agency of the United States, a State, or a
6 department, agency, or political subdivision of a
7 State, of a handgun; or

8 “(ii) the transfer to, or possession by,
9 a law enforcement officer employed by an
10 entity referred to in clause (i) of a hand-
11 gun for law enforcement purposes (whether
12 on or off duty); or

13 “(B) the transfer to, or possession by, a
14 rail police officer employed by a rail carrier and
15 certified or commissioned as a police officer
16 under the laws of a State of a handgun for pur-
17 poses of law enforcement (whether on or off
18 duty);

19 “(C) the transfer to any person of a hand-
20 gun listed as a curio or relic by the Secretary
21 pursuant to section 581(a)(13); or

22 “(D) the transfer to any person of a hand-
23 gun for which a secure gun storage or safety
24 device is temporarily unavailable for the reasons
25 described in the exceptions stated in section

1 923(e), if the licensed manufacturer, licensed
2 importer, or licensed dealer delivers to the
3 transferee within 10 calendar days from the
4 date of the delivery of the handgun to the
5 transferee a secure gun storage or safety device
6 for the handgun.

7 “(3) LIABILITY FOR USE.—

8 “(A) IN GENERAL.—Notwithstanding any
9 other provision of law, a person who has lawful
10 possession and control of a handgun, and who
11 uses a secure gun storage or safety device with
12 the handgun, shall be entitled to immunity from
13 a qualified civil liability action.

14 “(B) PROSPECTIVE ACTIONS.—A qualified
15 civil liability action may not be brought in any
16 Federal or State court.

17 “(C) DEFINED TERM.—As used in this
18 paragraph, the term ‘qualified civil liability ac-
19 tion’—

20 “(i) means a civil action brought by
21 any person against a person described in
22 subparagraph (A) for damages resulting
23 from the criminal or unlawful misuse of
24 the handgun by a third party, if—

1 “(I) the handgun was accessed
2 by another person who did not have
3 the permission or authorization of the
4 person having lawful possession and
5 control of the handgun to have access
6 to it; and

7 “(II) at the time access was
8 gained by the person not so author-
9 ized, the handgun had been made in-
10 operable by use of a secure gun stor-
11 age or safety device; and

12 “(ii) does not include an action
13 brought against the person having lawful
14 possession and control of the handgun for
15 negligent entrustment or negligence per se.

16 **“§ 583. Licensing**

17 “(a) IN GENERAL.—No person shall engage in the
18 business of importing, manufacturing, or dealing in fire-
19 arms, or importing or manufacturing ammunition, until
20 he has filed an application with and received a license to
21 do so from the Attorney General. The application shall
22 be in such form and contain only that information nec-
23 essary to determine eligibility for licensing as the Attorney
24 General shall by regulation prescribe and shall include a
25 photograph and fingerprints of the applicant. Each appli-

1 cant shall pay a fee for obtaining such a license, a separate
2 fee being required for each place in which the applicant
3 is to do business, as follows:

4 “(1) If the applicant is a manufacturer—

5 “(A) of destructive devices, ammunition for
6 destructive devices or armor piercing ammuni-
7 tion, a fee of \$1,000 per year;

8 “(B) of firearms other than destructive de-
9 vices, a fee of \$50 per year; or

10 “(C) of ammunition for firearms, other
11 than ammunition for destructive devices or
12 armor piercing ammunition, a fee of \$10 per
13 year.

14 “(2) If the applicant is an importer—

15 “(A) of destructive devices, ammunition for
16 destructive devices or armor piercing ammuni-
17 tion, a fee of \$1,000 per year; or

18 “(B) of firearms other than destructive de-
19 vices or ammunition for firearms other than de-
20 structive devices, or ammunition other than
21 armor piercing ammunition, a fee of \$50 per
22 year.

23 “(3) If the applicant is a dealer—

1 “(A) in destructive devices or ammunition
2 for destructive devices, a fee of \$1,000 per year;
3 or

4 “(B) who is not a dealer in destructive de-
5 vices, a fee of \$200 for 3 years, except that the
6 fee for renewal of a valid license shall be \$90
7 for 3 years.

8 “(b) COLLECTORS.—Any person desiring to be li-
9 censed as a collector shall file an application for such li-
10 cense with the Attorney General. The application shall be
11 in such form and contain only that information necessary
12 to determine eligibility as the Attorney General shall by
13 regulation prescribe. The fee for such license shall be \$10
14 per year. Any license granted under this subsection shall
15 only apply to transactions in curios and relics.

16 “(c) ISSUANCE.—Upon the filing of a proper applica-
17 tion and payment of the prescribed fee, the Attorney Gen-
18 eral shall issue to a qualified applicant the appropriate li-
19 cense which, subject to this chapter and other applicable
20 provisions of law, shall entitle the licensee to transport,
21 ship, and receive firearms and ammunition covered by
22 such license in interstate or foreign commerce during the
23 period stated in the license. Nothing in this chapter shall
24 be construed to prohibit a licensed manufacturer, im-
25 porter, or dealer from maintaining and disposing of a per-

1 sonal collection of firearms, subject only to such restric-
2 tions as apply in this chapter to dispositions by a person
3 other than a licensed manufacturer, importer, or dealer.
4 If any firearm is so disposed of by a licensee within one
5 year after its transfer from his business inventory into
6 such licensee's personal collection or if such disposition or
7 any other acquisition is made for the purpose of willfully
8 evading the restrictions placed upon licensees by this chap-
9 ter, then such firearm shall be deemed part of such licens-
10 ee's business inventory, except that any licensed manufac-
11 turer, importer, or dealer who has maintained a firearm
12 as part of a personal collection for one year and who sells
13 or otherwise disposes of such firearm shall record the de-
14 scription of the firearm in a bound volume, containing the
15 name and place of residence and date of birth of the trans-
16 feree if the transferee is an individual, or the identity and
17 principal and local places of business of the transferee if
18 the transferee is a corporation or other business entity,
19 but no other recordkeeping shall be required.

20 “(d) REQUIREMENTS FOR GRANTING.—

21 “(1) Any application submitted under sub-
22 section (a) or (b) of this section shall be approved
23 if—

24 “(A) the applicant is twenty-one years of
25 age or over;

1 “(B) the applicant (including, in the case
2 of a corporation, partnership, or association,
3 any individual possessing, directly or indirectly,
4 the power to direct or cause the direction of the
5 management and policies of the corporation,
6 partnership, or association) is not prohibited
7 from transporting, shipping, or receiving fire-
8 arms or ammunition in interstate or foreign
9 commerce under section 582(g) and (n);

10 “(C) the applicant has not willfully violated
11 any of the provisions of this subchapter or reg-
12 ulations issued thereunder;

13 “(D) the applicant has not willfully failed
14 to disclose any material information required,
15 or has not made any false statement as to any
16 material fact, in connection with his application;

17 “(E) the applicant has in a State (i) prem-
18 ises from which he conducts business subject to
19 license under this chapter or from which he in-
20 tends to conduct such business within a reason-
21 able period of time, or (ii) in the case of a col-
22 lector, premises from which he conducts his col-
23 lecting subject to license under this chapter or
24 from which he intends to conduct such col-
25 lecting within a reasonable period of time;

1 “(F) the applicant certifies that—

2 “(i) the business to be conducted
3 under the license is not prohibited by State
4 or local law in the place where the licensed
5 premise is located;

6 “(ii)(I) within 30 days after the appli-
7 cation is approved the business will comply
8 with the requirements of State and local
9 law applicable to the conduct of the busi-
10 ness; and

11 “(II) the business will not be con-
12 ducted under the license until the require-
13 ments of State and local law applicable to
14 the business have been met; and

15 “(iii) that the applicant has sent or
16 delivered a form to be prescribed by the
17 Attorney General, to the chief law enforce-
18 ment officer of the locality in which the
19 premises are located, which indicates that
20 the applicant intends to apply for a Fed-
21 eral firearms license; and

22 “(G) in the case of an application to be li-
23 censed as a dealer, the applicant certifies that
24 secure gun storage or safety devices will be
25 available at any place in which firearms are

1 sold under the license to persons who are not
2 licensees (subject to the exception that in any
3 case in which a secure gun storage or safety de-
4 vice is temporarily unavailable because of theft,
5 casualty loss, consumer sales, backorders from
6 a manufacturer, or any other similar reason be-
7 yond the control of the licensee, the dealer shall
8 not be considered to be in violation of the re-
9 quirement under this subparagraph to make
10 available such a device).

11 “(2) The Attorney General must approve or
12 deny an application for a license within the 60-day
13 period beginning on the date it is received. If the At-
14 torney General fails to act within such period, the
15 applicant may file an action under section 1361 of
16 title 28 to compel the Attorney General to act. If the
17 Attorney General approves an applicant’s applica-
18 tion, such applicant shall be issued a license upon
19 the payment of the prescribed fee.

20 “(e) REVOCATION.—The Attorney General may, after
21 notice and opportunity for hearing, revoke any license
22 issued under this section if the holder of such license has
23 willfully violated any provision of this subchapter or any
24 rule or regulation prescribed by the Attorney General
25 under this chapter or fails to have secure gun storage or

1 safety devices available at any place in which firearms are
2 sold under the license to persons who are not licensees
3 (except that in any case in which a secure gun storage
4 or safety device is temporarily unavailable because of
5 theft, casualty loss, consumer sales, backorders from a
6 manufacturer, or any other similar reason beyond the con-
7 trol of the licensee, the dealer shall not be considered to
8 be in violation of the requirement to make available such
9 a device). The Attorney General may, after notice and op-
10 portunity for hearing, revoke the license of a dealer who
11 willfully transfers armor piercing ammunition. The Attor-
12 ney General's action under this subsection may be re-
13 viewed only as provided in subsection (f) of this section.

14 “(f) ADVERSE ACTIONS.—

15 “(1) Any person whose application for a license
16 is denied and any holder of a license which is re-
17 voked shall receive a written notice from the Attor-
18 ney General stating specifically the grounds upon
19 which the application was denied or upon which the
20 license was revoked. Any notice of a revocation of a
21 license shall be given to the holder of such license
22 before the effective date of the revocation.

23 “(2) If the Attorney General denies an applica-
24 tion for, or revokes, a license, he shall, upon request
25 by the aggrieved party, promptly hold a hearing to

1 review his denial or revocation. In the case of a rev-
2 ocation of a license, the Attorney General shall upon
3 the request of the holder of the license stay the ef-
4 fective date of the revocation. A hearing held under
5 this paragraph shall be held at a location convenient
6 to the aggrieved party.

7 “(3) If after a hearing held under paragraph
8 (2) the Attorney General decides not to reverse his
9 decision to deny an application or revoke a license,
10 the Attorney General shall give notice of his decision
11 to the aggrieved party. The aggrieved party may at
12 any time within sixty days after the date notice was
13 given under this paragraph file a petition with the
14 United States district court for the district in which
15 he resides or has his principal place of business for
16 a de novo judicial review of such denial or revoca-
17 tion. In a proceeding conducted under this sub-
18 section, the court may consider any evidence sub-
19 mitted by the parties to the proceeding whether or
20 not such evidence was considered at the hearing held
21 under paragraph (2). If the court decides that the
22 Attorney General was not authorized to deny the ap-
23 plication or to revoke the license, the court shall
24 order the Attorney General to take such action as

1 may be necessary to comply with the judgment of
2 the court.

3 “(4) If criminal proceedings are instituted
4 against a licensee alleging any violation of this sub-
5 chapter or of rules or regulations prescribed under
6 this subchapter, and the licensee is acquitted of such
7 charges, or such proceedings are terminated, other
8 than upon motion of the Government before trial
9 upon such charges, the Attorney General shall be
10 absolutely barred from denying or revoking any li-
11 cense granted under this chapter where such denial
12 or revocation is based in whole or in part on the
13 facts which form the basis of such criminal charges.
14 No proceedings for the revocation of a license shall
15 be instituted by the Attorney General more than one
16 year after the filing of the indictment or informa-
17 tion.

18 “(g) RECORDKEEPING.—

19 “(1)(A) Each licensed importer, licensed manu-
20 facturer, and licensed dealer shall maintain such
21 records of importation, production, shipment, re-
22 ceipt, sale, or other disposition of firearms at his
23 place of business for such period, and in such form,
24 as the Attorney General may by regulations pre-
25 scribe. Such importers, manufacturers, and dealers

1 shall not be required to submit to the Attorney Gen-
2 eral reports and information with respect to such
3 records and the contents thereof, except as expressly
4 required by this section. The Attorney General, when
5 he has reasonable cause to believe a violation of this
6 subchapter has occurred and that evidence thereof
7 may be found on such premises, may, upon dem-
8 onstrating such cause before a Federal magistrate
9 judge and securing from such magistrate judge a
10 warrant authorizing entry, enter during business
11 hours the premises (including places of storage) of
12 any licensed firearms importer, licensed manufac-
13 turer, licensed dealer, licensed collector, or any li-
14 censed importer or manufacturer of ammunition, for
15 the purpose of inspecting or examining—

16 “(i) any records or documents re-
17 quired to be kept by such licensed im-
18 porter, licensed manufacturer, licensed
19 dealer, or licensed collector under this
20 chapter or rules or regulations under this
21 chapter, and

22 “(ii) any firearms or ammunition kept
23 or stored by such licensed importer, li-
24 censed manufacturer, licensed dealer, or li-
25 censed collector, at such premises.

1 “(B) The Attorney General may inspect or
2 examine the inventory and records of a licensed
3 importer, licensed manufacturer, or licensed
4 dealer without such reasonable cause or war-
5 rant—

6 “(i) in the course of a reasonable in-
7 quiry during the course of a criminal inves-
8 tigation of a person or persons other than
9 the licensee;

10 “(ii) for ensuring compliance with the
11 record keeping requirements of this sub-
12 chapter—

13 “(I) not more than once during
14 any 12-month period; or

15 “(II) at any time with respect to
16 records relating to a firearm involved
17 in a criminal investigation that is
18 traced to the licensee; or

19 “(iii) when such inspection or exam-
20 ination may be required for determining
21 the disposition of one or more particular
22 firearms in the course of a bona fide crimi-
23 nal investigation.

1 “(C) The Attorney General may inspect
2 the inventory and records of a licensed collector
3 without such reasonable cause or warrant—

4 “(i) for ensuring compliance with the
5 record keeping requirements of this sub-
6 chapter not more than once during any
7 twelve-month period; or

8 “(ii) when such inspection or exam-
9 ination may be required for determining
10 the disposition of one or more particular
11 firearms in the course of a bona fide crimi-
12 nal investigation.

13 “(D) At the election of a licensed collector,
14 the annual inspection of records and inventory
15 permitted under this paragraph shall be per-
16 formed at the office of the Attorney General
17 designated for such inspections which is located
18 in closest proximity to the premises where the
19 inventory and records of such licensed collector
20 are maintained. The inspection and examination
21 authorized by this paragraph shall not be con-
22 strued as authorizing the Attorney General to
23 seize any records or other documents other than
24 those records or documents constituting mate-
25 rial evidence of a violation of law. If the Attor-

1 ney General seizes such records or documents,
2 copies shall be provided the licensee within a
3 reasonable time. The Attorney General may
4 make available to any Federal, State, or local
5 law enforcement agency any information which
6 he may obtain by reason of this subchapter with
7 respect to the identification of persons prohib-
8 ited from purchasing or receiving firearms or
9 ammunition who have purchased or received
10 firearms or ammunition, together with a de-
11 scription of such firearms or ammunition, and
12 he may provide information to the extent such
13 information may be contained in the records re-
14 quired to be maintained by this chapter, when
15 so requested by any Federal, State, or local law
16 enforcement agency.

17 “(2) Each licensed collector shall maintain in a
18 bound volume the nature of which the Attorney Gen-
19 eral may by regulations prescribe, records of the re-
20 ceipt, sale, or other disposition of firearms. Such
21 records shall include the name and address of any
22 person to whom the collector sells or otherwise dis-
23 poses of a firearm. Such collector shall not be re-
24 quired to submit to the Attorney General reports
25 and information with respect to such records and

1 the contents thereof, except as expressly required by
2 this section.

3 “(3)(A) Each licensee shall prepare a report of
4 multiple sales or other dispositions whenever the li-
5 censee sells or otherwise disposes of, at one time or
6 during any five consecutive business days, two or
7 more pistols, or revolvers, or any combination of pis-
8 tols and revolvers totalling two or more, to an unli-
9 censed person. The report shall be prepared on a
10 form specified by the Attorney General and for-
11 warded to the office specified thereon and to the de-
12 partment of State police or State law enforcement
13 agency of the State or local law enforcement agency
14 of the local jurisdiction in which the sale or other
15 disposition took place, not later than the close of
16 business on the day that the multiple sale or other
17 disposition occurs.

18 “(B) Except in the case of forms and contents
19 thereof regarding a purchaser who is prohibited by
20 subsection (g) or (n) of section 582 from receipt of
21 a firearm, the department of State police or State
22 law enforcement agency or local law enforcement
23 agency of the local jurisdiction shall not disclose any
24 such form or the contents thereof to any person or
25 entity, and shall destroy each such form and any

1 record of the contents thereof no more than 20 days
2 from the date such form is received. No later than
3 the date that is 6 months after the effective date of
4 this subparagraph, and at the end of each 6-month
5 period thereafter, the department of State police or
6 State law enforcement agency or local law enforce-
7 ment agency of the local jurisdiction shall certify to
8 the Attorney General of the United States that no
9 disclosure contrary to this subparagraph has been
10 made and that all forms and any record of the con-
11 tents thereof have been destroyed as provided in this
12 subparagraph.

13 “(4) Where a firearms or ammunition business
14 is discontinued and succeeded by a new licensee, the
15 records required to be kept by this chapter shall ap-
16 propriately reflect such facts and shall be delivered
17 to the successor. Where discontinuance of the busi-
18 ness is absolute, such records shall be delivered with-
19 in thirty days after the business discontinuance to
20 the Attorney General. However, where State law or
21 local ordinance requires the delivery of records to
22 other responsible authority, the Attorney General
23 may arrange for the delivery of such records to such
24 other responsible authority.

1 “(5)(A) Each licensee shall, when required by
2 letter issued by the Attorney General, and until noti-
3 fied to the contrary in writing by the Attorney Gen-
4 eral, submit on a form specified by the Attorney
5 General, for periods and at the times specified in
6 such letter, all record information required to be
7 kept by this chapter or such lesser record informa-
8 tion as the Attorney General in such letter may
9 specify.

10 “(B) The Attorney General may authorize such
11 record information to be submitted in a manner
12 other than that prescribed in subparagraph (A) of
13 this paragraph when it is shown by a licensee that
14 an alternate method of reporting is reasonably nec-
15 essary and will not unduly hinder the effective ad-
16 ministration of this subchapter. A licensee may use
17 an alternate method of reporting if the licensee de-
18 scribes the proposed alternate method of reporting
19 and the need therefor in a letter application sub-
20 mitted to the Attorney General, and the Attorney
21 General approves such alternate method of report-
22 ing.

23 “(6) Each licensee shall report the theft or loss
24 of a firearm from the licensee’s inventory or collec-
25 tion, within 48 hours after the theft or loss is discov-

1 ered, to the Attorney General and to the appropriate
2 local authorities.

3 “(7) Each licensee shall respond immediately
4 to, and in no event later than 24 hours after the re-
5 ceipt of, a request by the Attorney General for infor-
6 mation contained in the records required to be kept
7 by this chapter as may be required for determining
8 the disposition of 1 or more firearms in the course
9 of a bona fide criminal investigation. The requested
10 information shall be provided orally or in writing, as
11 the Attorney General may require. The Attorney
12 General shall implement a system whereby the li-
13 censee can positively identify and establish that an
14 individual requesting information via telephone is
15 employed by and authorized by the agency to re-
16 quest such information.

17 “(h) POSTING.—Licenses issued under subsection (c)
18 of this section shall be kept posted and kept available for
19 inspection on the premises covered by the license.

20 “(i) SERIAL NUMBERS.—Licensed importers and li-
21 censed manufacturers shall identify by means of a serial
22 number engraved or cast on the receiver or frame of the
23 weapon, in such manner as the Attorney General shall by
24 regulations prescribe, each firearm imported or manufac-
25 tured by such importer or manufacturer.

1 “(j) TEMPORARY LOCATIONS.—A licensed importer,
2 licensed manufacturer, or licensed dealer may, under rules
3 or regulations prescribed by the Attorney General, conduct
4 business temporarily at a location other than the location
5 specified on the license if such temporary location is the
6 location for a gun show or event sponsored by any na-
7 tional, State, or local organization, or any affiliate of any
8 such organization devoted to the collection, competitive
9 use, or other sporting use of firearms in the community,
10 and such location is in the State which is specified on the
11 license. Records of receipt and disposition of firearms
12 transactions conducted at such temporary location shall
13 include the location of the sale or other disposition and
14 shall be entered in the permanent records of the licensee
15 and retained on the location specified on the license. Noth-
16 ing in this subsection shall authorize any licensee to con-
17 duct business in or from any motorized or towed vehicle.
18 Notwithstanding subsection (a) of this section, a separate
19 fee shall not be required of a licensee with respect to busi-
20 ness conducted under this subsection. Any inspection or
21 examination of inventory or records under this chapter by
22 the Attorney General at such temporary location shall be
23 limited to inventory consisting of, or records relating to,
24 firearms held or disposed at such temporary location.
25 Nothing in this subsection shall be construed to authorize

1 the Attorney General to inspect or examine the inventory
2 or records of a licensed importer, licensed manufacturer,
3 or licensed dealer at any location other than the location
4 specified on the license. Nothing in this subsection shall
5 be construed to diminish in any manner any right to dis-
6 play, sell, or otherwise dispose of firearms or ammunition,
7 which is in effect before the date of the enactment of the
8 Firearms Owners' Protection Act, including the right of
9 a licensee to conduct 'curios or relics' firearms transfers
10 and business away from their business premises with an-
11 other licensee without regard as to whether the location
12 of where the business is conducted is located in the State
13 specified on the license of either licensee.

14 “(k) MARKING OF ARMOR PIERCING PROJECTILES
15 AND PACKAGES.—Licensed importers and licensed manu-
16 facturers shall mark all armor piercing projectiles and
17 packages containing such projectiles for distribution in the
18 manner prescribed by the Attorney General by regulation.
19 The Attorney General shall furnish information to each
20 dealer licensed under this chapter defining which projec-
21 tiles are considered armor piercing ammunition.

22 “(l) NOTIFICATION.—The Attorney General shall no-
23 tify the chief law enforcement officer in the appropriate
24 State and local jurisdictions of the names and addresses

1 of all persons in the State to whom a firearms license is
2 issued.

3 **“§ 584. Penalties**

4 “(a) IN GENERAL.—

5 “(1) Except as otherwise provided in this sub-
6 section, subsection (b), (c), (f), or (p) of this section,
7 or in section 592, whoever—

8 “(A) knowingly makes any false statement
9 or representation with respect to the informa-
10 tion required by this chapter to be kept in the
11 records of a person licensed under this chapter
12 or in applying for any license or exemption or
13 relief from disability under this chapter;

14 “(B) knowingly violates subsection (a)(4),
15 (f), (k), or (q) of section 582;

16 “(C) knowingly imports or brings into the
17 United States or any possession thereof any
18 firearm or ammunition in violation of section
19 582(1); or

20 “(D) knowingly violates any other provi-
21 sion of this subchapter,

22 shall be imprisoned not more than five years.

23 “(2) Whoever knowingly violates subsection
24 (a)(6), (d), (g), (h), (i), (j), or (o) of section 582
25 shall be imprisoned not more than 10 years.

1 “(3) Any licensed dealer, licensed importer, li-
2 censed manufacturer, or licensed collector who know-
3 ingly—

4 “(A) makes any false statement or rep-
5 resentation with respect to the information re-
6 quired by this chapter to be kept in the records
7 of a person licensed under this chapter, or

8 “(B) violates subsection (m) of section
9 582,

10 shall be imprisoned not more than one year.

11 “(4) Whoever violates section 582(q) shall be
12 imprisoned for not more than 5 years. Notwith-
13 standing any other provision of law, the term of im-
14 prisonment imposed under this paragraph shall not
15 run concurrently with any other term of imprison-
16 ment imposed under any other provision of law. Ex-
17 cept for the authorization of a term of imprisonment
18 of not more than 5 years made in this paragraph,
19 for the purpose of any other law a violation of sec-
20 tion 582(q) shall be deemed to be a misdemeanor.

21 “(5) Whoever knowingly violates subsection (s)
22 or (t) of section 582 shall be imprisoned for not
23 more than 1 year.

24 “(6)(A)(i) A juvenile who violates section 582(x) shall
25 be imprisoned not more than 1 year, except that a juvenile

1 described in clause (ii) shall be sentenced to probation on
2 appropriate conditions and shall not be incarcerated un-
3 less the juvenile fails to comply with a condition of proba-
4 tion.

5 “(ii) A juvenile is described in this clause if—

6 “(I) the offense of which the juvenile is charged
7 is possession of a handgun or ammunition in viola-
8 tion of section 582(x)(2); and

9 “(II) the juvenile has not been convicted in any
10 court of an offense (including an offense under sec-
11 tion 582(x) or a similar State law, but not including
12 any other offense consisting of conduct that if en-
13 gaged in by an adult would not constitute an of-
14 fense) or adjudicated as a juvenile delinquent for
15 conduct that if engaged in by an adult would con-
16 stitute an offense.

17 “(B) A person other than a juvenile who knowingly
18 violates section 582(x)—

19 “(i) shall be imprisoned not more than 1 year;
20 and

21 “(ii) if the person sold, delivered, or otherwise
22 transferred a handgun or ammunition to a juvenile
23 knowing or having reasonable cause to know that
24 the juvenile intended to carry or otherwise possess
25 or discharge or otherwise use the handgun or ammu-

1 nition in the commission of a crime of violence, shall
2 be imprisoned not more than 10 years.

3 “(7) Whoever knowingly violates section 594 shall be
4 imprisoned not more than 3 years.

5 “(b) TRANSPORT WITH INTENT.—Whoever, with in-
6 tent to commit therewith an offense punishable by impris-
7 onment for a term exceeding one year, or with knowledge
8 or reasonable cause to believe that an offense punishable
9 by imprisonment for a term exceeding one year is to be
10 committed therewith, ships, transports, or receives a fire-
11 arm or any ammunition in interstate or foreign commerce
12 shall be imprisoned not more than ten years.

13 “(c) MINIMUM MANDATORY PENALTIES.—

14 “(1)(A) Except to the extent that a greater
15 minimum sentence is otherwise provided by this sub-
16 section or by any other provision of law, whoever,
17 during and in relation to any crime of violence or
18 drug trafficking crime (including a crime of violence
19 or drug trafficking crime that provides for an en-
20 hanced punishment if committed by the use of a
21 deadly or dangerous weapon or device) for which the
22 person may be prosecuted in a court of the United
23 States, uses or carries a firearm, or who, in further-
24 ance of any such crime, possesses a firearm, shall,

1 in addition to the punishment provided for such
2 crime of violence or drug trafficking crime—

3 “(i) be sentenced to a term of imprison-
4 ment of not less than 5 years;

5 “(ii) if the firearm is brandished, be sen-
6 tenced to a term of imprisonment of not less
7 than 7 years; and

8 “(iii) if the firearm is discharged, be sen-
9 tenced to a term of imprisonment of not less
10 than 10 years.

11 “(B) If the firearm possessed by a person con-
12 victed of a violation of this subsection—

13 “(i) is a short-barreled rifle, short-barreled
14 shotgun, or semiautomatic assault weapon, the
15 person shall be sentenced to a term of imprison-
16 ment of not less than 10 years; or

17 “(ii) is a machinegun or a destructive de-
18 vice, or is equipped with a firearm silencer or
19 firearm muffler, the person shall be sentenced
20 to a term of imprisonment of not less than 30
21 years.

22 “(C) In the case of a second or subsequent conviction
23 under this subsection, the person shall—

24 “(i) be sentenced to a term of imprisonment of
25 not less than 25 years; and

1 “(ii) if the firearm involved is a machinegun or
2 a destructive device, or is equipped with a firearm
3 silencer or firearm muffler, be sentenced to impris-
4 onment for life.

5 “(D) Notwithstanding any other provision of law—

6 “(i) a court shall not place on probation any
7 person convicted of a violation of this subsection;
8 and

9 “(ii) no term of imprisonment imposed on a
10 person under this subsection shall run concurrently
11 with any other term of imprisonment imposed on the
12 person, including any term of imprisonment imposed
13 for the crime of violence or drug trafficking crime
14 during which the firearm was used, carried, or pos-
15 sessed.

16 “(2) For purposes of this subsection, the term ‘drug
17 trafficking crime’ means any felony punishable under
18 chapter 17 of this title or chapter 705 of title 46.

19 “(3) For purposes of this subsection the term ‘crime
20 of violence’ means an offense that is a felony and—

21 “(A) has as an element the use, attempted use,
22 or threatened use of physical force against the per-
23 son or property of another, or

24 “(B) that by its nature, involves a substantial
25 risk that physical force against the person or prop-

1 erty of another may be used in the course of com-
2 mitting the offense.

3 “(4) For purposes of this subsection, the term ‘bran-
4 dish’ means, with respect to a firearm, to display all or
5 part of the firearm, or otherwise make the presence of the
6 firearm known to another person, in order to intimidate
7 that person, regardless of whether the firearm is directly
8 visible to that person.

9 “(5) Except to the extent that a greater minimum
10 sentence is otherwise provided under this subsection, or
11 by any other provision of law, whoever, during and in rela-
12 tion to any crime of violence or drug trafficking crime (in-
13 cluding a crime of violence or drug trafficking crime that
14 provides for an enhanced punishment if committed by the
15 use of a deadly or dangerous weapon or device) for which
16 the person may be prosecuted in a court of the United
17 States, uses or carries armor piercing ammunition, or
18 who, in furtherance of any such crime, possesses armor
19 piercing ammunition, shall, in addition to the punishment
20 provided for such crime of violence or drug trafficking
21 crime or conviction under this section—

22 “(A) be sentenced to a term of imprisonment of
23 not less than 15 years; and

24 “(B) if death results from the use of such am-
25 munition be punished as provided in section 101.

1 “(d) FORFEITURE.—(1) Any firearm or ammunition
2 involved in or used in any knowing violation of subsection
3 (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 582,
4 or knowing importation or bringing into the United States
5 or any possession thereof any firearm or ammunition in
6 violation of section 582(l), or knowing violation of section
7 584, or willful violation of any other provision of this sub-
8 chapter or any rule or regulation promulgated thereunder,
9 or any violation of any other criminal law of the United
10 States, or any firearm or ammunition intended to be used
11 in any offense referred to in paragraph (3) of this sub-
12 section, where such intent is demonstrated by clear and
13 convincing evidence, shall be subject to seizure and for-
14 feiture, and all provisions of the Internal Revenue Code
15 of 1986 relating to the seizure, forfeiture, and disposition
16 of firearms, as defined in section 5845(a) of that Code,
17 shall, so far as applicable, extend to seizures and forfeit-
18 ures under this subchapter, but upon acquittal of the
19 owner or possessor, or dismissal of the charges against
20 that defendant other than upon motion of the Government
21 prior to trial, or lapse of or court termination of the re-
22 straining order to which he is subject, the seized or relin-
23 quished firearms or ammunition shall be returned forth-
24 with to the owner or possessor or to a person delegated
25 by the owner or possessor unless the return of the firearms

1 or ammunition would place the owner or possessor or his
2 delegate in violation of law. Any action or proceeding for
3 the forfeiture of firearms or ammunition shall be com-
4 menced within one hundred and twenty days of such sei-
5 zure.

6 “(2)(A) In any action or proceeding for the return
7 of firearms or ammunition seized under this chapter, the
8 court shall allow the prevailing party, other than the
9 United States, a reasonable attorney’s fee, and the United
10 States shall be liable therefor.

11 “(B) In any other action or proceeding under this
12 chapter, the court, when it finds that such action was
13 without foundation, or was initiated vexatiously, frivo-
14 lously, or in bad faith, shall allow the prevailing party,
15 other than the United States, a reasonable attorney’s fee,
16 and the United States shall be liable therefor.

17 “(C) Only those firearms or quantities of ammunition
18 particularly named and individually identified as involved
19 in or used in any violation of this subchapter or any rule
20 or regulation issued thereunder, or any other criminal law
21 of the United States or as intended to be used in any of-
22 fense referred to in paragraph (3) of this subsection,
23 where such intent is demonstrated by clear and convincing
24 evidence, shall be subject to seizure, forfeiture, and dis-
25 position.

1 “(D) The United States shall be liable for attorneys’
2 fees under this paragraph only to the extent provided in
3 advance by appropriation Acts.

4 “(3) The offenses referred to in paragraphs (1) and
5 (2)(C) of this subsection are—

6 “(A) any crime of violence, as that term is de-
7 fined in section 584(c)(3);

8 “(B) any offense punishable under chapter 17;

9 “(C) any offense described in section 582(a)(1),
10 582(a)(3), 582(a)(5), or 582(b)(3), where the fire-
11 arm or ammunition intended to be used in any such
12 offense is involved in a pattern of activities which in-
13 cludes a violation of any offense described in section
14 582(a)(1), 582(a)(3), 582(a)(5), or 582(b)(3);

15 “(D) any offense described in section 582(d)
16 where the firearm or ammunition is intended to be
17 used in such offense by the transferor of such fire-
18 arm or ammunition;

19 “(E) any offense described in section 582(i),
20 582(j), 582(l), 582(n), or 584(b); and

21 “(F) any offense which may be prosecuted in a
22 court of the United States which involves the expor-
23 tation of firearms or ammunition.

24 “(e) MINIMUM MANDATORY FOR CERTAIN OF-
25 FENSES.—(1) In the case of a person who violates section

1 582(g) and has three previous convictions by any court
2 referred to in section 582(g)(1) for a violent felony or a
3 serious drug offense, or both, committed on occasions dif-
4 ferent from one another, such person shall be imprisoned
5 not less than fifteen years, and, notwithstanding any other
6 provision of law, the court shall not suspend the sentence
7 of, or grant a probationary sentence to, such person with
8 respect to the conviction under section 582(g).

9 “(2) As used in this subsection—

10 “(A) the term ‘serious drug offense’ means—

11 “(i) an offense under chapter 17 or the
12 Maritime Drug Law Enforcement Act for which
13 a maximum term of imprisonment of ten years
14 or more is prescribed by law; or

15 “(ii) an offense under State law, involving
16 manufacturing, distributing, or possessing with
17 intent to manufacture or distribute, a controlled
18 substance, for which a maximum term of im-
19 prisonment of ten years or more is prescribed
20 by law;

21 “(B) the term ‘violent felony’ means any crime
22 punishable by imprisonment for a term exceeding
23 one year, or any act of juvenile delinquency involving
24 the use or carrying of a firearm, knife, or destructive

1 device that would be punishable by imprisonment for
2 such term if committed by an adult, that—

3 “(i) has as an element the use, attempted
4 use, or threatened use of physical force against
5 the person of another; or

6 “(ii) is burglary, arson, or extortion, in-
7 volves use of explosives, or otherwise involves
8 conduct that presents a serious potential risk of
9 physical injury to another; and

10 “(C) the term ‘conviction’ includes a finding
11 that a person has committed an act of juvenile delin-
12 quency involving a violent felony.

13 “(f) 582(P) VIOLATIONS.—In the case of a person
14 who knowingly violates section 582(p), such person shall
15 be or imprisoned not more than 5 years.

16 “(g) TRAVEL WITH INTENT.—Whoever, with the in-
17 tent to engage in conduct which—

18 “(1) constitutes an offense listed in section
19 511(1),

20 “(2) is punishable under chapter 17 or the
21 Maritime Drug Law Enforcement Act,

22 “(3) violates any State law relating to any con-
23 trolled substance, or

24 “(4) constitutes a crime of violence (as defined
25 in subsection (c)(3)),

1 travels from any State or foreign country into any other
2 State and acquires, transfers, or attempts to acquire or
3 transfer, a firearm in such other State in furtherance of
4 such purpose, shall be imprisoned not more than 10 years.

5 “(h) TRANSFER WITH KNOWLEDGE.—Whoever
6 knowingly transfers a firearm, knowing that such firearm
7 will be used to commit a crime of violence (as defined in
8 subsection (c)(3)) or drug trafficking crime (as defined in
9 subsection (c)(2)) shall be imprisoned not more than 10
10 years.

11 “(i) 582(U) VIOLATIONS.—(1) A person who know-
12 ingly violates section 582(u) shall be imprisoned not more
13 than 10 years.

14 “(2) Nothing contained in this subsection shall be
15 construed as indicating an intent on the part of Congress
16 to occupy the field in which provisions of this subsection
17 operate to the exclusion of State laws on the same subject
18 matter, nor shall any provision of this subsection be con-
19 strued as invalidating any provision of State law unless
20 such provision is inconsistent with any of the purposes of
21 this subsection.

22 “(j) CAUSING DEATH.—A person who, in the course
23 of a violation of subsection (c), causes the death of a per-
24 son through the use of a firearm, shall—

1 “(1) if the killing is a murder (as defined in
2 section 101), be punished by death or by imprison-
3 ment for any term of years or for life; and

4 “(2) if the killing is manslaughter (as defined
5 in section 101), be punished as provided in section
6 104.

7 “(k) DRUG-RELATED OFFENSES.—A person who,
8 with intent to engage in or to promote conduct that—

9 “(1) is punishable under chapter 17 or the
10 Maritime Drug Law Enforcement Act;

11 “(2) violates any law of a State relating to any
12 controlled substance; or

13 “(3) constitutes a crime of violence (as defined
14 in subsection (c)(3)),

15 smuggles or knowingly brings into the United States a
16 firearm, or attempts to do so, shall be imprisoned not
17 more than 10 years.

18 “(l) THEFT OF FIREARMS RELATED TO COM-
19 MERCE.—A person who steals any firearm which is moving
20 as, or is a part of, or which has moved in, interstate or
21 foreign commerce shall be imprisoned for not more than
22 10 years.

23 “(m) THEFT OF FIREARMS FROM LICENSEES.—A
24 person who steals any firearm from a licensed importer,

1 licensed manufacturer, licensed dealer, or licensed col-
2 lector shall be imprisoned not more than 10 years.

3 “(n) TRAVEL WITH INTENT.—A person who, with
4 the intent to engage in conduct that constitutes a violation
5 of section 582(a)(1)(A), travels from any State or foreign
6 country into any other State and acquires, or attempts
7 to acquire, a firearm in such other State in furtherance
8 of such purpose shall be imprisoned for not more than 10
9 years.

10 “(o) CONSPIRACY.—A person who conspires to com-
11 mit an offense under subsection (c) shall be imprisoned
12 for not more than 20 years; and if the firearm is a ma-
13 chinegun or destructive device, or is equipped with a fire-
14 arm silencer or muffler, shall be imprisoned for any term
15 of years or life.

16 “(p) PENALTIES RELATING TO SECURE GUN STOR-
17 AGE OR SAFETY DEVICE.—

18 “(1) IN GENERAL.—

19 “(A) SUSPENSION OR REVOCATION OF LI-
20 CENSE; CIVIL PENALTIES.—With respect to
21 each violation of section 582(x)(1) by a licensed
22 manufacturer, licensed importer, or licensed
23 dealer, the Secretary may, after notice and op-
24 portunity for hearing—

1 “(i) suspend for not more than 6
2 months, or revoke, the license issued to the
3 licensee under this chapter that was used
4 to conduct the firearms transfer; or

5 “(ii) subject the licensee to a civil
6 penalty in an amount equal to not more
7 than \$2,500.

8 “(B) REVIEW.—An action of the Secretary
9 under this paragraph may be reviewed only as
10 provided under section 583(f).

11 “(2) ADMINISTRATIVE REMEDIES.—The sus-
12 pension or revocation of a license or the imposition
13 of a civil penalty under paragraph (1) does not pre-
14 clude any administrative remedy that is otherwise
15 available to the Secretary.

16 **“§ 585. Exceptions: relief from disabilities**

17 “(a)(1) TO UNITED STATES AGENCIES.—This chap-
18 ter, except sections 582(d)(9) and 582(g)(9) and provi-
19 sions relating to firearms subject to the prohibitions of
20 section 582(p), does not apply with respect to the trans-
21 portation, shipment, receipt, possession, or importation of
22 any firearm or ammunition imported for, sold or shipped
23 to, or issued for the use of, the United States or any de-
24 partment or agency thereof or any State or any depart-
25 ment, agency, or political subdivision thereof.

1 “(2) This chapter, except for provisions relating to
2 firearms subject to the prohibitions of section 582(p), does
3 not apply with respect to (A) the shipment or receipt of
4 firearms or ammunition when sold or issued by the Sec-
5 retary of the Army pursuant to section 4308 of title 10
6 before the repeal of such section by section 1624(a) of the
7 Corporation for the Promotion of Rifle Practice and Fire-
8 arms Safety Act, and (B) the transportation of any such
9 firearm or ammunition carried out to enable a person, who
10 lawfully received such firearm or ammunition from the
11 Secretary of the Army, to engage in military training or
12 in competitions.

13 “(3) Unless otherwise prohibited by this chapter, ex-
14 cept for provisions relating to firearms subject to the pro-
15 hibitions of section 582(p), or any other Federal law, a
16 licensed importer, licensed manufacturer, or licensed deal-
17 er may ship to a member of the United States Armed
18 Forces on active duty outside the United States or to
19 clubs, recognized by the Department of Defense, whose en-
20 tire membership is composed of such members, and such
21 members or clubs may receive a firearm or ammunition
22 determined by the Attorney General to be generally recog-
23 nized as particularly suitable for sporting purposes and
24 intended for the personal use of such member or club.

1 “(4) When established to the satisfaction of the At-
2 torney General to be consistent with this chapter, except
3 for provisions relating to firearms subject to the prohibi-
4 tions of section 582(p), and other applicable Federal and
5 State laws and published ordinances, the Attorney General
6 may authorize the transportation, shipment, receipt, or
7 importation into the United States to the place of resi-
8 dence of any member of the United States Armed Forces
9 who is on active duty outside the United States (or who
10 has been on active duty outside the United States within
11 the 60-day period immediately preceding the transpor-
12 tation, shipment, receipt, or importation), of any firearm
13 or ammunition which is (A) determined by the Attorney
14 General to be generally recognized as particularly suitable
15 for sporting purposes, or determined by the Department
16 of Defense to be a type of firearm normally classified as
17 a war souvenir, and (B) intended for the personal use of
18 such member.

19 “(5) For the purpose of paragraph (3), the term
20 ‘United States’ means each of the several States and the
21 District of Columbia.

22 “(b) CONTINUATION OF OPERATION.—A licensed im-
23 porter, licensed manufacturer, licensed dealer, or licensed
24 collector who is indicted for a crime punishable by impris-
25 onment for a term exceeding one year, may, notwith-

1 standing any other provision of this subchapter, continue
2 operation pursuant to his existing license (if prior to the
3 expiration of the term of the existing license timely appli-
4 cation is made for a new license) during the term of such
5 indictment and until any conviction pursuant to the indict-
6 ment becomes final.

7 “(c) RELIEF FROM DISABILITY.—A person who is
8 prohibited from possessing, shipping, transporting, or re-
9 ceiving firearms or ammunition may make application to
10 the Attorney General for relief from the disabilities im-
11 posed by Federal laws with respect to the acquisition, re-
12 ceipt, transfer, shipment, transportation, or possession of
13 firearms, and the Attorney General may grant such relief
14 if it is established to his satisfaction that the cir-
15 cumstances regarding the disability, and the applicant’s
16 record and reputation, are such that the applicant will not
17 be likely to act in a manner dangerous to public safety
18 and that the granting of the relief would not be contrary
19 to the public interest. Any person whose application for
20 relief from disabilities is denied by the Attorney General
21 may file a petition with the United States district court
22 for the district in which he resides for a judicial review
23 of such denial. The court may in its discretion admit addi-
24 tional evidence where failure to do so would result in a
25 miscarriage of justice. A licensed importer, licensed manu-

1 facturer, licensed dealer, or licensed collector conducting
2 operations under this chapter, who makes application for
3 relief from the disabilities incurred under this chapter,
4 shall not be barred by such disability from further oper-
5 ations under his license pending final action on an applica-
6 tion for relief filed pursuant to this section. Whenever the
7 Attorney General grants relief to any person pursuant to
8 this section he shall promptly publish in the Federal Reg-
9 ister notice of such action, together with the reasons there-
10 for.

11 “(d) AUTHORIZATION OF IMPORT.—The Attorney
12 General shall authorize a firearm or ammunition to be im-
13 ported or brought into the United States or any possession
14 thereof if the firearm or ammunition—

15 “(1) is being imported or brought in for sci-
16 entific or research purposes, or is for use in connec-
17 tion with competition or training pursuant to chap-
18 ter 401 of title 10;

19 “(2) is an unserviceable firearm, other than a
20 machinegun as defined in section 5845(b) of the In-
21 ternal Revenue Code of 1986 (not readily restorable
22 to firing condition), imported or brought in as a
23 curio or museum piece;

24 “(3) is of a type that does not fall within the
25 definition of a firearm as defined in section 5845(a)

1 of the Internal Revenue Code of 1986 and is gen-
2 erally recognized as particularly suitable for or read-
3 ily adaptable to sporting purposes, excluding surplus
4 military firearms, except in any case where the At-
5 torney General has not authorized the importation of
6 the firearm pursuant to this paragraph, it shall be
7 unlawful to import any frame, receiver, or barrel of
8 such firearm which would be prohibited if assembled;
9 or

10 “(4) was previously taken out of the United
11 States or a possession by the person who is bringing
12 in the firearm or ammunition.

13 The Attorney General shall permit the conditional impor-
14 tation or bringing in of a firearm or ammunition for exam-
15 ination and testing in connection with the making of a
16 determination as to whether the importation or bringing
17 in of such firearm or ammunition will be allowed under
18 this subsection.

19 “(e) MANDATORY AUTHORIZATION.—Notwith-
20 standing any other provision of this title, the Attorney
21 General shall authorize the importation of, by any licensed
22 importer, the following:

23 “(1) All rifles and shotguns listed as curios or
24 relics by the Attorney General pursuant to section
25 581(11), and

1 “(2) All handguns, listed as curios or relics by
2 the Attorney General pursuant to section 581(11),
3 provided that such handguns are generally recog-
4 nized as particularly suitable for or readily adaptable
5 to sporting purposes.

6 “(f) LIMITATION ON AUTHORIZATION.—The Attor-
7 ney General shall not authorize, under subsection (d), the
8 importation of any firearm the importation of which is
9 prohibited by section 582(p).

10 **“§ 586. Remedy for erroneous denial of firearm**

11 “Any person denied a firearm pursuant to subsection
12 (s) or (t) of section 582—

13 “(1) due to the provision of erroneous informa-
14 tion relating to the person by any State or political
15 subdivision thereof, or by the national instant crimi-
16 nal background check system established under sec-
17 tion 103 of the Brady Handgun Violence Prevention
18 Act; or

19 “(2) who was not prohibited from receipt of a
20 firearm pursuant to subsection (g) or (n) of section
21 582,

22 may bring an action against the State or political subdivi-
23 sion responsible for providing the erroneous information,
24 or responsible for denying the transfer, or against the
25 United States, as the case may be, for an order directing

1 that the erroneous information be corrected or that the
2 transfer be approved, as the case may be. In any action
3 under this section, the court, in its discretion, may allow
4 the prevailing party a reasonable attorney's fee as part
5 of the costs.

6 **“§ 587. Rules and regulations**

7 “(a) IN GENERAL.—The Attorney General may pre-
8 scribe only such rules and regulations as are necessary to
9 carry out this chapter, including—

10 “(1) regulations providing that a person li-
11 censed under this chapter, when dealing with an-
12 other person so licensed, shall provide such other li-
13 censed person a certified copy of this license;

14 “(2) regulations providing for the issuance, at
15 a reasonable cost, to a person licensed under this
16 chapter, of certified copies of his license for use as
17 provided under regulations issued under paragraph
18 (1) of this subsection; and

19 “(3) regulations providing for effective receipt
20 and secure storage of firearms relinquished by or
21 seized from persons described in subsection (d)(8) or
22 (g)(8) of section 582.

23 No such rule or regulation prescribed after the date of
24 the enactment of the Firearms Owners' Protection Act
25 may require that records required to be maintained under

1 this chapter or any portion of the contents of such records,
2 be recorded at or transferred to a facility owned, managed,
3 or controlled by the United States or any State or any
4 political subdivision thereof, nor that any system of reg-
5 istration of firearms, firearms owners, or firearms trans-
6 actions or dispositions be established. Nothing in this sec-
7 tion expands or restricts the Attorney General’s authority
8 to inquire into the disposition of any firearm in the course
9 of a criminal investigation.

10 “(b) NOTICE.—The Attorney General shall give not
11 less than ninety days public notice, and shall afford inter-
12 ested parties opportunity for hearing, before prescribing
13 such rules and regulations.

14 “(c) BLACK POWDER.—The Attorney General shall
15 not prescribe rules or regulations that require purchasers
16 of black powder under the exemption provided in section
17 615 to complete affidavits or forms attesting to that ex-
18 emption.

19 **“§ 588. Interstate transportation of firearms**

20 “Notwithstanding any other provision of any law or
21 any rule or regulation of a State or any political subdivi-
22 sion thereof, any person who is not otherwise prohibited
23 by this chapter from transporting, shipping, or receiving
24 a firearm shall be entitled to transport a firearm for any
25 lawful purpose from any place where he may lawfully pos-

1 sess and carry such firearm to any other place where he
2 may lawfully possess and carry such firearm if, during
3 such transportation the firearm is unloaded, and neither
4 the firearm nor any ammunition being transported is read-
5 ily accessible or is directly accessible from the passenger
6 compartment of such transporting vehicle, but in the case
7 of a vehicle without a compartment separate from the driv-
8 er's compartment the firearm or ammunition shall be con-
9 tained in a locked container other than the glove compart-
10 ment or console.

11 **“§ 589. Carrying of concealed firearms by qualified**
12 **law enforcement officers**

13 “(a) IN GENERAL.—Notwithstanding any other pro-
14 vision of the law of any State or any political subdivision
15 thereof, an individual who is a qualified law enforcement
16 officer and who is carrying the identification required by
17 subsection (c) may carry a concealed firearm that has been
18 shipped or transported in interstate or foreign commerce.

19 “(b) DEFINITION OF ‘QUALIFIED LAW ENFORCE-
20 MENT OFFICER’.—As used in this section, the term ‘quali-
21 fied law enforcement officer’ means an employee of a gov-
22 ernmental agency who—

23 “(1) is authorized by law to engage in or super-
24 vise the prevention, detection, investigation, or pros-
25 ecution of, or the incarceration of any person for,

1 any violation of law, and has statutory powers of ar-
2 rest;

3 “(2) is authorized by the agency to carry a fire-
4 arm;

5 “(3) is not the subject of any disciplinary action
6 by the agency which could result in suspension or
7 loss of police powers;

8 “(4) meets standards, if any, established by the
9 agency which require the employee to regularly qual-
10 ify in the use of a firearm;

11 “(5) is not under the influence of alcohol or an-
12 other intoxicating or hallucinatory drug or sub-
13 stance; and

14 “(6) is not prohibited by Federal law from re-
15 ceiving a firearm.

16 “(c) REQUIRED IDENTIFICATION.—The identification
17 required by this subsection is the photographic identifica-
18 tion issued by the governmental agency for which the indi-
19 vidual is employed as a law enforcement officer.

20 “(d) DEFINITION OF ‘FIREARM’.—As used in this
21 section, the term ‘firearm’—

22 “(1) except as provided in this subsection, has
23 the same meaning as in section 581;

1 “(2) includes ammunition not expressly prohib-
2 ited by Federal law or subject to the National Fire-
3 arms Act; and

4 “(3) does not include—

5 “(A) any machinegun;

6 “(B) any firearm silencer; and

7 “(C) any destructive device.

8 “(e) CERTAIN GOVERNMENTAL OR QUASI-
9 GOVERNMENTAL POLICE AGENCIES.—For the purposes of
10 this section, a law enforcement officer of the Amtrak Po-
11 lice Department, a law enforcement officer of the Federal
12 Reserve, or a law enforcement or police officer of the exec-
13 utive branch of the Federal Government qualifies as an
14 employee of a governmental agency who is authorized by
15 law to engage in or supervise the prevention, detection,
16 investigation, or prosecution of, or the incarceration of any
17 person for, any violation of law, and has statutory powers
18 of arrest.

19 **“§ 590. Carrying of concealed firearms by qualified**
20 **retired law enforcement officers**

21 “(a) IN GENERAL.—Notwithstanding any other pro-
22 vision of the law of any State or any political subdivision
23 thereof, an individual who is a qualified retired law en-
24 forcement officer and who is carrying the identification re-
25 quired by subsection (c) may carry a concealed firearm

1 that has been shipped or transported in interstate or for-
2 eign commerce.

3 “(b) DEFINITION OF ‘QUALIFIED RETIRED LAW EN-
4 FORCEMENT OFFICER’.—As used in this section, the term
5 ‘qualified retired law enforcement officer’ means an indi-
6 vidual who—

7 “(1) separated from service in good standing
8 from service with a public agency as a law enforce-
9 ment officer;

10 “(2) before such separation, was authorized by
11 law to engage in or supervise the prevention, detec-
12 tion, investigation, or prosecution of, or the incarcer-
13 ation of any person for, any violation of law, and
14 had statutory powers of arrest;

15 “(3)(A) before such separation, served as a law
16 enforcement officer for an aggregate of 10 years or
17 more; or

18 “(B) separated from service with such agency,
19 after completing any applicable probationary period
20 of such service, due to a service-connected disability,
21 as determined by such agency;

22 “(4) during the most recent 12-month period,
23 has met, at the expense of the individual, the stand-
24 ards for qualification in firearms training for active
25 law enforcement officers, as determined by the

1 former agency of the individual, the State in which
2 the individual resides or, if the State has not estab-
3 lished such standards, either a law enforcement
4 agency within the State in which the individual re-
5 sides or the standards used by a certified firearms
6 instructor that is qualified to conduct a firearms
7 qualification test for active duty officers within that
8 State;

9 “(5)(A) has not been officially found by a quali-
10 fied medical professional employed by the agency to
11 be unqualified for reasons relating to mental health
12 and as a result of this finding will not be issued the
13 photographic identification as described in sub-
14 section (d)(1); or

15 “(B) has not entered into an agreement
16 with the agency from which the individual is
17 separating from service in which that individual
18 acknowledges he or she is not qualified under
19 this section for reasons relating to mental
20 health and for those reasons will not receive or
21 accept the photographic identification as de-
22 scribed in subsection (d)(1);

23 “(6) is not under the influence of alcohol or an-
24 other intoxicating or hallucinatory drug or sub-
25 stance; and

1 “(7) is not prohibited by Federal law from re-
2 ceiving a firearm.

3 “(c) IDENTIFICATION.—The identification required
4 by this subsection is—

5 “(1) a photographic identification issued by the
6 agency from which the individual separated from
7 service as a law enforcement officer that indicates
8 that the individual has, not less recently than one
9 year before the date the individual is carrying the
10 concealed firearm, been tested or otherwise found by
11 the agency to meet the active duty standards for
12 qualification in firearms training as established by
13 the agency to carry a firearm of the same type as
14 the concealed firearm; or

15 “(2)(A) a photographic identification issued by
16 the agency from which the individual separated from
17 service as a law enforcement officer; and

18 “(B) a certification issued by the State in which
19 the individual resides or by a certified firearms in-
20 structor that is qualified to conduct a firearms quali-
21 fication test for active duty officers within that State
22 that indicates that the individual has, not less than
23 1 year before the date the individual is carrying the
24 concealed firearm, been tested or otherwise found by
25 the State or a certified firearms instructor that is

1 qualified to conduct a firearms qualification test for
2 active duty officers within that State to have met—

3 “(i) the active duty standards for qualifica-
4 tion in firearms training, as established by the
5 State, to carry a firearm of the same type as
6 the concealed firearm; or

7 “(ii) if the State has not established such
8 standards, standards set by any law enforce-
9 ment agency within that State to carry a fire-
10 arm of the same type as the concealed firearm.

11 “(d) ADDITIONAL DEFINITIONS.—As used in this
12 section—

13 “(1) the term ‘firearm’—

14 “(A) except as provided in this paragraph,
15 has the same meaning as in section 581;

16 “(B) includes ammunition not expressly
17 prohibited by Federal law or subject to the Na-
18 tional Firearms Act; and

19 “(C) does not include—

20 “(i) any machinegun;

21 “(ii) any firearm silencer; and

22 “(iii) any destructive device; and

23 “(2) the term ‘service with a public agency as
24 a law enforcement officer’ includes service as a law
25 enforcement officer of the Amtrak Police Depart-

1 ment, service as a law enforcement officer of the
2 Federal Reserve, or service as a law enforcement or
3 police officer of the executive branch of the Federal
4 Government.

5 **“§ 591. Use of restricted ammunition**

6 “(a) OFFENSE.—(1) Whoever, during and in relation
7 to the commission of a crime of violence or drug traf-
8 ficking crime (including a crime of violence or drug traf-
9 ficking crime which provides for an enhanced punishment
10 if committed by the use of a deadly or dangerous weapon
11 or device) for which he may be prosecuted in a court of
12 the United States, uses or carries a firearm and is in pos-
13 session of armor piercing ammunition capable of being
14 fired in that firearm, shall, in addition to the punishment
15 provided for the commission of such crime of violence or
16 drug trafficking crime be sentenced to a term of imprison-
17 ment for not less than five years.

18 “(2) DEFINITION.—For purposes of this subsection,
19 the term ‘drug trafficking crime’ means any felony punish-
20 able under chapter 17 of this title or chapter 705 of title
21 46.

22 “(b) LIMITATION ON CERTAIN ACTIONS BY
23 COURT.—Notwithstanding any other provision of law, the
24 court shall not suspend the sentence of any person con-
25 victed of a violation of this section, nor place the person

1 on probation, nor shall the terms of imprisonment run
2 concurrently with any other terms of imprisonment, in-
3 cluding that imposed for the crime in which the armor
4 piercing ammunition was used or possessed.

5 **“§ 592. Possession of firearms and dangerous weap-**
6 **ons in Federal facilities**

7 “(a) IN GENERAL.—Except as provided in subsection
8 (d), whoever knowingly possesses or causes to be present
9 a firearm or other dangerous weapon in a Federal facility
10 (other than a Federal court facility), or attempts to do
11 so, shall be imprisoned not more than 1 year.

12 “(b) AGGRAVATED OFFENSE.—Whoever, with intent
13 that a firearm or other dangerous weapon be used in the
14 commission of a crime, knowingly possesses or causes to
15 be present such firearm or dangerous weapon in a Federal
16 facility, or attempts to do so, shall be imprisoned not more
17 than 5 years.

18 “(c) WHERE KILLING RESULTS.—A person who kills
19 any person in the course of a violation of subsection (a)
20 or (b), or in the course of an attack on a Federal facility
21 involving the use of a firearm or other dangerous weapon
22 shall be punished as provided in subchapter A of chapter
23 10.

24 “(d) Subsection (a) does not apply to—

1 “(1) the lawful performance of official duties by
2 an officer, agent, or employee of the United States,
3 a State, or a political subdivision thereof, who is au-
4 thorized by law to engage in or supervise the preven-
5 tion, detection, investigation, or prosecution of any
6 violation of law;

7 “(2) the possession of a firearm or other dan-
8 gerous weapon by a Federal official or a member of
9 the Armed Forces if such possession is authorized by
10 law; or

11 “(3) the lawful carrying of firearms or other
12 dangerous weapons in a Federal facility incident to
13 hunting or other lawful purposes.

14 “(e) COURT FACILITY.—(1) Except as provided in
15 paragraph (2), whoever knowingly possesses or causes to
16 be present a firearm in a Federal court facility, or at-
17 tempts to do so, shall be imprisoned not more than 2
18 years.

19 “(2) Paragraph (1) does not apply to conduct which
20 is described in paragraph (1) or (2) of subsection (d).

21 “(f) DISCLAIMER.—Nothing in this section limits the
22 power of a court of the United States to punish for con-
23 tempt or to promulgate rules or orders regulating, restrict-
24 ing, or prohibiting the possession of weapons within any

1 building housing such court or any of its proceedings, or
2 upon any grounds appurtenant to such building.

3 “(g) DEFINITIONS.—As used in this section:

4 “(1) The term ‘Federal facility’ means a build-
5 ing or part thereof owned or leased by the Federal
6 Government, where Federal employees are regularly
7 present for the purpose of performing their official
8 duties.

9 “(2) The term ‘dangerous weapon’ means a
10 weapon, device, instrument, material, or substance,
11 animate or inanimate, that is used for, or is readily
12 capable of, causing death or serious bodily injury,
13 except that such term does not include a pocket
14 knife with a blade of less than 2 ½ inches in length.

15 “(3) The term ‘Federal court facility’ means
16 the courtroom, judges’ chambers, witness rooms,
17 jury deliberation rooms, attorney conference rooms,
18 prisoner holding cells, offices of the court clerks, the
19 United States attorney, and the United States mar-
20 shal, probation and parole offices, and adjoining cor-
21 ridors of any court of the United States.

22 “(h) POSTING.—Notice of the provisions of sub-
23 sections (a) and (b) shall be posted conspicuously at each
24 public entrance to each Federal facility, and notice of sub-
25 section (e) shall be posted conspicuously at each public

1 entrance to each Federal court facility, and no person
2 shall be convicted of an offense under subsection (a) or
3 (e) with respect to a Federal facility if such notice is not
4 so posted at such facility, unless such person had actual
5 notice of subsection (a) or (e), as the case may be.

6 **“§ 593. Prohibition on purchase, ownership, or pos-**
7 **session of body armor by violent felons**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b), it shall be unlawful for a person to purchase, own,
10 or possess body armor, if that person has been convicted
11 of a felony that is—

12 “(1) a crime of violence; or

13 “(2) an offense under State law that would con-
14 stitute a crime of violence under paragraph (1) if it
15 occurred within the special maritime and territorial
16 jurisdiction of the United States.

17 “(b) AFFIRMATIVE DEFENSE.—

18 “(1) IN GENERAL.—It shall be an affirmative
19 defense under this section that—

20 “(A) the defendant obtained prior written
21 certification from his or her employer that the
22 defendant’s purchase, use, or possession of body
23 armor was necessary for the safe performance
24 of lawful business activity; and

1 “(B) the use and possession by the defend-
2 ant were limited to the course of such perform-
3 ance.

4 “(2) EMPLOYER.—In this subsection, the term
5 ‘employer’ means any other individual employed by
6 the defendant’s business that supervises defendant’s
7 activity. If that defendant has no supervisor, prior
8 written certification is acceptable from any other
9 employee of the business.

10 “SUBCHAPTER C—EXPLOSIVES

“Sec.

“601. Prohibited transactions involving nuclear materials.

11 **“§ 601. Prohibited transactions involving nuclear ma-**
12 **terials**

13 “(a) OFFENSE.—Whoever, if one of the cir-
14 cumstances described in subsection (c) of this section oc-
15 curs—

16 “(1) without lawful authority, intentionally re-
17 ceives, possesses, uses, transfers, alters, disposes of,
18 or disperses any nuclear material or nuclear byprod-
19 uct material and—

20 “(A) thereby knowingly causes the death of
21 or serious bodily injury to any person or sub-
22 stantial damage to property or to the environ-
23 ment; or

1 “(B) circumstances exist, or have been rep-
2 resented to the defendant to exist, that are like-
3 ly to cause the death or serious bodily injury to
4 any person, or substantial damage to property
5 or to the environment;

6 “(2) with intent to deprive another of nuclear
7 material or nuclear byproduct material, knowingly—

8 “(A) takes and carries away nuclear mate-
9 rial or nuclear byproduct material of another
10 without authority;

11 “(B) makes an unauthorized use, disposi-
12 tion, or transfer, of nuclear material or nuclear
13 byproduct material belonging to another; or

14 “(C) uses fraud and thereby obtains nu-
15 clear material or nuclear byproduct material be-
16 longing to another;

17 “(3) knowingly—

18 “(A) uses force; or

19 “(B) threatens or places another in fear
20 that any person other than the actor will immi-
21 nently be subject to bodily injury;

22 and thereby takes nuclear material or nuclear by-
23 product material belonging to another from the per-
24 son or presence of any other;

1 “(4) intentionally intimidates any person and
2 thereby obtains nuclear material or nuclear byprod-
3 uct material belonging to another;

4 “(5) with intent to compel any person, inter-
5 national organization, or governmental entity to do
6 or refrain from doing any act, knowingly threatens
7 to engage in conduct described in paragraph (2)(A)
8 or (3) of this subsection;

9 “(6) knowingly threatens to use nuclear mate-
10 rial or nuclear byproduct material to cause death or
11 serious bodily injury to any person or substantial
12 damage to property or to the environment under cir-
13 cumstances in which the threat may reasonably be
14 understood as an expression of serious purposes;

15 “(7) attempts to commit an offense under para-
16 graph (1), (2), (3), or (4) of this subsection; or

17 “(8) is a party to a conspiracy of two or more
18 persons to commit an offense under paragraph (1),
19 (2), (3), or (4) of this subsection, if any of the par-
20 ties intentionally engages in any conduct in further-
21 ance of such offense;

22 shall be punished as provided in subsection (b) of this sec-
23 tion.

24 “(b) PUNISHMENT.—The punishment for an offense
25 under—

1 “(1) paragraphs (1) through (7) of subsection
2 (a) of this section is—

3 “(A) a fine under this title; and

4 “(B) imprisonment—

5 “(i) for any term of years or for life

6 (I) if, while committing the offense, the of-

7 fender knowingly causes the death of any

8 person; or (II) if, while committing an of-

9 fense under paragraph (1) or (3) of sub-

10 section (a) of this section, the offender,

11 under circumstances manifesting extreme

12 indifference to the life of an individual,

13 knowingly engages in any conduct and

14 thereby recklessly causes the death of or

15 serious bodily injury to any person; and

16 “(ii) for not more than 20 years in

17 any other case; and

18 “(2) paragraph (8) of subsection (a) of this sec-
19 tion is—

20 “(A) a fine under this title; and

21 “(B) imprisonment—

22 “(i) for not more than 20 years if the

23 offense which is the object of the con-

24 spiracy is punishable under paragraph

25 (1)(B)(i); and

1 “(ii) for not more than 10 years in
2 any other case.

3 “(c) CIRCUMSTANCES.—The circumstances referred
4 to in subsection (a) of this section are that—

5 “(1) the offense is committed in the United
6 States or the special maritime and territorial juris-
7 diction of the United States, or the special aircraft
8 jurisdiction of the United States (as defined in sec-
9 tion 46501 of title 49);

10 “(2) an offender or a victim is—

11 “(A) a national of the United States; or

12 “(B) a United States corporation or other
13 legal entity;

14 “(3) after the conduct required for the offense
15 occurs the defendant is found in the United States,
16 even if the conduct required for the offense occurs
17 outside the United States;

18 “(4) the conduct required for the offense occurs
19 with respect to the carriage of a consignment of nu-
20 clear material or nuclear byproduct material for
21 peaceful purposes by any means of transportation
22 intended to go beyond the territory of the state
23 where the shipment originates beginning with the
24 departure from a facility of the shipper in that state
25 and ending with the arrival at a facility of the re-

1 ceiver within the state of ultimate destination and
2 either of such states is the United States; or

3 “(5) either—

4 “(A) the governmental entity under sub-
5 section (a)(5) is the United States; or

6 “(B) the threat under subsection (a)(6) is
7 directed at the United States.

8 “(d) ASSISTANCE IN ACCORDANCE WITH CHAPTER
9 18 OF TITLE 10.—The Attorney General may request as-
10 sistance from the Secretary of Defense under chapter 18
11 of title 10 in the enforcement of this section and the Sec-
12 retary of Defense may provide such assistance in accord-
13 ance with chapter 18 of title 10, except that the Secretary
14 of Defense may provide such assistance through any De-
15 partment of Defense personnel.

16 “(e) OTHER ASSISTANCE.—

17 “(1) The Attorney General may also request as-
18 sistance from the Secretary of Defense under this
19 subsection in the enforcement of this section. Not-
20 withstanding section 292, the Secretary of Defense
21 may, in accordance with other applicable law, pro-
22 vide such assistance to the Attorney General if—

23 “(A) an emergency situation exists (as
24 jointly determined by the Attorney General and

1 the Secretary of Defense in their discretion);
2 and

3 “(B) the provision of such assistance will
4 not adversely affect the military preparedness
5 of the United States (as determined by the Sec-
6 retary of Defense in such Secretary’s discre-
7 tion).

8 “(2) As used in this subsection, the term ‘emer-
9 gency situation’ means a circumstance—

10 “(A) that poses a serious threat to the in-
11 terests of the United States; and

12 “(B) in which—

13 “(i) enforcement of the law would be
14 seriously impaired if the assistance were
15 not provided; and

16 “(ii) civilian law enforcement per-
17 sonnel are not capable of enforcing the
18 law.

19 “(3) Assistance under this section may in-
20 clude—

21 “(A) use of personnel of the Department
22 of Defense to arrest persons and conduct
23 searches and seizures with respect to violations
24 of this section; and

1 “(B) such other activity as is incidental to
2 the enforcement of this section, or to the pro-
3 tection of persons or property from conduct
4 that violates this section.

5 “(4) The Secretary of Defense may require re-
6 imbursement as a condition of assistance under this
7 section.

8 “(5) The Attorney General may delegate the
9 Attorney General’s function under this subsection
10 only to a Deputy, Associate, or Assistant Attorney
11 General.

12 “(f) DEFINITIONS.—As used in this section—

13 “(1) the term ‘nuclear material’ means material
14 containing any—

15 “(A) plutonium;

16 “(B) uranium not in the form of ore or ore
17 residue that contains the mixture of isotopes as
18 occurring in nature;

19 “(C) enriched uranium, defined as ura-
20 nium that contains the isotope 233 or 235 or
21 both in such amount that the abundance ratio
22 of the sum of those isotopes to the isotope 238
23 is greater than the ratio of the isotope 235 to
24 the isotope 238 occurring in nature; or

25 “(D) uranium 233;

1 “(2) the term ‘nuclear byproduct material’
2 means any material containing any radioactive iso-
3 tope created through an irradiation process in the
4 operation of a nuclear reactor or accelerator;

5 “(3) the term ‘international organization’
6 means a public international organization designated
7 as such pursuant to section 1 of the International
8 Organizations Immunities Act or a public organiza-
9 tion created pursuant to treaty or other agreement
10 under international law as an instrument through or
11 by which two or more foreign governments engage in
12 some aspect of their conduct of international affairs;
13 and

14 “(4) the term ‘United States corporation or
15 other legal entity’ means any corporation or other
16 entity organized under the laws of the United States
17 or any State of the United States.

18 “SUBCHAPTER D—IMPORTATION, MANUFAC-
19 TURE, DISTRIBUTION, AND STORAGE OF
20 EXPLOSIVE MATERIALS

“Sec.

“611. Definitions.

“612. Unlawful Acts.

“613. Licenses and user permits.

“614. Penalties.

“615. Exceptions; relief from disabilities.

“616. Additional powers of the Attorney General.

“617. Rules and regulations.

1 **“§ 611. Definitions**

2 “In this subchapter the following definitions apply:

3 “(1) The term ‘explosive materials’ means ex-
4 plosives, blasting agents, and detonators.

5 “(2) Except for the purposes of subsections (d),
6 (e), (f), (g), (h), (i), and (j) of section 614, the term
7 ‘explosives’ means any chemical compound mixture,
8 or device, the primary or common purpose of which
9 is to function by explosion; the term includes, but is
10 not limited to, dynamite and other high explosives,
11 black powder, pellet powder, initiating explosives,
12 detonators, safety fuses, squibs, detonating cord, ig-
13 niter cord, and igniters. The Attorney General shall
14 publish and revise at least annually in the Federal
15 Register a list of these and any additional explosives
16 which he determines to be within the coverage of
17 this subchapter. For the purposes of subsections (d),
18 (e), (f), (g), (h), and (i) of section 614, the term ‘ex-
19 plosive’ is defined in subsection (j) of such section
20 614.

21 “(3) The term ‘blasting agent’ means any mate-
22 rial or mixture, consisting of fuel and oxidizer, in-
23 tended for blasting, not otherwise defined as an ex-
24 plosive, if the finished product, as mixed for use or
25 shipment, cannot be detonated by means of a num-
26 bered 8 test blasting cap when unconfined.

1 “(4) The term ‘detonator’ means any device
2 containing a detonating charge that is used for initi-
3 ating detonation in an explosive; the term includes
4 electric blasting caps of instantaneous and delay
5 types, blasting caps for use with safety fuses and
6 detonating-cord delay connectors.

7 “(5) The term ‘importer’ means any person en-
8 gaged in the business of importing or bringing explo-
9 sive materials into the United States for purposes of
10 sale or distribution.

11 “(6) The term ‘manufacturer’ means any per-
12 son engaged in the business of manufacturing explo-
13 sive materials for purposes of sale or distribution or
14 for that person’s own use.

15 “(7) The term ‘dealer’ means any person en-
16 gaged in the business of distributing explosive mate-
17 rials at wholesale or retail.

18 “(8) The term ‘permittee’ means any user of
19 explosives for a lawful purpose, who has obtained ei-
20 ther a user permit or a limited permit under this
21 chapter.

22 “(9) The term ‘Attorney General’ means the
23 Attorney General of the United States.

24 “(10) The term ‘crime punishable by imprison-
25 ment for a term exceeding one year’ does not mean

1 (A) any Federal or State offenses pertaining to anti-
2 trust violations, unfair trade practices, restraints of
3 trade, or other similar offenses relating to the regu-
4 lation of business practices as the Attorney General
5 may by regulation designate, or (B) any State of-
6 fense (other than one involving a firearm or explo-
7 sive) classified by the laws of the State as a mis-
8 demeanor and punishable by a term of imprisonment
9 of two years or less.

10 “(11) The term ‘licensee’ means any importer,
11 manufacturer, or dealer licensed under this chapter.

12 “(12) The term ‘distribute’ means sell, issue,
13 give, transfer, or otherwise dispose of.

14 “(13) The term ‘convention on the Marking of
15 Plastic Explosives’ means the Convention on the
16 Marking of Plastic Explosives for the Purpose of
17 Detection, Done at Montreal on 1 March 1991.

18 “(14) The term ‘detection agent’ means any
19 one of the substances specified in this subsection
20 when introduced into a plastic explosive or formu-
21 lated in such explosive as a part of the manufac-
22 turing process in such a manner as to achieve homo-
23 geneous distribution in the finished explosive, includ-
24 ing—

1 “(A) Ethylene glycol dinitrate (EGDN),
2 $C_2H_4(NO_3)_2$, molecular weight 152, when the
3 minimum concentration in the finished explosive
4 is 0.2 percent by mass;

5 “(B) 2,3-Dimethyl-2,3-dinitrobutane
6 (DMNB);

7 “(C) Para-Mononitrotoluene (p-MNT);
8 $C_7H_7NO_2$, molecular weight 137, when the min-
9 imum concentration in the finished explosive is
10 0.5 percent by mass;

11 “(D) Ortho-Mononitrotoluene (o-MNT),
12 $C_7H_7NO_2$, molecular weight 137, when the minimum
13 concentration in the finished explosive is 0.5 percent
14 by mass; and

15 “(E) any other substance in the concentra-
16 tion specified by the Attorney General, after
17 consultation with the Secretary of State and the
18 Secretary of Defense, that has been added to
19 the table in part 2 of the Technical Annex to
20 the Convention on the Marking of Plastic Ex-
21 plosives.

22 “(15) The term ‘plastic explosive’ means an ex-
23 plosive material in flexible or elastic sheet form for-
24 mulated with one or more high explosives which in
25 their pure form has a vapor pressure less than

1 10⁴ Pa at a temperature of 25°C, is formulated
2 with a binder material, and is as a mixture malleable
3 or flexible at normal room temperature.

4 “(16) The term ‘alien’ means any person who
5 is not a citizen or national of the United States.

6 “(17) The term ‘responsible person’ means an
7 individual who has the power to direct the manage-
8 ment and policies of the applicant pertaining to ex-
9 plosive materials.

10 “(18) The term ‘Indian tribe’ has the meaning
11 given the term in section 102 of the Federally Rec-
12 ognized Indian Tribe List Act of 1994.

13 **“§ 612. Unlawful Acts**

14 “(a) REGULATORY REQUIREMENTS.—It shall be un-
15 lawful for any person—

16 “(1) to engage in the business of importing,
17 manufacturing, or dealing in explosive materials
18 without a license issued under this chapter;

19 “(2) knowingly to withhold information or to
20 make any false or fictitious oral or written statement
21 or to furnish or exhibit any false, fictitious, or mis-
22 represented identification, intended or likely to de-
23 ceive for the purpose of obtaining explosive mate-
24 rials, or a license, permit, exemption, or relief from
25 disability under this chapter;

1 “(3) other than a licensee or permittee know-
2 ingly—

3 “(A) to transport, ship, cause to be trans-
4 ported, or receive any explosive materials; or

5 “(B) to distribute explosive materials to
6 any person other than a licensee or permittee;
7 or

8 “(4) who is a holder of a limited permit—

9 “(A) to transport, ship, cause to be trans-
10 ported, or receive in interstate or foreign com-
11 merce any explosive materials; or

12 “(B) to receive explosive materials from a
13 licensee or permittee, whose premises are lo-
14 cated outside the State of residence of the lim-
15 ited permit holder, or on more than 6 separate
16 occasions, during the period of the permit, to
17 receive explosive materials from 1 or more li-
18 censees or permittees whose premises are lo-
19 cated within the State of residence of the lim-
20 ited permit holder.

21 “(b) DISTRIBUTION TO UNREGULATED PERSONS.—

22 It shall be unlawful for any licensee or permittee to know-
23 ingly distribute any explosive materials to any person
24 other than—

25 “(1) a licensee;

1 “(2) a holder of a user permit; or

2 “(3) a holder of a limited permit who is a resi-
3 dent of the State where distribution is made and in
4 which the premises of the transferor are located.

5 “(c) DISTRIBUTION IN VIOLATION OF STATE RE-
6 QUIREMENTS.—It shall be unlawful for any licensee to dis-
7 tribute explosive materials to any person who the licensee
8 has reason to believe intends to transport such explosive
9 materials into a State where the purchase, possession, or
10 use of explosive materials is prohibited or which does not
11 permit its residents to transport or ship explosive mate-
12 rials into it or to receive explosive materials in it.

13 “(d) DISTRIBUTION TO PROHIBITED CLASSES OF
14 PERSONS.—It shall be unlawful for any person knowingly
15 to distribute explosive materials to any individual who—

16 “(1) is under twenty-one years of age;

17 “(2) has been convicted in any court of a crime
18 punishable by imprisonment for a term exceeding
19 one year;

20 “(3) is under indictment for a crime punishable
21 by imprisonment for a term exceeding one year;

22 “(4) is a fugitive from justice;

23 “(5) is an unlawful user of or addicted to any
24 controlled substance;

1 “(6) has been adjudicated a mental defective or
2 who has been committed to a mental institution;

3 “(7) is an alien, other than an alien who—

4 “(A) is lawfully admitted for permanent
5 residence (as defined in section 101(a)(20) of
6 the Immigration and Nationality Act);

7 “(B) is in lawful nonimmigrant status, is
8 a refugee admitted under section 207 of the
9 Immigration and Nationality Act, or is in asy-
10 lum status under section 208 of that Act,
11 and—

12 “(i) is a foreign law enforcement offi-
13 cer of a friendly foreign government, as de-
14 termined by the Attorney General in con-
15 sultation with the Secretary of State, en-
16 tering the United States on official law en-
17 forcement business, and the shipping,
18 transporting, possession, or receipt of ex-
19 plosive materials is in furtherance of this
20 official law enforcement business; or

21 “(ii) is a person having the power to
22 direct or cause the direction of the man-
23 agement and policies of a corporation,
24 partnership, or association licensed pursu-
25 ant to section 613(a), and the shipping,

1 transporting, possession, or receipt of ex-
2 plosive materials is in furtherance of such
3 power;

4 “(C) is a member of a North Atlantic
5 Treaty Organization (NATO) or other friendly
6 foreign military force, as determined by the At-
7 torney General in consultation with the Sec-
8 retary of Defense, who is present in the United
9 States under military orders for training or
10 other military purpose authorized by the United
11 States and the shipping, transporting, posses-
12 sion, or receipt of explosive materials is in fur-
13 therance of the authorized military purpose; or

14 “(D) is lawfully present in the United
15 States in cooperation with the Director of Cen-
16 tral Intelligence, and the shipment, transpor-
17 tation, receipt, or possession of the explosive
18 materials is in furtherance of such cooperation;

19 “(8) has been discharged from the armed forces
20 under dishonorable conditions; or

21 “(9) having been a citizen of the United States,
22 has renounced the citizenship of that person.

23 “(e) DISTRIBUTION TO PERSONS PROHIBITED BY
24 STATE LAW FROM POSSESSION.—It shall be unlawful for
25 any licensee knowingly to distribute any explosive mate-

1 rials to any person in any State where the purchase, pos-
2 session, or use by such person of such explosive materials
3 would be in violation of any State law or any published
4 ordinance applicable at the place of distribution.

5 “(f) RECORDS.—It shall be unlawful for any licensee
6 or permittee willfully to manufacture, import, purchase,
7 distribute, or receive explosive materials without making
8 such records as the Attorney General may by regulation
9 require. Such records shall include a statement of intended
10 use, the name, date, place of birth, social security number
11 or taxpayer identification number, and place of residence
12 of any natural person to whom explosive materials are dis-
13 tributed. If explosive materials are distributed to a cor-
14 poration or other business entity, such records shall in-
15 clude the identity and principal and local places of busi-
16 ness and the name, date, place of birth, and place of resi-
17 dence of the natural person acting as agent of the corpora-
18 tion or other business entity in arranging the distribution.

19 “(g) FALSE ENTRY ON RECORDS.—It shall be unlaw-
20 ful for any licensee or permittee knowingly to make any
21 false entry in any record which he is required to keep pur-
22 suant to this section or regulations prescribed under sec-
23 tion 617.

24 “(h) SHIPMENT AND OTHER MATTERS PERTAINING
25 TO STOLEN EXPLOSIVE MATERIALS.—It shall be unlawful

1 for any person to receive, possess, transport, ship, conceal,
2 store, barter, sell, dispose of, or pledge or accept as secu-
3 rity for a loan, any stolen explosive materials which are
4 moving as, which are part of, which constitute, or which
5 have been shipped or transported in, interstate or foreign
6 commerce, either before or after such materials were sto-
7 len, knowing or having reasonable cause to believe that
8 the explosive materials were stolen.

9 “(i) POSSESSION AND OTHER CONDUCT BY PROHIB-
10 ITED PERSONS.—It shall be unlawful for any person—

11 “(1) who is under indictment for, or who has
12 been convicted in any court of, a crime punishable
13 by imprisonment for a term exceeding one year;

14 “(2) who is a fugitive from justice;

15 “(3) who is an unlawful user of or addicted to
16 any controlled substance;

17 “(4) who has been adjudicated as a mental de-
18 fective or who has been committed to a mental insti-
19 tution;

20 “(5) who is an alien, other than an alien who—

21 “(A) is lawfully admitted for permanent
22 residence (as that term is defined in section
23 101(a)(20) of the Immigration and Nationality
24 Act);

1 “(B) is in lawful nonimmigrant status, is
2 a refugee admitted under section 207 of the
3 Immigration and Nationality Act, or is in asy-
4 lum status under section 208 of the Immigra-
5 tion and Nationality Act, and—

6 “(i) is a foreign law enforcement offi-
7 cer of a friendly foreign government, as de-
8 termined by the Attorney General in con-
9 sultation with the Secretary of State, en-
10 tering the United States on official law en-
11 forcement business, and the shipping,
12 transporting, possession, or receipt of ex-
13 plosive materials is in furtherance of this
14 official law enforcement business; or

15 “(ii) is a person having the power to
16 direct or cause the direction of the man-
17 agement and policies of a corporation,
18 partnership, or association licensed pursu-
19 ant to section 843(a), and the shipping,
20 transporting, possession, or receipt of ex-
21 plosive materials is in furtherance of such
22 power;

23 “(C) is a member of a North Atlantic
24 Treaty Organization (NATO) or other friendly
25 foreign military force, as determined by the At-

1 torney General in consultation with the Sec-
2 retary of Defense, who is present in the United
3 States under military orders for training or
4 other military purpose authorized by the United
5 States and the shipping, transporting, posses-
6 sion, or receipt of explosive materials is in fur-
7 therance of the authorized military purpose; or

8 “(D) is lawfully present in the United
9 States in cooperation with the Director of Cen-
10 tral Intelligence, and the shipment, transpor-
11 tation, receipt, or possession of the explosive
12 materials is in furtherance of such cooperation;

13 “(6) who has been discharged from the armed
14 forces under dishonorable conditions; or

15 “(7) who, having been a citizen of the United
16 States, has renounced the citizenship of that person;
17 to ship or transport any explosive in or affecting inter-
18 state or foreign commerce or to receive or possess any ex-
19 plosive which has been shipped or transported in or af-
20 fecting interstate or foreign commerce.

21 “(j) STORAGE REQUIREMENTS.—It shall be unlawful
22 for any person to store any explosive material in a manner
23 not in conformity with regulations promulgated by the At-
24 torney General. In promulgating such regulations, the At-
25 torney General shall take into consideration the class,

1 type, and quantity of explosive materials to be stored, as
2 well as the standards of safety and security recognized in
3 the explosives industry.

4 “(k) FAILURE TO REPORT THEFT OR LOSS.—It shall
5 be unlawful for any person who has knowledge of the theft
6 or loss of any explosive materials from his stock, to fail
7 to report such theft or loss within twenty-four hours of
8 discovery thereof, to the Attorney General and to appro-
9 priate local authorities.

10 “(l) DETECTION AGENTS REQUIRED FOR MANUFAC-
11 TURE OF PLASTIC EXPLOSIVES.—It shall be unlawful for
12 any person to manufacture any plastic explosive that does
13 not contain a detection agent.

14 “(m) IMPORTATION OF PLASTIC EXPLOSIVES WITH-
15 OUT DETECTION AGENTS.—

16 “(1) It shall be unlawful for any person to im-
17 port or bring into the United States, or export from
18 the United States, any plastic explosive that does
19 not contain a detection agent.

20 “(2) This subsection does not apply to the im-
21 portation or bringing into the United States, or the
22 exportation from the United States, of any plastic
23 explosive that was imported or brought into, or man-
24 ufactured in the United States prior to the date of
25 enactment of this subsection by or on behalf of any

1 agency of the United States performing military or
2 police functions (including any military reserve com-
3 ponent) or by or on behalf of the National Guard of
4 any State, not later than 15 years after the date of
5 entry into force of the Convention on the Marking
6 of Plastic Explosives, with respect to the United
7 States.

8 “(n) POSSESSION AND OTHER CONDUCT WITH RE-
9 GARD TO PLASTIC EXPLOSIVES WITHOUT DETECTION
10 AGENTS.—

11 “(1) It shall be unlawful for any person to ship,
12 transport, transfer, receive, or possess any plastic
13 explosive that does not contain a detection agent.

14 “(2) This subsection does not apply to—

15 “(A) the shipment, transportation, trans-
16 fer, receipt, or possession of any plastic explo-
17 sive that was imported or brought into, or man-
18 ufactured in the United States prior to the date
19 of enactment of this subsection by any person
20 during the period beginning on that date and
21 ending 3 years after that date of enactment; or

22 “(B) the shipment, transportation, trans-
23 fer, receipt, or possession of any plastic explo-
24 sive that was imported or brought into, or man-
25 ufactured in the United States prior to the date

1 of enactment of this subsection by or on behalf
2 of any agency of the United States performing
3 a military or police function (including any mili-
4 tary reserve component) or by or on behalf of
5 the National Guard of any State, not later than
6 15 years after the date of entry into force of
7 the Convention on the Marking of Plastic Ex-
8 plosives, with respect to the United States.

9 “(o) DISTRIBUTION OF INFORMATION RELATING TO
10 EXPLOSIVES, DESTRUCTIVE DEVICES, AND WEAPONS OF
11 MASS DESTRUCTION.—

12 “(1) DEFINITIONS.—In this subsection—

13 “(A) the term ‘destructive device’ has the
14 same meaning as in section 581;

15 “(B) the term ‘explosive’ has the same
16 meaning as in section 614; and

17 “(C) the term ‘weapon of mass destruc-
18 tion’ has the same meaning as in section 271.

19 “(2) PROHIBITION.—It shall be unlawful for
20 any person—

21 “(A) to teach or demonstrate the making
22 or use of an explosive, a destructive device, or
23 a weapon of mass destruction, or to distribute
24 by any means information pertaining to, in
25 whole or in part, the manufacture or use of an

1 explosive, destructive device, or weapon of mass
2 destruction, with the intent that the teaching,
3 demonstration, or information be used for, or in
4 furtherance of, an activity that constitutes a
5 Federal crime of violence; or

6 “(B) to teach or demonstrate to any per-
7 son the making or use of an explosive, a de-
8 structive device, or a weapon of mass destruc-
9 tion, or to distribute to any person, by any
10 means, information pertaining to, in whole or in
11 part, the manufacture or use of an explosive,
12 destructive device, or weapon of mass destruc-
13 tion, knowing that such person intends to use
14 the teaching, demonstration, or information for,
15 or in furtherance of, an activity that constitutes
16 a Federal crime of violence.

17 **“§ 613. Licenses and user permits**

18 “(a) REQUIREMENTS FOR APPLICATION.—An appli-
19 cation for a user permit or limited permit or a license to
20 import, manufacture, or deal in explosive materials shall
21 be in such form and contain such information as the At-
22 torney General shall by regulation prescribe, including the
23 names of and appropriate identifying information regard-
24 ing all employees who will be authorized by the applicant
25 to possess explosive materials, as well as fingerprints and

1 a photograph of each responsible person. Each applicant
2 for a license or permit shall pay a fee to be charged as
3 set by the Attorney General, said fee not to exceed \$50
4 for a limited permit and \$200 for any other license or per-
5 mit. Each license or user permit shall be valid for not
6 longer than 3 years from the date of issuance and each
7 limited permit shall be valid for not longer than 1 year
8 from the date of issuance. Each license or permit shall
9 be renewable upon the same conditions and subject to the
10 same restrictions as the original license or permit, and
11 upon payment of a renewal fee not to exceed one-half of
12 the original fee.

13 “(b) APPROVAL OF APPLICATION.—Upon the filing
14 of a proper application and payment of the prescribed fee,
15 and subject to this chapter and other applicable laws, the
16 Attorney General shall issue to such applicant the appro-
17 priate license or permit if—

18 “(1) the applicant (or, if the applicant is a cor-
19 poration, partnership, or association, each respon-
20 sible person with respect to the applicant) is not a
21 person described in section 612(i);

22 “(2) the applicant has not willfully violated this
23 subchapter or regulations issued under this sub-
24 chapter;

1 “(3) the applicant has in a State premises from
2 which he conducts or intends to conduct business;

3 “(4)(A) the Attorney General verifies by inspec-
4 tion or, if the application is for an original limited
5 permit or the first or second renewal of such a per-
6 mit, by such other means as the Attorney General
7 determines appropriate, that the applicant has a
8 place of storage for explosive materials which meets
9 such standards of public safety and security against
10 theft as the Attorney General by regulations shall
11 prescribe; and

12 “(B) subparagraph (A) does not apply to an
13 applicant for the renewal of a limited permit if the
14 Attorney General has verified, by inspection within
15 the preceding 3 years, the matters described in sub-
16 paragraph (A) with respect to the applicant;

17 “(5) the applicant has demonstrated and cer-
18 tified in writing that he is familiar with all published
19 State laws and local ordinances relating to explosive
20 materials for the location in which he intends to do
21 business;

22 “(6) none of the employees of the applicant who
23 will be authorized by the applicant to possess explo-
24 sive materials is any person described in section
25 612(i); and

1 “(7) in the case of a limited permit, the appli-
2 cant has certified in writing that the applicant will
3 not receive explosive materials on more than 6 sepa-
4 rate occasions during the 12-month period for which
5 the limited permit is valid.

6 “(c) TIME LIMIT FOR ACTION.—The Attorney Gen-
7 eral shall approve or deny an application within a period
8 of 90 days for licenses and permits, beginning on the date
9 such application is received by the Attorney General.

10 “(d) REVOCATION.—The Attorney General may re-
11 voke any license or permit issued under this section if in
12 the opinion of the Attorney General the holder thereof has
13 violated this subchapter or any rule or regulation pre-
14 scribed under this subchapter, or has become ineligible to
15 acquire explosive materials under section 612(d). The At-
16 torney General’s action under this subsection may be re-
17 viewed only as provided in subsection (e)(2) of this section.

18 “(e) PROCEDURAL REQUIREMENTS.—

19 “(1) Any person whose application is denied or
20 whose license or permit is revoked shall receive a
21 written notice from the Attorney General stating the
22 specific grounds upon which such denial or revoca-
23 tion is based. Any notice of a revocation of a license
24 or permit shall be given to the holder of such license

1 or permit prior to or concurrently with the effective
2 date of the revocation.

3 “(2) If the Attorney General denies an applica-
4 tion for, or revokes a license, or permit, he shall,
5 upon request by the aggrieved party, promptly hold
6 a hearing to review his denial or revocation. In the
7 case of a revocation, the Attorney General may upon
8 a request of the holder stay the effective date of the
9 revocation. A hearing under this section shall be at
10 a location convenient to the aggrieved party. The At-
11 torney General shall give written notice of his deci-
12 sion to the aggrieved party within a reasonable time
13 after the hearing. The aggrieved party may, within
14 sixty days after receipt of the Secretary’s written de-
15 cision, file a petition with the United States court of
16 appeals for the district in which he resides or has his
17 principal place of business for a judicial review of
18 such denial or revocation, pursuant to sections 701
19 through 706 of title 5.

20 “(f) INSPECTIONS.—Licensees and holders of user
21 permits shall make available for inspection at all reason-
22 able times their records kept pursuant to this chapter or
23 the regulations issued hereunder, and licensees and per-
24 mittees shall submit to the Attorney General such reports
25 and information with respect to such records and the con-

1 tents thereof as he shall by regulations prescribe. The At-
2 torney General may enter during business hours the prem-
3 ises (including places of storage) of any licensee or holder
4 of a user permit, for the purpose of inspecting or exam-
5 ining (1) any records or documents required to be kept
6 by such licensee or permittee, under this chapter or regu-
7 lations issued under this chapter, and (2) any explosive
8 materials kept or stored by such licensee or permittee at
9 such premises. Upon the request of any State or any polit-
10 ical subdivision thereof, the Attorney General may make
11 available to such State or any political subdivision thereof,
12 any information which he may obtain by reason of this
13 subchapter with respect to the identification of persons
14 within such State or political subdivision thereof, who have
15 purchased or received explosive materials, together with
16 a description of such explosive materials. The Attorney
17 General may inspect the places of storage for explosive
18 materials of an applicant for a limited permit or, at the
19 time of renewal of such permit, a holder of a limited per-
20 mit, only as provided in subsection (b)(4).

21 “(g) POSTING.—Licenses and user permits issued
22 under subsection (b) of this section shall be kept posted
23 and kept available for inspection on the premises covered
24 by the license and permit.

1 “(h) EMPLOYER MAY REQUEST DETERMINATION
2 FROM ATTORNEY GENERAL.—

3 “(1) If the Attorney General receives, from an
4 employer, the name and other identifying informa-
5 tion of a responsible person or an employee who will
6 be authorized by the employer to possess explosive
7 materials in the course of employment with the em-
8 ployer, the Attorney General shall determine whether
9 the responsible person or employee is one of the per-
10 sons described in any paragraph of section 612(i).
11 In making the determination, the Attorney General
12 may take into account a letter or document issued
13 under paragraph (2).

14 “(2)(A) If the Attorney General determines
15 that the responsible person or the employee is not
16 one of the persons described in any paragraph of
17 section 612(i), the Attorney General shall notify the
18 employer in writing or electronically of the deter-
19 mination and issue, to the responsible person or em-
20 ployee, a letter of clearance, which confirms the de-
21 termination.

22 “(B) If the Attorney General determines that
23 the responsible person or employee is one of the per-
24 sons described in any paragraph of section 612(i),
25 the Attorney General shall notify the employer in

1 writing or electronically of the determination and
2 issue to the responsible person or the employee, as
3 the case may be, a document that—

4 “(i) confirms the determination;

5 “(ii) explains the grounds for the deter-
6 mination;

7 “(iii) provides information on how the dis-
8 ability may be relieved; and

9 “(iv) explains how the determination may
10 be appealed.

11 “(i) FURNISHING OF SAMPLES.—

12 “(1) Licensed manufacturers and licensed im-
13 porters and persons who manufacture or import ex-
14 plosive materials or ammonium nitrate shall, when
15 required by letter issued by the Attorney General,
16 furnish—

17 “(A) samples of such explosive materials or
18 ammonium nitrate;

19 “(B) information on chemical composition
20 of those products; and

21 “(C) any other information that the Attor-
22 ney General determines is relevant to the identi-
23 fication of the explosive materials or to identi-
24 fication of the ammonium nitrate.

1 “(2) The Attorney General shall, by regulation,
2 authorize reimbursement of the fair market value of
3 samples furnished pursuant to this subsection, as
4 well as the reasonable costs of shipment.

5 **“§ 614. Penalties**

6 “(a) FELONIES.—Any person—

7 “(1) who violates any of subsections (a)
8 through (i) or (l) through (o) of section 612 shall be
9 imprisoned for not more than 10 years; and

10 “(2) violates subsection (p)(2) of section 612,
11 shall be imprisoned not more than 20 years.

12 “(b) MISDEMEANOR.—Whoever violates any other
13 provision of section 612 shall be imprisoned not more than
14 one year.

15 “(c) FORFEITURE.—

16 “(1) Any explosive materials involved or used or
17 intended to be used in any violation of this sub-
18 chapter or any other rule or regulation promulgated
19 under this subchapter or any violation of any crimi-
20 nal law of the United States shall be subject to sei-
21 zure and forfeiture, and all provisions of the Internal
22 Revenue Code of 1986 relating to the seizure, for-
23 feiture, and disposition of firearms, as defined in
24 section 5845(a) of that Code, shall, so far as appli-

1 cable, extend to seizures and forfeitures under this
2 chapter.

3 “(2) Notwithstanding paragraph (1), in the
4 case of the seizure of any explosive materials for any
5 offense for which the materials would be subject to
6 forfeiture in which it would be impracticable or un-
7 safe to remove the materials to a place of storage or
8 would be unsafe to store them, the seizing officer
9 may destroy the explosive materials forthwith. Any
10 destruction under this paragraph shall be in the
11 presence of at least 1 credible witness. The seizing
12 officer shall make a report of the seizure and take
13 samples as the Attorney General may by regulation
14 prescribe.

15 “(3) Within 60 days after any destruction made
16 pursuant to paragraph (2), the owner of (including
17 any person having an interest in) the property so de-
18 stroyed may make application to the Attorney Gen-
19 eral for reimbursement of the value of the property.
20 If the claimant establishes to the satisfaction of the
21 Attorney General that—

22 “(A) the property has not been used or in-
23 volved in a violation of law; or

1 “(B) any unlawful involvement or use of
2 the property was without the claimant’s knowl-
3 edge, consent, or willful blindness,
4 the Attorney General shall make an allowance to the
5 claimant not exceeding the value of the property de-
6 stroyed.

7 “(d) TRANSPORT WITH INTENT.—Whoever trans-
8 ports or receives, or attempts to transport or receive, in
9 interstate or foreign commerce any explosive with the
10 knowledge or intent that it will be used to kill, injure, or
11 intimidate any individual or unlawfully to damage or de-
12 stroy any building, vehicle, or other real or personal prop-
13 erty, shall be imprisoned for not more than ten years; and
14 if personal injury results to any person, including any pub-
15 lic safety officer performing duties as a direct or proxi-
16 mate result of conduct prohibited by this subsection, shall
17 be imprisoned for not more than twenty years; and if
18 death results to any person, including any public safety
19 officer performing duties as a direct or proximate result
20 of conduct prohibited by this subsection, shall be subject
21 to imprisonment for any term of years, or to the death
22 penalty or to life imprisonment.

23 “(e) THREATS.—Whoever, through the use of the
24 mail, telephone, telegraph, or other instrument of inter-
25 state or foreign commerce, or in or affecting interstate or

1 foreign commerce, willfully makes any threat, or mali-
2 ciously conveys false information knowing the same to be
3 false, concerning an attempt or alleged attempt being
4 made, or to be made, to kill, injure, or intimidate any indi-
5 vidual or unlawfully to damage or destroy any building,
6 vehicle, or other real or personal property by means of
7 fire or an explosive shall be imprisoned for not more than
8 10 years.

9 “(f) MALACIOUS DAMAGE TO GOVERNMENT PROP-
10 ERTY.—

11 “(1) Whoever maliciously damages or destroys,
12 or attempts to damage or destroy, by means of fire
13 or an explosive, any building, vehicle, or other per-
14 sonal or real property in whole or in part owned or
15 possessed by, or leased to, the United States, or any
16 department or agency thereof, or any institution or
17 organization receiving Federal financial assistance,
18 shall be imprisoned for not less than 5 years and not
19 more than 20 years.

20 “(2) Whoever engages in conduct prohibited by
21 this subsection, and as a result of such conduct, di-
22 rectly or proximately causes personal injury or cre-
23 ates a substantial risk of injury to any person, in-
24 cluding any public safety officer performing duties,

1 shall be imprisoned for not less than 7 years and not
2 more than 40 years.

3 “(3) Whoever engages in conduct prohibited by
4 this subsection, and as a result of such conduct di-
5 rectly or proximately causes the death of any person,
6 including any public safety officer performing duties,
7 shall be subject to the death penalty, or imprisoned
8 for not less than 20 years or for life.

9 “(g) POSSESSION AT AIRPORT.—

10 “(1) Except as provided in paragraph (2), who-
11 ever possesses an explosive in an airport that is sub-
12 ject to the regulatory authority of the Federal Avia-
13 tion Administration, or in any building in whole or
14 in part owned, possessed, or used by, or leased to,
15 the United States or any department or agency
16 thereof, except with the written consent of the agen-
17 cy, department, or other person responsible for the
18 management of such building or airport, shall be im-
19 prisoned for not more than five years.

20 “(2) This subsection does not apply to—

21 “(A) the possession of ammunition (as that
22 term is defined in regulations issued pursuant
23 to this chapter) in an airport that is subject to
24 the regulatory authority of the Federal Aviation

1 Administration if such ammunition is either in
2 checked baggage or in a closed container; or

3 “(B) the possession of an explosive in an
4 airport if the packaging and transportation of
5 such explosive is exempt from, or subject to and
6 in accordance with, regulations of the Pipeline
7 and Hazardous Materials Safety Administration
8 for the handling of hazardous materials pursu-
9 ant to chapter 51 of title 49.

10 “(h) USE IN CONNECTION WITH OTHER CRIMES.—

11 Whoever—

12 “(1) uses fire or an explosive to commit any fel-
13 ony which may be prosecuted in a court of the
14 United States, or

15 “(2) carries an explosive during the commission
16 of any felony which may be prosecuted in a court of
17 the United States,

18 including a felony which provides for an enhanced punish-
19 ment if committed by the use of a deadly or dangerous
20 weapon or device shall, in addition to the punishment pro-
21 vided for such felony, be sentenced to imprisonment for
22 10 years. In the case of a second or subsequent conviction
23 under this subsection, such person shall be sentenced to
24 imprisonment for 20 years. Notwithstanding any other
25 provision of law, the court shall not place on probation

1 or suspend the sentence of any person convicted of a viola-
2 tion of this subsection, nor shall the term of imprisonment
3 imposed under this subsection run concurrently with any
4 other term of imprisonment including that imposed for the
5 felony in which the explosive was used or carried.

6 “(i) MALICIOUS DAMANGE TO COMMERCE-RELATED
7 PROPERTY.—Whoever maliciously damages or destroys, or
8 attempts to damage or destroy, by means of fire or an
9 explosive, any building, vehicle, or other real or personal
10 property used in interstate or foreign commerce or in any
11 activity affecting interstate or foreign commerce shall be
12 imprisoned for not less than 5 years and not more than
13 20 years; and if personal injury results to any person, in-
14 cluding any public safety officer performing duties as a
15 direct or proximate result of conduct prohibited by this
16 subsection, shall be imprisoned for not less than 7 years
17 and not more than 40 years; and if death results to any
18 person, including any public safety officer performing du-
19 ties as a direct or proximate result of conduct prohibited
20 by this subsection, shall also be subject to imprisonment
21 for any term of years, or to the death penalty or to life
22 imprisonment.

23 “(j) DEFINITION.—For the purposes of subsections
24 (d), (e), (f), (g), (h), and (i) of this section and section
25 612(p)(2), the term ‘explosive’ means gunpowders, pow-

1 ders used for blasting, all forms of high explosives, blast-
2 ing materials, fuzes (other than electric circuit breakers),
3 detonators, and other detonating agents, smokeless pow-
4 ders, other explosive or incendiary devices within the
5 meaning of paragraph (4) of section 296, and any chem-
6 ical compounds, mechanical mixture, or device that con-
7 tains any oxidizing and combustible units, or other ingre-
8 dients, in such proportions, quantities, or packing that ig-
9 nition by fire, by friction, by concussion, by percussion,
10 or by detonation of the compound, mixture, or device or
11 any part thereof may cause an explosion.

12 “(k) THEFT RELATED TO COMMERCE.—A person
13 who steals any explosives materials which are moving as,
14 or are a part of, or which have moved in, interstate or
15 foreign commerce shall be imprisoned for not more than
16 10 years.

17 “(l) THEFT FROM LICENSEE OR PERMITTEE.—A
18 person who steals any explosive material from a licensed
19 importer, licensed manufacturer, or licensed dealer, or
20 from any permittee shall be imprisoned not more than 10
21 years.

22 “(m) CONSPIRACY.—A person who conspires to com-
23 mit an offense under subsection (h) shall be imprisoned
24 for any term of years not exceeding 20.

1 “(n) TRANSFER WITH KNOWLEDGE.—Whoever
2 knowingly transfers any explosive materials, knowing or
3 having reasonable cause to believe that such explosive ma-
4 terials will be used to commit a crime of violence (as de-
5 fined in section 584(c)(3)) or drug trafficking crime (as
6 defined in section 584(c)(2)) shall be subject to the same
7 penalties as may be imposed under subsection (h) for a
8 first conviction for the use or carrying of an explosive ma-
9 terial.

10 “(o) THEFT REPORTING REQUIREMENT.—

11 “(1) A holder of a license or permit who knows
12 that explosive materials have been stolen from that
13 licensee or permittee, shall report the theft to the
14 Attorney General not later than 24 hours after the
15 discovery of the theft.

16 “(2) A holder of a license or permit who does
17 not report a theft in accordance with paragraph (1),
18 shall be imprisoned not more than 5 years.

19 **“§ 615. Exceptions; relief from disabilities**

20 “(a) EXCEPTIONS.—Except in the case of subsection
21 (l), (m), (n), or (o) of section 612 and subsections (d),
22 (e), (f), (g), (h), and (i) of section 614, this chapter does
23 not apply to—

24 “(1) any aspect of the transportation of explo-
25 sive materials via railroad, water, highway, or air

1 which are regulated by the United States Depart-
2 ment of Transportation and agencies thereof, and
3 which pertain to safety;

4 “(2) the use of explosive materials in medicines
5 and medicinal agents in the forms prescribed by the
6 official United States Pharmacopeia, or the National
7 Formulary;

8 “(3) the transportation, shipment, receipt, or
9 importation of explosive materials for delivery to any
10 agency of the United States or to any State or polit-
11 ical subdivision thereof;

12 “(4) small arms ammunition and components
13 thereof;

14 “(5) commercially manufactured black powder
15 in quantities not to exceed fifty pounds, percussion
16 caps, safety and pyrotechnic fuses, quills, quick and
17 slow matches, and friction primers, intended to be
18 used solely for sporting, recreational, or cultural
19 purposes in antique firearms as defined in section
20 581(14), or in antique devices as exempted from the
21 term ‘destructive device’ in section 581(2);

22 “(6) the manufacture under the regulation of
23 the military department of the United States of ex-
24 plosive materials for, or their distribution to or stor-
25 age or possession by the military or naval services or

1 other agencies of the United States; or to arsenals,
2 navy yards, depots, or other establishments owned
3 by, or operated by or on behalf of, the United
4 States; and

5 “(7) the transportation, shipment, receipt, or
6 importation of display fireworks materials for deliv-
7 ery to a federally recognized Indian tribe or tribal
8 agency.

9 “(b) RELIEF FROM DISABILITIES.—

10 “(1) A person who is prohibited from shipping,
11 transporting, receiving, or possessing any explosive
12 under section 612(i) may apply to the Attorney Gen-
13 eral for relief from such prohibition.

14 “(2) The Attorney General may grant the relief
15 requested under paragraph (1) if the Attorney Gen-
16 eral determines that the circumstances regarding the
17 applicability of section 612(i), and the applicant’s
18 record and reputation, are such that the applicant
19 will not be likely to act in a manner dangerous to
20 public safety and that the granting of such relief is
21 not contrary to the public interest.

22 “(3) A licensee or permittee who applies for re-
23 lief, under this subsection, from the disabilities in-
24 curred under this chapter as a result of an indict-
25 ment for or conviction of a crime punishable by im-

1 prisonment for a term exceeding 1 year shall not be
2 barred by such disability from further operations
3 under the license or permit pending final action on
4 an application for relief filed pursuant to this sec-
5 tion.

6 “(c) AFFIRMATIVE DEFENSE.—

7 “(1) It is an affirmative defense against any
8 proceeding involving subsections (l) through (o) of
9 section 612 if the proponent proves by a preponder-
10 ance of the evidence that the plastic explosive—

11 “(A) consisted of a small amount of plastic
12 explosive intended for and utilized solely in law-
13 ful—

14 “(i) research, development, or testing
15 of new or modified explosive materials;

16 “(ii) training in explosives detection
17 or development or testing of explosives de-
18 tection equipment; or

19 “(iii) forensic science purposes; or

20 “(B) was plastic explosive that, within 3
21 years after the date of enactment of the
22 Antiterrorism and Effective Death Penalty Act
23 of 1996, was incorporated in a military device
24 within the territory of the United States and re-
25 mains an integral part of such military device,

1 or is intended to be, or is incorporated in, and
2 remains an integral part of a military device
3 that is intended to become, or has become, the
4 property of any agency of the United States
5 performing military or police functions (includ-
6 ing any military reserve component) or the Na-
7 tional Guard of any State, wherever such device
8 is located.

9 “(2) In this subsection, the term ‘military de-
10 vice’ includes, shells, bombs, projectiles, mines, mis-
11 siles, rockets, shaped charges, grenades, perforators,
12 and similar devices lawfully manufactured exclusively
13 for military or police purposes.

14 **“§ 616. Additional powers of the Attorney General**

15 “(a) INSPECTIONS.—The Attorney General is author-
16 ized to inspect the site of any accident, or fire, in which
17 there is reason to believe that explosive materials were in-
18 volved, in order that if any such incident has been brought
19 about by accidental means, precautions may be taken to
20 prevent similar accidents from occurring. In order to carry
21 out the purpose of this subsection, the Attorney General
22 is authorized to enter into or upon any property where
23 explosive materials have been used, are suspected of hav-
24 ing been used, or have been found in an otherwise unau-
25 thorized location. Nothing in this subchapter shall be con-

1 strued as modifying or otherwise affecting in any way the
2 investigative authority of any other Federal agency. In ad-
3 dition to any other investigatory authority they have with
4 respect to violations of this subchapter, the Federal Bu-
5 reau of Investigation, together with the Bureau of Alcohol,
6 Tobacco, Firearms, and Explosives, shall have authority
7 to conduct investigations with respect to violations of sub-
8 section (d), (e), (f), (g), (h), or (i) of section 614.

9 “(b) NATIONAL REPOSITORY.—The Attorney Gen-
10 eral is authorized to establish a national repository of in-
11 formation on incidents involving arson and the suspected
12 criminal misuse of explosives. All Federal agencies having
13 information concerning such incidents shall report the in-
14 formation to the Attorney General pursuant to such regu-
15 lations as deemed necessary to carry out this subsection.
16 The repository shall also contain information on incidents
17 voluntarily reported to the Attorney General by State and
18 local authorities.

19 **“§ 617. Rules and regulations**

20 “The administration of this subchapter shall be vest-
21 ed in the Attorney General. The Attorney General may
22 prescribe such rules and regulations as he deems reason-
23 ably necessary to carry out this subchapter. The Attorney
24 General shall give reasonable public notice, and afford to

1 interested parties opportunity for hearing, before pre-
 2 scribing such rules and regulations.

3 “SUBCHAPTER E—BIOLOGICAL WEAPONS

“Sec.

“621. Prohibitions with respect to biological weapons.

“622. Requests for military assistance to enforce prohibition in certain emer-
 gencies.

“623. Possession by restricted persons.

“624. Variola virus.

“625. Seizure, forfeiture, and destruction.

“626. Injunctions.

“627. Definitions.

4 “§ 621. Prohibitions with respect to biological weap-
 5 ons

6 “(a) IN GENERAL.—Whoever knowingly develops,
 7 produces, stockpiles, transfers, acquires, retains, or pos-
 8 sesses any biological agent, toxin, or delivery system for
 9 use as a weapon, or knowingly assists a foreign state or
 10 any organization to do so shall be imprisoned for life or
 11 any term of years. There is extraterritorial jurisdiction
 12 over an offense under this section committed by or against
 13 a national of the United States.

14 “(b) ADDITIONAL OFFENSE.—Whoever knowingly
 15 possesses any biological agent, toxin, or delivery system
 16 of a type or in a quantity that, under the circumstances,
 17 is not reasonably justified by a prophylactic, protective,
 18 bona fide research, or other peaceful purpose, shall be im-
 19 prisoned not more than 10 years. In this subsection, the
 20 terms ‘biological agent’ and ‘toxin’ do not encompass any
 21 biological agent or toxin that is in its naturally occurring

1 environment, if the biological agent or toxin has not been
2 cultivated, collected, or otherwise extracted from its nat-
3 ural source.

4 “(c) DEFINITION.—For purposes of this section, the
5 term ‘for use as a weapon’ includes the development, pro-
6 duction, transfer, acquisition, retention, or possession of
7 any biological agent, toxin, or delivery system for other
8 than prophylactic, protective, bona fide research, or other
9 peaceful purposes.

10 **“§ 622. Requests for military assistance to enforce**
11 **prohibition in certain emergencies**

12 “The Attorney General may request the Secretary of
13 Defense to provide assistance under section 382 of title
14 10 in support of Department of Justice activities relating
15 to the enforcement of section 621 in an emergency situa-
16 tion involving a biological weapon of mass destruction. The
17 authority to make such a request may be exercised by an-
18 other official of the Department of Justice in accordance
19 with section 382(f)(2) of title 10.

20 **“§ 623. Possession by restricted persons**

21 “(a) IN GENERAL.—(1) No restricted person shall
22 ship or transport in or affecting interstate or foreign com-
23 merce, or possess in or affecting interstate or foreign com-
24 merce, any biological agent or toxin, or receive any biologi-
25 cal agent or toxin that has been shipped or transported

1 in interstate or foreign commerce, if the biological agent
2 or toxin is listed as a non-overlap or overlap select biologi-
3 cal agent or toxin in sections 73.4 and 73.5 of title 42,
4 Code of Federal Regulations, pursuant to section 351A
5 of the Public Health Service Act, and is not excluded
6 under sections 73.4 and 73.5 or exempted under section
7 73.6 of title 42, Code of Federal Regulations.

8 “(2) Whoever knowingly violates this section shall be
9 imprisoned not more than 10 years, but the prohibition
10 contained in this section does not apply with respect to
11 any duly authorized United States governmental activity.

12 “(b) TRANSFER TO UNREGISTERED PERSON.—

13 “(1) SELECT AGENTS.—Whoever transfers a se-
14 lect agent to a person who the transferor knows or
15 has reasonable cause to believe is not registered as
16 required by regulations under subsection (b) or (c)
17 of section 351A of the Public Health Service Act
18 shall be imprisoned for not more than 5 years.

19 “(2) CERTAIN OTHER BIOLOGICAL AGENTS AND
20 TOXINS.—Whoever transfers a biological agent or
21 toxin listed pursuant to section 212(a)(1) of the Ag-
22 ricultural Bioterrorism Protection Act of 2002 to a
23 person who the transferor knows or has reasonable
24 cause to believe is not registered as required by reg-
25 ulations under subsection (b) or (c) of section 212

1 of such Act shall be imprisoned for not more than
2 5 years.

3 “(c) UNREGISTERED FOR POSSESSION.—

4 “(1) SELECT AGENTS.—Whoever knowingly
5 possesses a biological agent or toxin where such
6 agent or toxin is a select agent for which such per-
7 son has not obtained a registration required by regu-
8 lations under section 351A(e) of the Public Health
9 Service Act shall be or imprisoned for not more than
10 5 years.

11 “(2) CERTAIN OTHER BIOLOGICAL AGENTS AND
12 TOXINS.—Whoever knowingly possesses a biological
13 agent or toxin where such agent or toxin is a biologi-
14 cal agent or toxin listed pursuant to section
15 212(a)(1) of the Agricultural Bioterrorism Protec-
16 tion Act of 2002 for which such person has not ob-
17 tained a registration required by regulations under
18 section 212(c) of such Act shall be imprisoned for
19 not more than 5 years.

20 “(d) DEFINITIONS.—As used in this section:

21 “(1) The term ‘select agent’ means a biological
22 agent or toxin to which subsection (a) applies. Such
23 term (including for purposes of subsection (a)) does
24 not include any such biological agent or toxin that
25 is in its naturally-occurring environment, if the bio-

1 logical agent or toxin has not been cultivated, col-
2 lected, or otherwise extracted from its natural
3 source.

4 “(2) The term ‘restricted person’ means an in-
5 dividual who—

6 “(A) is under indictment for a crime pun-
7 ishable by imprisonment for a term exceeding 1
8 year;

9 “(B) has been convicted in any court of a
10 crime punishable by imprisonment for a term
11 exceeding 1 year;

12 “(C) is a fugitive from justice;

13 “(D) is an unlawful user of any controlled
14 substance;

15 “(E) is an alien illegally or unlawfully in
16 the United States;

17 “(F) has been adjudicated as a mental de-
18 fective or has been committed to any mental in-
19 stitution;

20 “(G)(i) is an alien (other than an alien
21 lawfully admitted for permanent residence) who
22 is a national of a country as to which the Sec-
23 retary of State, pursuant to section 6(j) of the
24 Export Administration Act of 1979, section
25 620A of chapter 1 of part M of the Foreign As-

1 sistance Act of 1961, or section 40(d) of chap-
2 ter 3 of the Arms Export Control Act, has
3 made a determination (that remains in effect)
4 that such country has repeatedly provided sup-
5 port for acts of international terrorism, or (ii)
6 acts for or on behalf of, or operates subject to
7 the direction or control of, a government or offi-
8 cial of a country described in this subpara-
9 graph;

10 “(H) has been discharged from the Armed
11 Services of the United States under dishonor-
12 able conditions; or

13 “(I) is a member of, acts for or on behalf
14 of, or operates subject to the direction or con-
15 trol of, a terrorist organization as defined in
16 section 212(a)(3)(B)(vi) of the Immigration and
17 Nationality Act.

18 “(3) The term ‘alien’ has the same meaning as
19 in section 101(a)(3) of the Immigration and Nation-
20 ality Act.

21 “(4) The term ‘lawfully admitted for permanent
22 residence’ has the same meaning as in section
23 101(a)(20) of the Immigration and Nationality Act.

24 **“§ 624. Variola virus**

25 “(a) UNLAWFUL CONDUCT.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), it shall be unlawful for any person to
3 knowingly produce, engineer, synthesize, acquire,
4 transfer directly or indirectly, receive, possess, im-
5 port, export, or use, or possess and threaten to use,
6 variola virus.

7 “(2) EXCEPTION.—This subsection does not
8 apply to conduct by, or under the authority of, the
9 Secretary of Health and Human Services.

10 “(b) JURISDICTION.—Conduct prohibited by sub-
11 section (a) is within the jurisdiction of the United States
12 if—

13 “(1) the offense occurs in or affects interstate
14 or foreign commerce;

15 “(2) the offense occurs outside of the United
16 States and is committed by a national of the United
17 States;

18 “(3) the offense is committed against a national
19 of the United States while the national is outside the
20 United States;

21 “(4) the offense is committed against any prop-
22 erty that is owned, leased, or used by the United
23 States or by any department or agency of the United
24 States, whether the property is within or outside the
25 United States; or

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

7 “(c) CRIMINAL PENALTIES.—

8 “(1) IN GENERAL.—Whoever violates subsection
9 (a) shall be sentenced to a term of imprisonment not
10 less than 25 years or to imprisonment for life.

11 “(2) OTHER CIRCUMSTANCES.—Whoever, in the
12 course of a violation of subsection (a), uses or pos-
13 sesses and threatens to use, any item or items de-
14 scribed in subsection (a), shall be imprisoned for not
15 less than 30 years or imprisoned for life.

16 “(3) SPECIAL CIRCUMSTANCES.—If the death
17 of another results from a person’s violation of sub-
18 section (a), the person shall be punished by impris-
19 onment for life.

20 “(d) DEFINITION.—As used in this section, the term
21 ‘variola virus’ means a virus that can cause human small-
22 pox or any derivative of the variola major virus that con-
23 tains more than 85 percent of the gene sequence of the
24 variola major virus or the variola minor virus.

1 **“§ 625. Seizure, forfeiture, and destruction**

2 “(a) IN GENERAL.—(1) Except as provided in para-
3 graph (2), the Attorney General may request the issuance,
4 in the same manner as provided for a search warrant, of
5 a warrant authorizing the seizure of any biological agent,
6 toxin, or delivery system that—

7 “(A) pertains to conduct prohibited under sec-
8 tion 621; or

9 “(B) is of a type or in a quantity that under
10 the circumstances has no apparent justification for
11 prophylactic, protective, or other peaceful purposes.

12 “(2) In exigent circumstances, seizure and destruc-
13 tion of any biological agent, toxin, or delivery system de-
14 scribed in subparagraphs (A) and (B) of paragraph (1)
15 may be made upon probable cause without the necessity
16 for a warrant.

17 “(b) PROCEDURE.—Property seized pursuant to sub-
18 section (a) shall be forfeited to the United States after
19 notice to potential claimants and an opportunity for a
20 hearing. At such hearing, the Government shall bear the
21 burden of persuasion by a preponderance of the evidence.
22 Except as inconsistent herewith, the same procedures and
23 provisions of law relating to a forfeiture under the customs
24 laws shall extend to a seizure or forfeiture under this sec-
25 tion. The Attorney General may provide for the destruc-
26 tion or other appropriate disposition of any biological

1 agent, toxin, or delivery system seized and forfeited pursu-
2 ant to this section.

3 “(c) AFFIRMATIVE DEFENSE.—It is an affirmative
4 defense against a forfeiture under subsection (a)(1)(B) of
5 this section that—

6 “(1) such biological agent, toxin, or delivery
7 system is for a prophylactic, protective, or other
8 peaceful purpose; and

9 “(2) such biological agent, toxin, or delivery
10 system, is of a type and quantity reasonable for that
11 purpose.

12 **“§ 626. Injunctions**

13 “(a) IN GENERAL.—The United States may obtain
14 in a civil action an injunction against—

15 “(1) the conduct prohibited under section 621;

16 “(2) the preparation, solicitation, attempt,
17 threat, or conspiracy to engage in conduct prohibited
18 under section 621; or

19 “(3) the development, production, stockpiling,
20 transferring, acquisition, retention, or possession, or
21 the attempted development, production, stockpiling,
22 transferring, acquisition, retention, or possession of
23 any biological agent, toxin, or delivery system of a
24 type or in a quantity that under the circumstances

1 has no apparent justification for prophylactic, pro-
2 tective, or other peaceful purposes.

3 “(b) AFFIRMATIVE DEFENSE.—It is an affirmative
4 defense against an injunction under subsection (a)(3)
5 that—

6 “(1) the conduct sought to be enjoined is for a
7 prophylactic, protective, or other peaceful purpose;
8 and

9 “(2) such biological agent, toxin, or delivery
10 system is of a type and quantity reasonable for that
11 purpose.

12 **“§ 627. Definitions**

13 “As used in this chapter—

14 “(1) the term ‘biological agent’ means any
15 microorganism (including bacteria, viruses, fungi,
16 rickettsiae or protozoa), or infectious substance, or
17 any naturally occurring, bioengineered or syn-
18 thesized component of any such microorganism or
19 infectious substance, capable of causing—

20 “(A) death, disease, or other biological
21 malfunction in a human, an animal, a plant, or
22 another living organism;

23 “(B) deterioration of food, water, equip-
24 ment, supplies, or material of any kind; or

1 “(C) deleterious alteration of the environ-
2 ment;

3 “(2) the term ‘toxin’ means the toxic material
4 or product of plants, animals, microorganisms (in-
5 cluding bacteria, viruses, fungi, rickettsiae or pro-
6 tozoa), or infectious substances, or a recombinant or
7 synthesized molecule, whatever their origin and
8 method of production, and includes—

9 “(A) any poisonous substance or biological
10 product that may be engineered as a result of
11 biotechnology produced by a living organism; or

12 “(B) any poisonous isomer or biological
13 product, homolog, or derivative of such a sub-
14 stance;

15 “(3) the term ‘delivery system’ means—

16 “(A) any apparatus, equipment, device, or
17 means of delivery specifically designed to deliver
18 or disseminate a biological agent, toxin, or vec-
19 tor; or

20 “(B) any vector; and

21 “(4) the term ‘vector’ means a living organism,
22 or molecule, including a recombinant or synthesized
23 molecule, capable of carrying a biological agent or
24 toxin to a host.

1 “SUBCHAPTER F—CHEMICAL WEAPONS

“Sec.

“631. Prohibited activities.

“632. Penalties.

“633. Individual self-defense devices.

“634. Injunctions.

“635. Requests for military assistance to enforce prohibition in certain emergencies.

“636. Definitions.

2 **“§ 631. Prohibited activities**

3 “(a) UNLAWFUL CONDUCT.—Except as provided in
4 subsection (b), it shall be unlawful for any person know-
5 ingly—

6 “(1) to develop, produce, otherwise acquire,
7 transfer directly or indirectly, receive, stockpile, re-
8 tain, own, possess, or use, or threaten to use, any
9 chemical weapon; or

10 “(2) to assist or induce, in any way, any person
11 to violate paragraph (1).

12 “(b) EXEMPTED AGENCIES AND PERSONS.—

13 “(1) IN GENERAL.—Subsection (a) does not
14 apply to the retention, ownership, possession, trans-
15 fer, or receipt of a chemical weapon by a depart-
16 ment, agency, or other entity of the United States,
17 or by a person described in paragraph (2), pending
18 destruction of the weapon.

19 “(2) EXEMPTED PERSONS.—A person referred
20 to in paragraph (1) is—

1 “(A) any person, including a member of
2 the Armed Forces of the United States, who is
3 authorized by law or by an appropriate officer
4 of the United States to retain, own, possess,
5 transfer, or receive the chemical weapon; or

6 “(B) in an emergency situation, any other-
7 wise nonculpable person if the person is at-
8 tempting to destroy or seize the weapon.

9 “(c) JURISDICTION.—Conduct prohibited by sub-
10 section (a) is within the jurisdiction of the United States
11 if the prohibited conduct—

12 “(1) takes place in the United States;

13 “(2) takes place outside of the United States
14 and is committed by a national of the United States;

15 “(3) is committed against a national of the
16 United States while the national is outside the
17 United States; or

18 “(4) is committed against any property that is
19 owned, leased, or used by the United States or by
20 any department or agency of the United States,
21 whether the property is within or outside the United
22 States.

23 **“§ 632. Penalties**

24 “(a) CRIMINAL PENALTIES.—

1 “(1) IN GENERAL.—Whoever violates section
2 631 shall be imprisoned for any term of years.

3 “(2) DEATH PENALTY.—Whoever violates sec-
4 tion 631 and by whose action the death of another
5 person is the result shall be punished by death or
6 imprisoned for life.

7 “(b) CIVIL PENALTIES.—

8 “(1) IN GENERAL.—The Attorney General may
9 bring a civil action in the appropriate United States
10 district court against any person who violates section
11 631 and, upon proof of such violation by a prepon-
12 derance of the evidence, such person shall be subject
13 to pay a civil penalty in an amount not to exceed
14 \$100,000 for each such violation.

15 “(2) RELATION TO OTHER PROCEEDINGS.—The
16 imposition of a civil penalty under this subsection
17 does not preclude any other criminal or civil statu-
18 tory, common law, or administrative remedy, which
19 is available by law to the United States or any other
20 person.

21 “(c) REIMBURSEMENT OF COSTS.—The court shall
22 order any person convicted of an offense under subsection
23 (a) to reimburse the United States for any expenses in-
24 curred by the United States incident to the seizure, stor-
25 age, handling, transportation, and destruction or other

1 disposition of any property that was seized in connection
2 with an investigation of the commission of the offense by
3 that person. A person ordered to reimburse the United
4 States for expenses under this subsection shall be jointly
5 and severally liable for such expenses with each other per-
6 son, if any, who is ordered under this subsection to reim-
7 burse the United States for the same expenses.

8 **“§ 633. Individual self-defense devices**

9 “This subchapter does not prohibit any individual
10 self-defense device, including one using a pepper spray or
11 chemical mace.

12 **“§ 634. Injunctions**

13 “The United States may obtain in a civil action an
14 injunction against—

15 “(1) the conduct prohibited under section 631
16 or 633; or

17 “(2) the preparation or solicitation to engage in
18 conduct prohibited under section 631 or 634.

19 **“§ 635. Requests for military assistance to enforce**
20 **prohibition in certain emergencies**

21 “The Attorney General may request the Secretary of
22 Defense to provide assistance under section 382 of title
23 10 in support of Department of Justice activities relating
24 to the enforcement of section 631 in an emergency situa-
25 tion involving a chemical weapon. The authority to make

1 such a request may be exercised by another official of the
2 Department of Justice in accordance with section
3 382(f)(2) of title 10.

4 **“§ 636. Definitions**

5 “In this chapter the following apply:

6 “(1) CHEMICAL WEAPON.—The term ‘chemical
7 weapon’ means the following, together or separately:

8 “(A) A toxic chemical and its precursors,
9 except where intended for a purpose not prohib-
10 ited under this chapter as long as the type and
11 quantity is consistent with such a purpose.

12 “(B) A munition or device, specifically de-
13 signed to cause death or other harm through
14 toxic properties of those toxic chemicals speci-
15 fied in subparagraph (A), which would be re-
16 leased as a result of the employment of such
17 munition or device.

18 “(C) Any equipment specifically designed
19 for use directly in connection with the employ-
20 ment of munitions or devices specified in sub-
21 paragraph (B).

22 “(2) CHEMICAL WEAPONS CONVENTION; CON-
23 VENTION.—The terms ‘Chemical Weapons Conven-
24 tion’ and ‘Convention’ mean the Convention on the
25 Prohibition of the Development, Production, Stock-

1 piling and Use of Chemical Weapons and on Their
2 Destruction, opened for signature on January 13,
3 1993.

4 “(3) KEY COMPONENT OF A BINARY OR MULTI-
5 COMPONENT CHEMICAL SYSTEM.—The term ‘key
6 component of a binary or multicomponent chemical
7 system’ means the precursor which plays the most
8 important role in determining the toxic properties of
9 the final product and reacts rapidly with other
10 chemicals in the binary or multicomponent system.

11 “(4) PRECURSOR.—

12 “(A) IN GENERAL.—The term ‘precursor’
13 means any chemical reactant which takes part
14 at any stage in the production by whatever
15 method of a toxic chemical. The term includes
16 any key component of a binary or multicompo-
17 nent chemical system.

18 “(B) LIST OF PRECURSORS.—Precursors
19 which have been identified for the application of
20 verification measures under Article VI of the
21 Convention are listed in schedules contained in
22 the Annex on Chemicals of the Chemical Weap-
23 ons Convention.

1 “(5) PURPOSES NOT PROHIBITED BY THIS
2 CHAPTER.—The term ‘purposes not prohibited by
3 this chapter’ means the following:

4 “(A) PEACEFUL PURPOSES.—Any peaceful
5 purpose related to an industrial, agricultural,
6 research, medical, or pharmaceutical activity or
7 other activity.

8 “(B) PROTECTIVE PURPOSES.—Any pur-
9 pose directly related to protection against toxic
10 chemicals and to protection against chemical
11 weapons.

12 “(C) UNRELATED MILITARY PURPOSES.—
13 Any military purpose of the United States that
14 is not connected with the use of a chemical
15 weapon or that is not dependent on the use of
16 the toxic or poisonous properties of the chem-
17 ical weapon to cause death or other harm.

18 “(D) LAW ENFORCEMENT PURPOSES.—
19 Any law enforcement purpose, including any do-
20 mestic riot control purpose and including im-
21 position of capital punishment.

22 “(6) TOXIC CHEMICAL.—

23 “(A) IN GENERAL.—The term ‘toxic chem-
24 ical’ means any chemical which through its
25 chemical action on life processes can cause

1 death, temporary incapacitation or permanent
 2 harm to humans or animals. The term includes
 3 all such chemicals, regardless of their origin or
 4 of their method of production, and regardless of
 5 whether they are produced in facilities, in muni-
 6 tions or elsewhere.

7 “(B) LIST OF TOXIC CHEMICALS.—Toxic
 8 chemicals which have been identified for the ap-
 9 plication of verification measures under Article
 10 VI of the Convention are listed in schedules
 11 contained in the Annex on Chemicals of the
 12 Chemical Weapons Convention.

13 **“CHAPTER 23—THEFT AND RELATED**
 14 **CRIMES**

“Subchapter
 “A. Embezzlement and theft
 “B. Stolen property
 “C. Counterfeiting and forgery

15 **“SUBCHAPTER A—EMBEZZLEMENT AND**
 16 **THEFT**

“Sec.
 “641. Public money, property or records.
 “642. Accounting generally for public money.
 “643. Officer or employee of United States converting property of another.
 “644. Theft, embezzlement, or misapplication by bank officer or employee.
 “645. Lending, credit, and insurance institutions.
 “646. Property mortgaged or pledged to farm credit agencies.
 “647. Interstate or foreign shipments by carrier.
 “648. Carrier’s funds derived from commerce.
 “649. Within special maritime and territorial jurisdiction.
 “650. Receiving stolen property within special maritime and territorial jurisdic-
 tion.
 “651. Theft or embezzlement from employee benefit plan.
 “652. Theft or embezzlement from employment and training funds; improper
 inducement.

“653. Theft or bribery concerning programs receiving Federal funds.

“654. Theft of major artwork.

“655. Theft or embezzlement in connection with health care.

“656. Embezzlement of labor organization assets.

1 **“§ 641. Public money, property or records**

2 “(a) OFFENSE.—Whoever—

3 “(1) embezzles, steals, purloins, or knowingly
4 converts to his use or the use of another, or without
5 authority, sells, conveys or disposes of any record,
6 voucher, money, or thing of value of the United
7 States or of any department or agency thereof, or
8 any property made or being made under contract for
9 the United States or any department or agency
10 thereof; or

11 “(2) receives, conceals, or retains the same with
12 intent to convert it to his use or gain, knowing it to
13 have been embezzled, stolen, purloined or converted;
14 shall be imprisoned not more than ten years; but if the
15 value of such property in the aggregate, combining
16 amounts from all the counts for which the defendant is
17 convicted in a single case, does not exceed the sum of
18 \$1,000, he shall be imprisoned not more than one year.

19 “(b) DEFINITION.—As used in this section, the term
20 ‘value’ means face, par, or market value, or cost price,
21 either wholesale or retail, whichever is greater.

1 **“§ 642. Accounting generally for public money**

2 “Whoever, being an officer, employee or agent of the
3 United States or of any department or agency thereof,
4 having received public money which he is not authorized
5 to retain as salary, pay, or emolument, fails to render his
6 accounts for the same as provided by law is guilty of em-
7 bezzlement, and shall be or imprisoned not more than ten
8 years; but if the amount embezzled does not exceed
9 \$1,000, he shall be imprisoned not more than one year.

10 **“§ 643. Officer or employee of United States con-
11 verting property of another**

12 “Whoever, being an officer or employee of the United
13 States or of any department or agency thereof, embezzles
14 or wrongfully converts to his own use the money or prop-
15 erty of another which comes into his possession or under
16 his control in the execution of such office or employment,
17 or under color or claim of authority as such officer or em-
18 ployee, shall be imprisoned not more than ten years; but
19 if the sum embezzled is \$1,000 or less, he shall be impris-
20 oned not more than one year.

21 **“§ 644. Theft, embezzlement, or misapplication by
22 bank officer or employee**

23 “(a) OFFENSE.—Whoever, being an officer, director,
24 agent or employee of, or connected in any capacity with
25 any Federal Reserve bank, member bank, depository insti-
26 tution holding company, national bank, insured bank,

1 branch or agency of a foreign bank, or organization oper-
2 ating under section 25 or section 25A of the Federal Re-
3 serve Act, or a receiver of a national bank, insured bank,
4 branch, agency, or organization or any agent or employee
5 of the receiver, or a Federal Reserve Agent, or an agent
6 or employee of a Federal Reserve Agent or of the Board
7 of Governors of the Federal Reserve System, embezzles,
8 abstracts, purloins or knowingly misapplies any of the
9 moneys, funds or credits of such bank, branch, agency,
10 or organization or holding company or any moneys, funds,
11 assets or securities intrusted to the custody or care of such
12 bank, branch, agency, or organization, or holding company
13 or to the custody or care of any such agent, officer, direc-
14 tor, employee or receiver, shall be imprisoned not more
15 than 30 years; but if the amount embezzled, abstracted,
16 purloined or misapplied does not exceed \$1,000, he shall
17 be imprisoned not more than one year.

18 “(b) DEFINITIONS.—As used in this section—

19 “(1) the term ‘member bank’ means any na-
20 tional bank, state bank, or bank and trust company
21 which has become a member of one of the Federal
22 Reserve banks;

23 “(2) the term ‘insured bank’ means any bank,
24 banking association, trust company, savings bank, or
25 other banking institution, the deposits of which are

1 insured by the Federal Deposit Insurance Corpora-
2 tion;

3 “(3) the term ‘branch or agency of a foreign
4 bank’ means a branch or agency described in para-
5 graph (E) of the definition of financial institution in
6 section 1; and

7 “(4) the term ‘depository institution holding
8 company’ has the meaning given such term in sec-
9 tion 3 of the Federal Deposit Insurance Act.

10 **“§ 645. Lending, credit, and insurance institutions**

11 “Whoever, being an officer, agent or employee of or
12 connected in any capacity with the Federal Deposit Insur-
13 ance Corporation, National Credit Union Administration,
14 any Federal home loan bank, the Federal Housing Fi-
15 nance Agency, Farm Credit Administration, Department
16 of Housing and Urban Development, Federal Crop Insur-
17 ance Corporation, the Secretary of Agriculture acting
18 through the Farmers Home Administration or successor
19 agency, the Rural Development Administration or suc-
20 cessor agency, or the Farm Credit System Insurance Cor-
21 poration, a Farm Credit Bank, a bank for cooperatives
22 or any lending, mortgage, insurance, credit or savings and
23 loan corporation or association authorized or acting under
24 the laws of the United States or any institution, other
25 than an insured bank (as defined in section 644), the ac-

1 counts of which are insured by the Federal Deposit Insur-
2 ance Corporation, or by the National Credit Union Admin-
3 istration Board or any small business investment com-
4 pany, or any community development financial institution
5 receiving financial assistance under the Riegle Community
6 Development and Regulatory Improvement Act of 1994,
7 and whoever, being a receiver of any such institution, or
8 agent or employee of the receiver, embezzles, abstracts,
9 purloins or knowingly misapplies any moneys, funds, cred-
10 its, securities or other things of value belonging to such
11 institution, or pledged or otherwise intrusted to its care,
12 shall be imprisoned not more than 30 years; but if the
13 amount or value embezzled, abstracted, purloined or mis-
14 applied does not exceed \$1,000, he shall be imprisoned not
15 more than one year.

16 **“§ 646. Property mortgaged or pledged to farm credit**
17 **agencies**

18 “Whoever, with intent to defraud, knowingly con-
19 ceals, removes, disposes of, or converts to his own use or
20 to that of another, any property mortgaged or pledged to,
21 or held by, the Farm Credit Administration, any Federal
22 intermediate credit bank, or the Federal Crop Insurance
23 Corporation, the Secretary of Agriculture acting through
24 the Farmers Home Administration or successor agency,
25 the Rural Development Administration or successor agen-

1 cy, any regional agricultural credit corporation, or any
2 bank for cooperatives, shall be imprisoned not more than
3 five years; but if the value of such property does not ex-
4 ceed \$1,000, he shall be imprisoned not more than one
5 year.

6 **“§ 647. Interstate or foreign shipments by carrier**

7 “Whoever—

8 “(1) embezzles, steals, or unlawfully takes, car-
9 ries away, or conceals, or by fraud or deception ob-
10 tains from any pipeline system, railroad car, wagon,
11 motortruck, trailer, or other vehicle, or from any
12 tank or storage facility, station, station house, plat-
13 form or depot or from any steamboat, vessel, or
14 wharf, or from any aircraft, air cargo container, air
15 terminal, airport, aircraft terminal or air navigation
16 facility, or from any intermodal container, trailer,
17 container freight station, warehouse, or freight con-
18 solidation facility, with intent to convert to his own
19 use any goods or chattels moving as or which are a
20 part of or which constitute an interstate or foreign
21 shipment of freight, express, or other property;

22 “(2) buys or receives or has in his possession
23 any such goods or chattels, knowing the same to
24 have been embezzled or stolen;

1 “(3) embezzles, steals, or unlawfully takes, car-
2 ries away, or by fraud or deception obtains with in-
3 tent to convert to his own use any baggage which
4 shall have come into the possession of any common
5 carrier for transportation in interstate or foreign
6 commerce or breaks into, steals, takes, carries away,
7 or conceals any of the contents of such baggage, or
8 buys, receives, or has in his possession any such
9 baggage or any article therefrom of whatever nature,
10 knowing the same to have been embezzled or stolen;
11 or

12 “(4) embezzles, steals, or unlawfully takes by
13 any fraudulent device, scheme, or game, from any
14 railroad car, bus, vehicle, steamboat, vessel, or air-
15 craft operated by any common carrier moving in
16 interstate or foreign commerce or from any pas-
17 senger thereon any money, baggage, goods, or chat-
18 tels, or whoever buys, receives, or has in his posses-
19 sion any such money, baggage, goods, or chattels,
20 knowing the same to have been embezzled or stolen;
21 shall be imprisoned not more than ten years, but if the
22 amount or value of such money, baggage, goods, or chat-
23 tels does not exceed \$1,000, shall be imprisoned not more
24 than one year.

1 **“§ 648. Carrier’s funds derived from commerce**

2 “(a) OFFENSE.—Whoever, being a president, direc-
3 tor, officer, or manager of any firm, association, or cor-
4 poration engaged in commerce as a common carrier, or
5 whoever, being an employee of such common carrier riding
6 in or upon any railroad car, motortruck, steamboat, vessel,
7 aircraft or other vehicle of such carrier moving in inter-
8 state commerce, embezzles, steals, abstracts, or knowingly
9 misapplies, or knowingly permits to be misapplied, any of
10 the moneys, funds, credits, securities, property, or assets
11 of such firm, association, or corporation arising or accru-
12 ing from, or used in, such commerce, in whole or in part,
13 or knowingly converts the same to his own use or to the
14 use of another, shall be imprisoned not more than ten
15 years.

16 “(b) VENUE.—The offense shall be deemed to have
17 been committed not only in the district where the violation
18 first occurred but also in any district in which the defend-
19 ant may have taken or had possession of such moneys,
20 funds, credits, securities, property or assets.

21 **“§ 649. Within special maritime and territorial juris-**
22 **diction**

23 “Whoever, within the special maritime and territorial
24 jurisdiction of the United States, takes and carries away,
25 with intent to steal or purloin, any personal property of
26 another shall, if the property taken is of a value exceeding

1 \$1,000, or is taken from the person of another, be impris-
2 oned not more than five years, and in all other cases, im-
3 prisoned not more than one year.

4 **“§ 650. Receiving stolen property within special mari-
5 time and territorial jurisdiction**

6 “Whoever, within the special maritime and territorial
7 jurisdiction of the United States, buys, receives, or con-
8 ceals any money, goods, bank notes, or other thing which
9 may be the subject of larceny, which has been feloniously
10 taken, stolen, or embezzled, from any other person, know-
11 ing the same to have been so taken, stolen, or embezzled,
12 shall be imprisoned not more than three years, but if the
13 amount or value of thing so taken, stolen or embezzled
14 does not exceed \$1,000, the offender shall be imprisoned
15 not more than one year.

16 **“§ 651. Theft or embezzlement from employee benefit
17 plan**

18 “(a) OFFENSE.—Whoever embezzles, steals, or un-
19 lawfully and knowingly abstracts or converts any property
20 of any employee welfare benefit plan or employee pension
21 benefit plan, or of any fund connected therewith, shall be
22 imprisoned not more than five years.

23 “(b) DEFINITION.—As used in this section, the term
24 ‘any employee welfare benefit plan or employee pension
25 benefit plan’ means any employee benefit plan subject to

1 any provision of title I of the Employee Retirement In-
2 come Security Act of 1974.

3 **“§ 652. Theft or embezzlement from employment and**
4 **training funds; improper inducement**

5 “(a) THEFT OR EMBEZZLEMENT FROM EMPLOY-
6 MENT AND TRAINING FUNDS.—Whoever, being an officer,
7 director, agent, or employee of, or connected in any capac-
8 ity with any agency or organization receiving financial as-
9 sistance or any funds under the Job Training Partnership
10 Act or title I of the Workforce Investment Act of 1998
11 knowingly enrolls an ineligible participant, embezzles,
12 misapplies, steals, or obtains by fraud any property that
13 is the subject of a financial assistance agreement or con-
14 tract pursuant to such Act shall be imprisoned for not
15 more than 2 years, but if the amount so embezzled, mis-
16 applied, stolen, or obtained by fraud does not exceed
17 \$1,000, the offender shall be imprisoned not more than
18 1 year.

19 “(b) IMPROPER INDUCEMENT.—Whoever, by threat
20 or procuring dismissal of any person from employment or
21 of refusal to employ or refusal to renew a contract of em-
22 ployment in connection with a financial assistance agree-
23 ment or contract under the Job Training Partnership Act
24 or title I of the Workforce Investment Act of 1998 induces
25 any person to give up any money or thing of any value

1 to any person (including such organization or agency re-
2 ceiving funds) shall be imprisoned not more than 1 year.

3 **“§ 653. Theft or bribery concerning programs receiv-**
4 **ing Federal funds**

5 “(a) OFFENSE.—Whoever, as made applicable by
6 subsection (b)—

7 “(1) being an agent of an organization, or of a
8 State, local, or Indian tribal government, or any
9 agency thereof—

10 “(A) embezzles, steals, obtains by fraud, or
11 otherwise without authority knowingly converts
12 or intentionally misapplies, property that—

13 “(i) is valued at \$5,000 or more, and

14 “(ii) is owned by, or is under the care,
15 custody, or control of such organization,
16 government, or agency; or

17 “(B) corruptly solicits or demands for the
18 benefit of any person, or accepts or agrees to
19 accept, anything of value from any person, in-
20 tending to be influenced or rewarded in connec-
21 tion with any business, transaction, or series of
22 transactions of such organization, government,
23 or agency involving any thing of value of
24 \$5,000 or more; or

1 “(2) corruptly gives, offers, or agrees to give
2 anything of value to any person, with intent to influ-
3 ence or reward an agent of an organization or of a
4 State, local or Indian tribal government, or any
5 agency thereof, in connection with any business,
6 transaction, or series of transactions of such organi-
7 zation, government, or agency involving anything of
8 value of \$5,000 or more;
9 shall be imprisoned not more than 10 years.

10 “(b) APPLICABILITY.—Subsection (a) applies if the
11 organization, government, or agency receives, in any one
12 year period, benefits in excess of \$10,000 under a Federal
13 program involving a grant, contract, subsidy, loan, guar-
14 antee, insurance, or other form of Federal assistance.

15 “(c) EXCLUSION.—This section does not apply to
16 bona fide salary, wages, fees, or other compensation paid,
17 or expenses paid or reimbursed, in the usual course of
18 business.

19 “(d) DEFINITIONS.—As used in this section—

20 “(1) the term ‘agent’ means a person author-
21 ized to act on behalf of another person or a govern-
22 ment and, in the case of an organization or govern-
23 ment, includes a servant or employee, and a partner,
24 director, officer, manager, and representative;

1 “(2) the term ‘government agency’ means a
2 subdivision of the executive, legislative, judicial, or
3 other branch of government, including a department,
4 independent establishment, commission, administra-
5 tion, authority, board, and bureau, and a corpora-
6 tion or other legal entity established, and subject to
7 control, by a government or governments for the
8 execution of a governmental or intergovernmental
9 program;

10 “(3) the term ‘local’ means of or pertaining to
11 a political subdivision within a State; and

12 “(4) the term ‘in any one-year period’ means a
13 continuous period that commences no earlier than
14 twelve months before the commission of the offense
15 or that ends no later than twelve months after the
16 commission of the offense. Such period may include
17 time both before and after the commission of the of-
18 fense.

19 **“§ 654. Theft of major artwork**

20 “(a) OFFENSES.—A person who—

21 “(1) steals or obtains by fraud from the care,
22 custody, or control of a museum any object of cul-
23 tural heritage; or

24 “(2) knowing that an object of cultural heritage
25 has been stolen or obtained by fraud, if in fact the

1 object was stolen or obtained from the care, custody,
2 or control of a museum (whether or not that fact is
3 known to the person), receives, conceals, exhibits, or
4 disposes of the object,
5 shall be imprisoned not more than 10 years.

6 “(b) DEFINITIONS.—In this section—

7 “(1) the term ‘museum’ means an organized
8 and permanent institution, the activities of which af-
9 fect interstate or foreign commerce, that—

10 “(A) is situated in the United States;

11 “(B) is established for an essentially edu-
12 cational or aesthetic purpose;

13 “(C) has a professional staff; and

14 “(D) owns, utilizes, and cares for tangible
15 objects that are exhibited to the public on a
16 regular schedule; and

17 “(2) the term ‘object of cultural heritage’
18 means an object that is—

19 “(A) over 100 years old and worth in ex-
20 cess of \$5,000; or

21 “(B) worth at least \$100,000.

22 **“§ 655. Theft or embezzlement in connection with**
23 **health care**

24 “Whoever knowingly embezzles, steals, or otherwise
25 without authority converts or intentionally misapplies any

1 of the moneys, funds, securities, premiums, credits, prop-
 2 erty, or other assets of a health care benefit program, shall
 3 be imprisoned not more than 10 years, but if the value
 4 of such property does not exceed the sum of \$100 the of-
 5 fender shall be imprisoned not more than one year.

6 **“§ 656. Embezzlement of labor organization assets**

7 “(a) OFFENSE.—Whoever, being an officer or em-
 8 ployee of a labor organization, embezzles, steals, or unlaw-
 9 fully and knowingly abstracts or converts any of the prop-
 10 erty of the organization shall be imprisoned for not more
 11 than five years.

12 “(b) DEFINITION.—As used in this section the term
 13 ‘labor organization’ has the meaning given that term in
 14 the National Labor Relations Act.

15 “SUBCHAPTER B—STOLEN PROPERTY

“Sec.

“670. Definitions for subchapter.

“671. Transportation of stolen vehicles.

“672. Sale or receipt of stolen vehicles.

“673. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting.

“674. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps.

“675. Trafficking in counterfeit labels, illicit labels, or counterfeit documenta- tion or packaging.

“676. Criminal infringement of a copyright.

“677. Copyright infringement.

“678. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances.

“679. Unauthorized recording of motion pictures in a motion picture exhibition facility.

“680. Trafficking in counterfeit goods or services.

“681. Trafficking in certain motor vehicles or motor vehicle parts.

“682. Chop shops.

1 **“§ 670. Definitions for subchapter**

2 “The following definitions apply in this subchapter:

3 “(1) The term ‘aircraft’ means any contrivance
4 now known or hereafter invented, used, or designed
5 for navigation of or for flight in the air.

6 “(2) The term ‘money’ means the legal tender
7 of the United States or of any foreign country, or
8 any counterfeit thereof.

9 “(3) The term ‘motor vehicle’ means an auto-
10 mobile, automobile truck, automobile wagon, motor-
11 cycle, or any other self-propelled vehicle designed for
12 running on land but not on rails.

13 “(4) The term ‘securities’ means any note,
14 stock certificate, bond, debenture, check, draft, war-
15 rant, traveler’s check, letter of credit, warehouse re-
16 ceipt, negotiable bill of lading, evidence of indebted-
17 ness, certificate of interest or participation in any
18 profit-sharing agreement, collateral-trust certificate,
19 preorganization certificate or subscription, transfer-
20 able share, investment contract, voting-trust certifi-
21 cate; valid or blank motor vehicle title; certificate of
22 interest in property, tangible or intangible; instru-
23 ment or document or writing evidencing ownership
24 of goods, wares, and merchandise, or transferring or
25 assigning any right, title, or interest in or to goods,
26 wares, and merchandise; or, in general, any instru-

1 ment commonly known as a ‘security’, or any certifi-
2 cate of interest or participation in, temporary or in-
3 terim certificate for, receipt for, warrant, or right to
4 subscribe to or purchase any of the foregoing, or any
5 forged, counterfeited, or spurious representation of
6 any of the foregoing.

7 “(5) The term ‘tax stamp’ means any tax
8 stamp, tax token, tax meter imprint, or any other
9 form of evidence of an obligation running to a State,
10 or evidence of the discharge thereof.

11 “(6) The term ‘value’ means the face, par, or
12 market value, whichever is the greatest, and the ag-
13 gregate value of all goods, wares, and merchandise,
14 securities, and money referred to in a single indict-
15 ment shall constitute the value thereof.

16 “(7) The term ‘vessel’ means any watercraft or
17 other contrivance used or designed for transpor-
18 tation or navigation on, under, or immediately
19 above, water.

20 **“§ 671. Transportation of stolen vehicles**

21 “Whoever transports in interstate or foreign com-
22 merce a motor vehicle, vessel, or aircraft, knowing the
23 same to have been stolen, shall be imprisoned not more
24 than 10 years.

1 **“§ 672. Sale or receipt of stolen vehicles**

2 “Whoever receives, possesses, conceals, stores, bar-
3 ters, sells, or disposes of any motor vehicle, vessel, or air-
4 craft, which has crossed a State or United States bound-
5 ary after being stolen, knowing the same to have been sto-
6 len, shall be imprisoned not more than 10 years.

7 **“§ 673. Transportation of stolen goods, securities,**
8 **moneys, fraudulent State tax stamps, or**
9 **articles used in counterfeiting**

10 “Whoever—

11 “(1) transports, transmits, or transfers in inter-
12 state or foreign commerce any goods, wares, mer-
13 chandise, securities or money, of the value of \$5,000
14 or more, knowing the same to have been stolen, con-
15 verted or taken by fraud;

16 “(2) having devised or intending to devise any
17 scheme or artifice to defraud, or for obtaining
18 money or property by means of false or fraudulent
19 pretenses, representations, or promises, transports
20 or causes to be transported, or induces any person
21 or persons to travel in, or to be transported in inter-
22 state or foreign commerce in the execution or con-
23 cealment of a scheme or artifice to defraud that per-
24 son or those persons of money or property having a
25 value of \$5,000 or more;

1 unlawfully converted, or taken, knowing the same to
2 have been stolen, unlawfully converted, or taken;

3 “(2) receives, possesses, conceals, stores, bar-
4 ters, sells, or disposes of any falsely made, forged,
5 altered, or counterfeited securities or tax stamps, or
6 pledges or accepts as security for a loan any falsely
7 made, forged, altered, or counterfeited securities or
8 tax stamps, moving as, or which are a part of, or
9 which constitute interstate or foreign commerce,
10 knowing the same to have been so falsely made,
11 forged, altered, or counterfeited; or

12 “(3) receives in interstate or foreign commerce,
13 or conceals, stores, barbers, sells, or disposes of, any
14 tool, implement, or thing used or intended to be
15 used in falsely making, forging, altering, or counter-
16 feiting any security or tax stamp, or any part there-
17 of, moving as, or which is a part of, or which con-
18 stitutes interstate or foreign commerce, knowing
19 that the same is fitted to be used, or has been used,
20 in falsely making, forging, altering, or counterfeiting
21 any security or tax stamp, or any part thereof;

22 shall be imprisoned not more than ten years.

1 **“§ 675. Trafficking in counterfeit labels, illicit labels,**
2 **or counterfeit documentation or pack-**
3 **aging**

4 “(a) OFFENSE.—Whoever, as made applicable by
5 subsection (c), knowingly traffics in—

6 “(1) a counterfeit label or illicit label affixed to,
7 enclosing, or accompanying, or designed to be af-
8 fixed to, enclose, or accompany—

9 “(A) a phonorecord;

10 “(B) a copy of a computer program;

11 “(C) a copy of a motion picture or other
12 audiovisual work;

13 “(D) a copy of a literary work;

14 “(E) a copy of a pictorial, graphic, or
15 sculptural work;

16 “(F) a work of visual art; or

17 “(G) documentation or packaging; or

18 “(2) counterfeit documentation or packaging,
19 shall be imprisoned for not more than 5 years.

20 “(b) DEFINITIONS.—As used in this section—

21 “(1) the term ‘counterfeit label’ means an iden-
22 tifying label or container that appears to be genuine,
23 but is not;

24 “(2) the term ‘traffic’ has the meaning given
25 that term in section 680;

1 “(3) the terms ‘copy’, ‘phonorecord’, ‘motion
2 picture’, ‘computer program’, ‘audiovisual work’, ‘lit-
3 erary work’, ‘pictorial, graphic, or sculptural work’,
4 ‘sound recording’, ‘work of visual art’, and ‘copy-
5 right owner’ have, respectively, the meanings given
6 those terms in section 101 (relating to definitions)
7 of title 17;

8 “(4) the term ‘illicit label’ means a genuine cer-
9 tificate, licensing document, registration card, or
10 similar labeling component—

11 “(A) that is used by the copyright owner
12 to verify that a phonorecord, a copy of a com-
13 puter program, a copy of a motion picture or
14 other audiovisual work, a copy of a literary
15 work, a copy of a pictorial, graphic, or sculp-
16 tural work, a work of visual art, or documenta-
17 tion or packaging is not counterfeit or infring-
18 ing of any copyright; and

19 “(B) that is, without the authorization of
20 the copyright owner—

21 “(i) distributed or intended for dis-
22 tribution not in connection with the copy,
23 phonorecord, or work of visual art to which
24 such labeling component was intended to

1 be affixed by the respective copyright
2 owner; or

3 “(ii) in connection with a genuine cer-
4 tificate or licensing document, knowingly
5 falsified in order to designate a higher
6 number of licensed users or copies than
7 authorized by the copyright owner, unless
8 that certificate or document is used by the
9 copyright owner solely for the purpose of
10 monitoring or tracking the copyright own-
11 er’s distribution channel and not for the
12 purpose of verifying that a copy or phono-
13 record is noninfringing;

14 “(5) the term ‘documentation or packaging’
15 means documentation or packaging, in physical
16 form, for a phonorecord, copy of a computer pro-
17 gram, copy of a motion picture or other audiovisual
18 work, copy of a literary work, copy of a pictorial,
19 graphic, or sculptural work, or work of visual art;
20 and

21 “(6) the term ‘counterfeit documentation or
22 packaging’ means documentation or packaging that
23 appears to be genuine, but is not.

24 “(c) APPLICATION.—Subsection (a) applies if—

1 “(1) the offense is committed within the special
2 maritime and territorial jurisdiction of the United
3 States or within the special aircraft jurisdiction of
4 the United States (as defined in section 46501 of
5 title 49);

6 “(2) the mail or a facility of interstate or for-
7 eign commerce is used or intended to be used in the
8 commission of the offense;

9 “(3) the counterfeit label or illicit label is af-
10 fixed to, encloses, or accompanies, or is designed to
11 be affixed to, enclose, or accompany—

12 “(A) a phonorecord of a copyrighted sound
13 recording or copyrighted musical work;

14 “(B) a copy of a copyrighted computer
15 program;

16 “(C) a copy of a copyrighted motion pic-
17 ture or other audiovisual work;

18 “(D) a copy of a literary work;

19 “(E) a copy of a pictorial, graphic, or
20 sculptural work;

21 “(F) a work of visual art; or

22 “(G) copyrighted documentation or pack-
23 aging; or

24 “(4) the counterfeited documentation or pack-
25 aging is copyrighted.

1 “(d) CIVIL REMEDIES.—

2 “(1) IN GENERAL.—Any copyright owner who
3 is injured, or is threatened with injury, by a viola-
4 tion of subsection (a) may bring a civil action in an
5 appropriate United States district court.

6 “(2) DISCRETION OF COURT.—In any action
7 brought under paragraph (1), the court—

8 “(A) may grant 1 or more temporary or
9 permanent injunctions on such terms as the
10 court determines to be reasonable to prevent or
11 restrain a violation of subsection (a);

12 “(B) at any time while the action is pend-
13 ing, may order the impounding, on such terms
14 as the court determines to be reasonable, of any
15 article that is in the custody or control of the
16 alleged violator and that the court has reason-
17 able cause to believe was involved in a violation
18 of subsection (a); and

19 “(C) may award to the injured party—

20 “(i) reasonable attorney fees and
21 costs; and

22 “(ii)(I) actual damages and any addi-
23 tional profits of the violator, as provided in
24 paragraph (3); or

1 “(II) statutory damages, as provided
2 in paragraph (4).

3 “(3) ACTUAL DAMAGES AND PROFITS.—

4 “(A) IN GENERAL.—The injured party is
5 entitled to recover—

6 “(i) the actual damages suffered by
7 the injured party as a result of a violation
8 of subsection (a), as provided in subpara-
9 graph (B) of this paragraph; and

10 “(ii) any profits of the violator that
11 are attributable to a violation of subsection
12 (a) and are not taken into account in com-
13 puting the actual damages.

14 “(B) CALCULATION OF DAMAGES.—The
15 court shall calculate actual damages by multi-
16 plying—

17 “(i) the value of the phonorecords,
18 copies, or works of visual art which are, or
19 are intended to be, affixed with, enclosed
20 in, or accompanied by any counterfeit la-
21 bels, illicit labels, or counterfeit docu-
22 mentation or packaging, by

23 “(ii) the number of phonorecords, cop-
24 ies, or works of visual art which are, or are
25 intended to be, affixed with, enclosed in, or

1 accompanied by any counterfeit labels, il-
2 licit labels, or counterfeit documentation or
3 packaging.

4 “(C) DEFINITION.—For purposes of this
5 paragraph, the ‘value’ of a phonorecord, copy,
6 or work of visual art is—

7 “(i) in the case of a copyrighted
8 sound recording or copyrighted musical
9 work, the retail value of an authorized pho-
10 norecord of that sound recording or musi-
11 cal work;

12 “(ii) in the case of a copyrighted com-
13 puter program, the retail value of an au-
14 thorized copy of that computer program;

15 “(iii) in the case of a copyrighted mo-
16 tion picture or other audiovisual work, the
17 retail value of an authorized copy of that
18 motion picture or audiovisual work;

19 “(iv) in the case of a copyrighted lit-
20 erary work, the retail value of an author-
21 ized copy of that literary work;

22 “(v) in the case of a pictorial, graphic,
23 or sculptural work, the retail value of an
24 authorized copy of that work; and

1 “(vi) in the case of a work of visual
2 art, the retail value of that work.

3 “(4) STATUTORY DAMAGES.—The injured party
4 may elect, at any time before final judgment is ren-
5 dered, to recover, instead of actual damages and
6 profits, an award of statutory damages for each vio-
7 lation of subsection (a) in a sum of not less than
8 \$2,500 or more than \$25,000, as the court considers
9 appropriate.

10 “(5) SUBSEQUENT VIOLATION.—The court may
11 increase an award of damages under this subsection
12 by 3 times the amount that would otherwise be
13 awarded, as the court considers appropriate, if the
14 court finds that a person has subsequently violated
15 subsection (a) within 3 years after a final judgment
16 was entered against that person for a violation of
17 that subsection.

18 “(6) LIMITATION ON ACTIONS.—A civil action
19 may not be commenced under this subsection unless
20 it is commenced within 3 years after the date on
21 which the claimant discovers the violation of sub-
22 section (a).

1 **“§ 676. Criminal infringement of a copyright**

2 “(a) SECTION 677 OFFENSES IN GENERAL.—Who-
3 ever violates section 677 shall be punished as provided in
4 subsections (b), (c), and (d).

5 “(b) SUBSECTION (a)(1)(A) OFFENSES.—Whoever
6 commits an offense under section 677(a)(1)(A)—

7 “(1) shall be imprisoned not more than 5 years,
8 if the offense consists of the reproduction or dis-
9 tribution, including by electronic means, during any
10 180-day period, of at least 10 copies or
11 phonorecords, of 1 or more copyrighted works, which
12 have a total retail value of more than \$2,500;

13 “(2) shall be imprisoned not more than 10
14 years if the offense is a felony and is a second or
15 subsequent offense under subsection (a); and

16 “(3) shall be imprisoned not more than 1 year
17 in any other case.

18 “(c) SUBSECTION (a)(1)(B) OFFENSES.—Whoever
19 commits an offense under section 677(a)(1)(B)—

20 “(1) shall be imprisoned not more than 3 years,
21 if the offense consists of the reproduction or dis-
22 tribution of 10 or more copies or phonorecords of 1
23 or more copyrighted works, which have a total retail
24 value of \$2,500 or more;

1 “(2) shall be imprisoned not more than 6 years,
2 or if the offense is a felony and is a second or subse-
3 quent offense under subsection (a); and

4 “(3) shall be imprisoned not more than 1 year,
5 or if the offense consists of the reproduction or dis-
6 tribution of 1 or more copies or phonorecords of 1
7 or more copyrighted works, which have a total retail
8 value of more than \$1,000.

9 “(d) SUBSECTION (a)(1)(C) OFFENSES.—Whoever
10 commits an offense under section 677(a)(1)(C)—

11 “(1) shall be imprisoned not more than 3 years;

12 “(2) shall be imprisoned not more than 5 years
13 if the offense was committed for purposes of com-
14 mercial advantage or private financial gain;

15 “(3) shall be imprisoned not more than 6 years
16 if the offense is a second or subsequent offense; and

17 “(4) shall be imprisoned not more than 10
18 years if the offense is a second or subsequent offense
19 under paragraph (2).

20 “(e) VICTIM IMPACT.—

21 “(1) IN GENERAL.—During preparation of the
22 presentence report pursuant to Rule 32(c) of the
23 Federal Rules of Criminal Procedure, victims of the
24 offense shall be permitted to submit, and the proba-
25 tion officer shall receive, a victim impact statement

1 that identifies the victim of the offense and the ex-
2 tent and scope of the injury and loss suffered by the
3 victim, including the estimated economic impact of
4 the offense on that victim.

5 “(2) PERSONS PERMITTED TO SUBMIT.—Per-
6 sons permitted to submit victim impact statements
7 shall include—

8 “(A) producers and sellers of legitimate
9 works affected by conduct involved in the of-
10 fense;

11 “(B) holders of intellectual property rights
12 in such works; and

13 “(C) the legal representatives of such pro-
14 ducers, sellers, and holders.

15 “(f) DEFINITIONS.—As used in this section—

16 “(1) the terms ‘phonorecord’ and ‘copies’ have,
17 respectively, the meanings set forth in section 101
18 (relating to definitions) of title 17;

19 “(2) the terms ‘reproduction’ and ‘distribution’
20 refer to the exclusive rights of a copyright owner
21 under clauses (1) and (3) respectively of section 106
22 (relating to exclusive rights in copyrighted works),
23 as limited by sections 107 through 122, of title 17;

24 “(3) the term ‘financial gain’ has the meaning
25 given the term in section 101 of title 17; and

1 “(4) the term ‘work being prepared for com-
2 mercial distribution’ has the meaning given the term
3 in section 677.

4 **“§ 677. Copyright infringement**

5 “(a) CRIMINAL INFRINGEMENT.—

6 “(1) IN GENERAL.—Whoever knowingly in-
7 fringes a copyright shall be punished as provided
8 under section 676, if the infringement was com-
9 mitted—

10 “(A) for purposes of commercial advantage
11 or private financial gain;

12 “(B) by the reproduction or distribution,
13 including by electronic means, during any 180-
14 day period, of 1 or more copies or phonorecords
15 of 1 or more copyrighted works, which have a
16 total retail value of more than \$1,000; or

17 “(C) by the distribution of a work being
18 prepared for commercial distribution, by mak-
19 ing it available on a computer network acces-
20 sible to members of the public, if such person
21 knew or should have known that the work was
22 intended for commercial distribution.

23 “(2) EVIDENCE.—For purposes of this sub-
24 section, evidence of reproduction or distribution of a

1 copyrighted work, by itself, shall not be sufficient to
2 establish knowing infringement of a copyright.

3 “(3) DEFINITION.—In this subsection, the term
4 ‘work being prepared for commercial distribution’
5 means—

6 “(A) a computer program, a musical work,
7 a motion picture or other audiovisual work, or
8 a sound recording, if, at the time of unauthor-
9 ized distribution—

10 “(i) the copyright owner has a reason-
11 able expectation of commercial distribu-
12 tion; and

13 “(ii) the copies or phonorecords of the
14 work have not been commercially distrib-
15 uted; or

16 “(B) a motion picture, if, at the time of
17 unauthorized distribution, the motion picture—

18 “(i) has been made available for view-
19 ing in a motion picture exhibition facility;
20 and

21 “(ii) has not been made available in
22 copies for sale to the general public in the
23 United States in a format intended to per-
24 mit viewing outside a motion picture exhi-
25 bition facility.

1 “(b) FRAUDULENT COPYRIGHT NOTICE.—Whoever,
2 with fraudulent intent, places on any article a notice of
3 copyright or words of the same purport that such person
4 knows to be false, or who, with fraudulent intent, publicly
5 distributes or imports for public distribution any article
6 bearing such notice or words that such person knows to
7 be false, shall be fined not more than \$2,500.

8 “(c) FRAUDULENT REMOVAL OF COPYRIGHT NO-
9 TICE.—Whoever, with fraudulent intent, removes or alters
10 any notice of copyright appearing on a copy of a copy-
11 righted work shall be fined not more than \$2,500.

12 “(d) FALSE REPRESENTATION.—Whoever knowingly
13 makes a false representation of a material fact in the ap-
14 plication for copyright registration provided for by section
15 409 of title 17, or in any written statement filed in connec-
16 tion with the application, shall be fined not more than
17 \$2,500.

18 “(e) RIGHTS OF ATTRIBUTION AND INTEGRITY.—
19 Nothing in this section applies to infringement of the
20 rights conferred by section 106A(a) of title 17.

1 **“§ 678. Unauthorized fixation of and trafficking in**
2 **sound recordings and music videos of**
3 **live musical performances**

4 “(a) OFFENSE.—Whoever, without the consent of the
5 performer or performers involved, knowingly and for pur-
6 poses of commercial advantage or private financial gain—

7 “(1) fixes the sounds or sounds and images of
8 a live musical performance in a copy or phonorecord,
9 or reproduces copies or phonorecords of such a per-
10 formance from an unauthorized fixation;

11 “(2) transmits or otherwise communicates to
12 the public the sounds or sounds and images of a live
13 musical performance; or

14 “(3) distributes or offers to distribute, sells or
15 offers to sell, rents or offers to rent, or traffics in
16 any copy or phonorecord fixed as described in para-
17 graph (1), regardless of whether the fixations oc-
18 curred in the United States;

19 shall be imprisoned for not more than 5 years, or if the
20 offense is a second or subsequent offense, shall be impris-
21 oned for not more than 10 years.

22 “(b) SEIZURE AND FORFEITURE.—If copies or
23 phonorecords of sounds or sounds and images of a live
24 musical performance are fixed outside of the United States
25 without the consent of the performer or performers in-
26 volved, such copies or phonorecords are subject to seizure

1 and forfeiture in the United States in the same manner
2 as property imported in violation of the customs laws. The
3 Secretary of Homeland Security shall issue regulations by
4 which any performer may, upon payment of a specified
5 fee, be entitled to notification by United States Customs
6 and Border Protection of the importation of copies or
7 phonorecords that appear to consist of unauthorized fixa-
8 tions of the sounds or sounds and images of a live musical
9 performance.

10 “(c) VICTIM IMPACT STATEMENT.—(1) During prep-
11 aration of the presentence report pursuant to Rule 32(c)
12 of the Federal Rules of Criminal Procedure, victims of the
13 offense shall be permitted to submit, and the probation
14 officer shall receive, a victim impact statement that identi-
15 fies the victim of the offense and the extent and scope
16 of the injury and loss suffered by the victim, including
17 the estimated economic impact of the offense on that vic-
18 tim.

19 “(2) Persons permitted to submit victim impact
20 statements shall include—

21 “(A) producers and sellers of legitimate works
22 affected by conduct involved in the offense;

23 “(B) holders of intellectual property rights in
24 such works; and

1 The possession by a person of an audiovisual recording
2 device in a motion picture exhibition facility may be con-
3 sidered as evidence in any proceeding to determine wheth-
4 er that person committed an offense under this subsection,
5 but shall not, by itself, be sufficient to support a conviction
6 of that person for such offense.

7 “(b) AUTHORIZED ACTIVITIES.—This section does
8 not prevent any lawfully authorized investigative, protec-
9 tive, or intelligence activity by an officer, agent, or em-
10 ployee of the United States, a State, or a political subdivi-
11 sion of a State, or by a person acting under a contract
12 with the United States, a State, or a political subdivision
13 of a State.

14 “(c) IMMUNITY FOR THEATERS.—With reasonable
15 cause, the owner or lessee of a motion picture exhibition
16 facility where a motion picture or other audiovisual work
17 is being exhibited, the authorized agent or employee of
18 such owner or lessee, the licensor of the motion picture
19 or other audiovisual work being exhibited, or the agent
20 or employee of such licensor—

21 “(1) may detain, in a reasonable manner and
22 for a reasonable time, any person suspected of a vio-
23 lation of this section with respect to that motion pic-
24 ture or audiovisual work for the purpose of ques-
25 tioning or summoning a law enforcement officer; and

1 “(2) shall not be held liable in any civil or
2 criminal action arising out of a detention under
3 paragraph (1).

4 “(d) VICTIM IMPACT STATEMENT.—

5 “(1) IN GENERAL.—During the preparation of
6 the presentence report under rule 32(c) of the Fed-
7 eral Rules of Criminal Procedure, victims of an of-
8 fense under this section shall be permitted to submit
9 to the probation officer a victim impact statement
10 that identifies the victim of the offense and the ex-
11 tent and scope of the injury and loss suffered by the
12 victim, including the estimated economic impact of
13 the offense on that victim.

14 “(2) CONTENTS.—A victim impact statement
15 submitted under this subsection shall include—

16 “(A) producers and sellers of legitimate
17 works affected by conduct involved in the of-
18 fense;

19 “(B) holders of intellectual property rights
20 in the works described in subparagraph (A);
21 and

22 “(C) the legal representatives of such pro-
23 ducers, sellers, and holders.

24 “(e) DEFINITIONS.—In this section, the following
25 definitions apply:

1 “(1) TITLE 17 DEFINITIONS.—The terms
2 ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion
3 picture’, ‘motion picture exhibition facility’, and
4 ‘transmit’ have, respectively, the meanings given
5 those terms in section 101 of title 17.

6 “(2) AUDIOVISUAL RECORDING DEVICE.—The
7 term ‘audiovisual recording device’ means a digital
8 or analog photographic or video camera, or any
9 other technology or device capable of enabling the
10 recording or transmission of a copyrighted motion
11 picture or other audiovisual work, or any part there-
12 of, regardless of whether audiovisual recording is the
13 sole or primary purpose of the device.

14 **“§ 680. Trafficking in counterfeit goods or services**

15 “(a) OFFENSE.—

16 “(1) IN GENERAL.—Whoever intentionally traf-
17 fics or attempts to traffic in goods or services and
18 knowingly uses a counterfeit mark on or in connec-
19 tion with such goods or services, or intentionally
20 traffics or attempts to traffic in labels, patches,
21 stickers, wrappers, badges, emblems, medallions,
22 charms, boxes, containers, cans, cases, hangtags,
23 documentation, or packaging of any type or nature,
24 knowing that a counterfeit mark has been applied
25 thereto, the use of which is likely to cause confusion,

1 to cause mistake, or to deceive, shall, if an indi-
2 vidual, be imprisoned not more than 10 years, and,
3 if an organization, be fined not more than
4 \$5,000,000. In the case of an offense by a person
5 under this section that occurs after that person is
6 convicted of another offense under this section, the
7 person convicted, if an individual, shall be fined not
8 more than \$5,000,000 or imprisoned not more than
9 20 years, or both, and if an organization, shall be
10 fined not more than \$15,000,000.

11 “(2) SERIOUS BODILY HARM OR DEATH.—

12 “(A) SERIOUS BODILY HARM.—If the of-
13 fender knowingly or recklessly causes serious
14 bodily injury from conduct in violation of para-
15 graph (1), the penalty shall be imprisonment
16 for not more than 20 years.

17 “(B) DEATH.—If the offender knowingly
18 or recklessly causes or attempts to cause death
19 from conduct in violation of paragraph (1), the
20 penalty shall be a fine under this title or im-
21 prisonment for any term of years or for life, or
22 both.

23 “(b) LANHAM ACT APPLICATION.—All defenses, af-
24 firmative defenses, and limitations on remedies that would
25 be applicable in an action under the Lanham Act shall

1 be applicable in a prosecution under this section. In a
2 prosecution under this section, the defendant shall have
3 the burden of proof, by a preponderance of the evidence,
4 of any such affirmative defense.

5 “(c) VICTIM IMPACT STATEMENT.—

6 “(1) During preparation of the presentence re-
7 port pursuant to Rule 32(c) of the Federal Rules of
8 Criminal Procedure, victims of the offense shall be
9 permitted to submit, and the probation officer shall
10 receive, a victim impact statement that identifies the
11 victim of the offense and the extent and scope of the
12 injury and loss suffered by the victim, including the
13 estimated economic impact of the offense on that
14 victim.

15 “(2) Persons permitted to submit victim impact
16 statements shall include—

17 “(A) producers and sellers of legitimate
18 goods or services affected by conduct involved
19 in the offense;

20 “(B) holders of intellectual property rights
21 in such goods or services; and

22 “(C) the legal representatives of such pro-
23 ducers, sellers, and holders.

24 “(d) DEFINITIONS.—For the purposes of this sec-
25 tion—

1 “(1) the term ‘counterfeit mark’ means—

2 “(A) a spurious mark—

3 “(i) that is used in connection with
4 trafficking in any goods, services, labels,
5 patches, stickers, wrappers, badges, em-
6 blems, medallions, charms, boxes, con-
7 tainers, cans, cases, hangtags, documenta-
8 tion, or packaging of any type or nature;

9 “(ii) that is identical with, or substan-
10 tially indistinguishable from, a mark reg-
11 istered on the principal register in the
12 United States Patent and Trademark Of-
13 fice and in use, whether or not the defend-
14 ant knew such mark was so registered;

15 “(iii) that is applied to or used in con-
16 nection with the goods or services for
17 which the mark is registered with the
18 United States Patent and Trademark Of-
19 fice, or is applied to or consists of a label,
20 patch, sticker, wrapper, badge, emblem,
21 medallion, charm, box, container, can,
22 case, hangtag, documentation, or pack-
23 aging of any type or nature that is de-
24 signed, marketed, or otherwise intended to
25 be used on or in connection with the goods

1 or services for which the mark is registered
2 in the United States Patent and Trade-
3 mark Office; and

4 “(iv) the use of which is likely to
5 cause confusion, to cause mistake, or to
6 deceive; or

7 “(B) a spurious designation that is iden-
8 tical with, or substantially indistinguishable
9 from, a designation as to which the remedies of
10 the Lanham Act are made available by reason
11 of section 220506 of title 36,

12 but such term does not include any mark or designa-
13 tion used in connection with goods or services, or a
14 mark or designation applied to labels, patches, stick-
15 ers, wrappers, badges, emblems, medallions, charms,
16 boxes, containers, cans, cases, hangtags, documenta-
17 tion, or packaging of any type or nature used in con-
18 nection with such goods or services, of which the
19 manufacturer or producer was, at the time of the
20 manufacture or production in question, authorized to
21 use the mark or designation for the type of goods or
22 services so manufactured or produced, by the holder
23 of the right to use such mark or designation;

24 “(2) the term ‘traffic’ means to transport,
25 transfer, or otherwise dispose of, to another, for pur-

1 poses of commercial advantage or private financial
2 gain, or to make, import, export, obtain control of,
3 or possess, with intent to so transport, transfer, or
4 otherwise dispose of;

5 “(3) the term ‘financial gain’ includes the re-
6 ceipt, or expected receipt, of anything of value; and

7 “(4) the term ‘Lanham Act’ means the Act en-
8 titled ‘An Act to provide for the registration and
9 protection of trademarks used in commerce, to carry
10 out the provisions of certain international conven-
11 tions, and for other purposes’, approved July 5,
12 1946.

13 “(e) DISCLAIMER.—Nothing in this section shall enti-
14 tle the United States to bring a criminal cause of action
15 under this section for the repackaging of genuine goods
16 or services not intended to deceive or confuse.

17 “(f) REPORT TO CONGRESS.—

18 “(1) Beginning with the first year after the
19 date of enactment of this subsection, the Attorney
20 General shall include in the report of the Attorney
21 General to Congress on the business of the Depart-
22 ment of Justice prepared pursuant to section 522 of
23 title 28, an accounting, on a district by district
24 basis, of the following with respect to all actions
25 taken by the Department of Justice that involve

1 trafficking in counterfeit labels for phonorecords,
2 copies of computer programs or computer program
3 documentation or packaging, copies of motion pic-
4 tures or other audiovisual works (as defined in sec-
5 tion 675), criminal infringement of copyrights (as
6 defined in section 676), unauthorized fixation of and
7 trafficking in sound recordings and music videos of
8 live musical performances (as defined in section
9 678), or trafficking in goods or services bearing
10 counterfeit marks (as defined in section 680):

11 “(A) The number of open investigations.

12 “(B) The number of cases referred by the
13 United States Customs Service.

14 “(C) The number of cases referred by
15 other agencies or sources.

16 “(D) The number and outcome, including
17 settlements, sentences, recoveries, and penalties,
18 of all prosecutions brought under sections 675,
19 676, 678, and 680.

20 “(2)(A) The report under paragraph (1), with
21 respect to criminal infringement of copyright, shall
22 include the following:

23 “(i) The number of infringement cases in
24 these categories: audiovisual (videos and films);
25 audio (sound recordings); literary works (books

1 and musical compositions); computer programs;
2 video games; and, others.

3 “(ii) The number of online infringement
4 cases.

5 “(iii) The number and dollar amounts of
6 fines assessed in specific categories of dollar
7 amounts. These categories shall be: no fines or-
8 dered; fines under \$500; fines from \$500 to
9 \$1,000; fines from \$1,000 to \$5,000; fines from
10 \$5,000 to \$10,000; and fines over \$10,000.

11 “(iv) The total amount of restitution or-
12 dered in all copyright infringement cases.

13 “(B) In this paragraph, the term ‘online in-
14 fringement cases’ as used in paragraph (2) means
15 those cases where the infringer—

16 “(i) advertised or publicized the infringing
17 work on the Internet; or

18 “(ii) made the infringing work available on
19 the Internet for download, reproduction, per-
20 formance, or distribution by other persons.

21 “(C) The information required under subpara-
22 graph (A) shall be submitted in the report required
23 in fiscal year 2005 and thereafter.

24 “(g) TRANSSHIPMENT AND EXPORTATION.—No
25 goods or services, the trafficking in of which is prohibited

1 by this section, shall be transshipped through or exported
2 from the United States. Any such transshipment or expor-
3 tation shall be deemed a violation of section 42 of the Act
4 entitled ‘An Act to provide for the registration and protec-
5 tion of trademarks used in commerce, to carry out the pro-
6 visions of certain international conventions, and for other
7 purposes’, approved July 5, 1946 (commonly known as the
8 ‘Trademark Act of 1946’).

9 **“§ 681. Trafficking in certain motor vehicles or motor**
10 **vehicle parts**

11 “(a) OFFENSE.—Whoever buys, receives, possesses,
12 or obtains control of, with intent to sell or otherwise dis-
13 pose of, a motor vehicle or motor vehicle part, knowing
14 that an identification number for such motor vehicle or
15 part has been removed, obliterated, tampered with, or al-
16 tered, shall be imprisoned not more than ten years.

17 “(b) NONAPPLICABILITY.—Subsection (a) does not
18 apply if the removal, obliteration, tampering, or alter-
19 ation—

20 “(1) is caused by collision or fire; or

21 “(2) is not a violation of section 717.

22 “(c) DEFINITIONS.—As used in this section, the
23 terms ‘identification number’ and ‘motor vehicle’ have the
24 meaning given those terms in section 717.

1 **“§ 682. Chop shops**

2 “(a) IN GENERAL.—

3 “(1) UNLAWFUL ACTION.—Whoever knowingly
4 owns, operates, maintains, or controls a chop shop
5 or conducts operations in a chop shop shall be pun-
6 ished by imprisonment for not more than 15 years.
7 If a conviction of a person under this paragraph is
8 for a violation committed after the first conviction of
9 such person under this paragraph, the maximum
10 punishment shall be doubled with respect to any fine
11 and imprisonment.

12 “(2) INJUNCTIONS.—The Attorney General
13 shall, as appropriate, in the case of any person who
14 violates paragraph (1), commence a civil action for
15 permanent or temporary injunction to restrain such
16 violation.

17 “(b) DEFINITION.—For purposes of this section, the
18 term ‘chop shop’ means any building, lot, facility, or other
19 structure or premise where one or more persons engage
20 in receiving, concealing, destroying, disassembling, dis-
21 mantling, reassembling, or storing any passenger motor
22 vehicle or passenger motor vehicle part which has been un-
23 lawfully obtained in order to alter, counterfeit, deface, de-
24 stroy, disguise, falsify, forge, obliterate, or remove the
25 identity, including the vehicle identification number or de-
26 rivative thereof, of such vehicle or vehicle part and to dis-

1 tribute, sell, or dispose of such vehicle or vehicle part in
2 interstate or foreign commerce.

3 “SUBCHAPTER C—COUNTERFEITING AND
4 FORGERY

“Sec.

“691. Counterfeit Acts committed outside the United States.

“692. Obligations or securities of United States.

“693. Uttering counterfeit obligations or securities.

“694. Dealing in counterfeit obligations or securities.

“695. Plates, stones, or analog, digital, or electronic images for counterfeiting obligations or securities.

“696. Deterrents to counterfeiting of obligations and securities.

“697. Taking impressions of tools used for obligations or securities.

“698. Possessing or selling impressions of tools used for obligations or securities.

“699. Foreign obligations or securities.

“700. Uttering counterfeit foreign obligations or securities.

“701. Possessing counterfeit foreign obligations or securities.

“702. Plates, stones, or analog, digital, or electronic images for counterfeiting foreign obligations or securities.

“703. Uttering counterfeit foreign bank notes.

“704. Connecting parts of different notes.

“705. Tokens or paper used as money.

“706. Forfeiture of counterfeit paraphernalia.

“707. Bonds and obligations of certain lending agencies.

“708. Contracts, deeds, and powers of attorney.

“709. Military or naval discharge certificates.

“710. Military, naval, or official passes.

“711. Money orders.

“712. Postage stamps, postage meter stamps, and postal cards.

“713. Printing and filming of United States and foreign obligations and securities.

“714. Seals of courts; signatures of judges or Court officers.

“715. Seals of departments or agencies.

“716. Forging endorsements on Treasury checks or bonds or securities of the United States.

“717. Altering or removing motor vehicle identification numbers.

“718. Securities of the States and private entities.

“719. Fictitious obligations.

5 “§ 691. Counterfeit Acts committed outside the
6 United States

7 “Whoever, outside the United States, engages in the
8 act of—

1 “(1) making, dealing, or possessing any coun-
2 terfeit obligation or other security of the United
3 States; or

4 “(2) making, dealing, or possessing any plate,
5 stone, analog, digital, or electronic image, or other
6 thing, or any part thereof, used to counterfeit such
7 obligation or security,

8 if such act would constitute a violation of section 692, 694,
9 or 695 if committed within the United States, shall be
10 punished as is provided for the like offense within the
11 United States.

12 **“§ 692. Obligations or securities of United States**

13 “Whoever, with intent to defraud, falsely makes,
14 forges, counterfeits, or alters any obligation or other secu-
15 rity of the United States, shall be imprisoned not more
16 than 20 years.

17 **“§ 693. Uttering counterfeit obligations or securities**

18 “Whoever, with intent to defraud, passes, utters, pub-
19 lishes, or sells, or attempts to pass, utter, publish, or sell,
20 or with like intent brings into the United States or keeps
21 in possession or conceals any falsely made, forged, coun-
22 terfeited, or altered obligation or other security of the
23 United States, shall be imprisoned not more than 20
24 years.

1 **“§ 694. Dealing in counterfeit obligations or securi-**
2 **ties**

3 “Whoever buys, sells, exchanges, transfers, receives,
4 or delivers any false, forged, counterfeited, or altered obli-
5 gation or other security of the United States, with the in-
6 tent that the same be passed, published, or used as true
7 and genuine, shall be imprisoned not more than 20 years.

8 **“§ 695. Plates, stones, or analog, digital, or electronic**
9 **images for counterfeiting obligations or**
10 **securities**

11 “(a) OFFENSE.—Whoever—

12 “(1) having control, custody, or possession of
13 any plate, stone, or other thing, or any part thereof,
14 from which has been printed, or which may be pre-
15 pared by direction of the Secretary of the Treasury
16 for the purpose of printing, any obligation or other
17 security of the United States, uses such plate, stone,
18 or other thing, or any part thereof, or knowingly
19 suffers the same to be used for the purpose of print-
20 ing any such or similar obligation or other security,
21 or any part thereof, except as may be printed for the
22 use of the United States by order of the proper offi-
23 cer thereof;

24 “(2) makes or executes any plate, stone, or
25 other thing in the likeness of any plate designated
26 for the printing of such obligation or other security;

1 “(3) with intent to defraud, makes, executes,
2 acquires, scans, captures, records, receives, trans-
3 mits, reproduces, sells, or has in such person’s con-
4 trol, custody, or possession, an analog, digital, or
5 electronic image of any obligation or other security
6 of the United States;

7 “(4) sells any such plate, stone, or other thing,
8 or brings into the United States any such plate,
9 stone, or other thing, except under the direction of
10 the Secretary of the Treasury or other proper offi-
11 cer, or with any other intent, in either case, than
12 that such plate, stone, or other thing be used for the
13 printing of the obligations or other securities of the
14 United States;

15 “(5) has in his control, custody, or possession
16 any plate, stone, or other thing in any manner made
17 after or in the similitude of any plate, stone, or
18 other thing, from which any such obligation or other
19 security has been printed, with intent to use such
20 plate, stone, or other thing, or to suffer the same to
21 be used in forging or counterfeiting any such obliga-
22 tion or other security, or any part thereof;

23 “(6) has in his possession or custody, except
24 under authority from the Secretary of the Treasury
25 or other proper officer, any obligation or other secu-

1 rity made or executed, in whole or in part, after the
2 similitude of any obligation or other security issued
3 under the authority of the United States, with intent
4 to sell or otherwise use the same; or

5 “(7) prints, photographs, or in any other man-
6 ner makes or executes any engraving, photograph,
7 print, or impression in the likeness of any such obli-
8 gation or other security, or any part thereof, or sells
9 any such engraving, photograph, print, or impres-
10 sion, except to the United States, or brings into the
11 United States, any such engraving, photograph,
12 print, or impression, except by direction of some
13 proper officer of the United States;

14 shall be imprisoned not more than 25 years.

15 “(b) DEFINITION.—For purposes of this section, the
16 term ‘analog, digital, or electronic image’ includes any
17 analog, digital, or electronic method used for the making,
18 execution, acquisition, scanning, capturing, recording, re-
19 trieval, transmission, or reproduction of any obligation or
20 security, unless such use is authorized by the Secretary
21 of the Treasury. The Secretary shall establish a system
22 (pursuant to section 713) to ensure that the legitimate
23 use of such electronic methods and retention of such re-
24 productions by businesses, hobbyists, press and others
25 shall not be unduly restricted.

1 **“§ 696. Deterrents to counterfeiting of obligations**
2 **and securities**

3 “(a) OFFENSE.—Whoever—

4 “(1) has in his control or possession, after a
5 distinctive paper has been adopted by the Secretary
6 of the Treasury for the obligations and other securi-
7 ties of the United States, any similar paper adapted
8 to the making of any such obligation or other secu-
9 rity, except under the authority of the Secretary of
10 the Treasury; or

11 “(2) has in his control or possession, after a
12 distinctive counterfeit deterrent has been adopted by
13 the Secretary of the Treasury for the obligations and
14 other securities of the United States by publication
15 in the Federal Register, any essentially identical fea-
16 ture or device adapted to the making of any such ob-
17 ligation or security, except under the authority of
18 the Secretary of the Treasury;

19 shall be imprisoned for not more than 25 years.

20 “(b) DEFINITIONS.—As used in this section—

21 “(1) the term ‘distinctive paper’ includes any
22 distinctive medium of which currency is made,
23 whether of wood pulp, rag, plastic substrate, or
24 other natural or artificial fibers or materials; and

1 “(2) the term ‘distinctive counterfeit deterrent’
2 includes any ink, watermark, seal, security thread,
3 optically variable device, or other feature or device;

4 “(A) in which the United States has an ex-
5 clusive property interest; or

6 “(B) which is not otherwise in commercial
7 use or in the public domain and which the Sec-
8 retary designates as being necessary in pre-
9 venting the counterfeiting of obligations or
10 other securities of the United States.

11 **“§ 697. Taking impressions of tools used for obliga-**
12 **tions or securities**

13 “Whoever, without authority from the United States,
14 takes, procures, or makes an impression, stamp, analog,
15 digital, or electronic image, or imprint of, from or by the
16 use of any tool, implement, instrument, or thing used or
17 fitted or intended to be used in printing, stamping, or im-
18 pressing, or in making other tools, implements, instru-
19 ments, or things to be used or fitted or intended to be
20 used in printing, stamping, or impressing any obligation
21 or other security of the United States, shall be imprisoned
22 not more than 25 years.

23 **“§ 698. Possessing or selling impressions of tools used**
24 **for obligations or securities**

25 “Whoever—

1 “(1) with intent to defraud, possesses, keeps,
2 safeguards, or controls, without authority from the
3 United States, any imprint, stamp, analog, digital,
4 or electronic image, or impression, taken or made
5 upon any substance or material whatsoever, of any
6 tool, implement, instrument or thing, used, fitted or
7 intended to be used, for any of the purposes men-
8 tioned in section 697; or

9 “(2) with intent to defraud, sells, gives, or de-
10 livers any such imprint, stamp, analog, digital, or
11 electronic image, or impression to any other person;
12 shall be imprisoned not more than 25 years.

13 **“§ 699. Foreign obligations or securities**

14 “Whoever, within the United States, with intent to
15 defraud, falsely makes, alters, forges, or counterfeits any
16 bond, certificate, obligation, or other security of any for-
17 eign government, purporting to be or in imitation of any
18 such security issued under the authority of such foreign
19 government, or any treasury note, bill, or promise to pay,
20 lawfully issued by such foreign government and intended
21 to circulate as money, shall be imprisoned not more than
22 20 years.

1 **“§ 700. Uttering counterfeit foreign obligations or se-**
2 **curities**

3 “Whoever, within the United States, knowingly and
4 with intent to defraud, utters, passes, or puts off, in pay-
5 ment or negotiation, any false, forged, or counterfeited
6 bond, certificate, obligation, security, treasury note, bill,
7 or promise to pay, mentioned in section 699, whether or
8 not the same was made, altered, forged, or counterfeited
9 within the United States, shall be imprisoned not more
10 than 20 years.

11 **“§ 701. Possessing counterfeit foreign obligations or**
12 **securities**

13 “Whoever, within the United States, knowingly and
14 with intent to defraud, possesses or delivers any false,
15 forged, or counterfeit bond, certificate, obligation, secu-
16 rity, treasury note, bill, promise to pay, bank note, or bill
17 issued by a bank or corporation of any foreign country,
18 shall be imprisoned not more than 20 years.

19 **“§ 702. Plates, stones, or analog, digital, or electronic**
20 **images for counterfeiting foreign obliga-**
21 **tions or securities**

22 “Whoever—

23 “(1) within the United States except by lawful
24 authority, controls, holds, or possesses any plate,
25 stone, or other thing, or any part thereof, from
26 which has been printed or may be printed any coun-

1 terfeit note, bond, obligation, or other security, in
2 whole or in part, of any foreign government, bank,
3 or corporation, or uses such plate, stone, or other
4 thing, or knowingly permits or suffers the same to
5 be used in counterfeiting such foreign obligations, or
6 any part thereof;

7 “(2) except by lawful authority, makes or en-
8 graves any plate, stone, or other thing in the like-
9 ness or similitude of any plate, stone, or other thing
10 designated for the printing of the genuine issues of
11 the obligations of any foreign government, bank, or
12 corporation;

13 “(3) with intent to defraud, makes, executes,
14 acquires, scans, captures, records, receives, trans-
15 mits, reproduces, sells, or has in such person’s con-
16 trol, custody, or possession, an analog, digital, or
17 electronic image of any bond, certificate, obligation,
18 or other security of any foreign government, or of
19 any treasury note, bill, or promise to pay, lawfully
20 issued by such foreign government and intended to
21 circulate as money;

22 “(4) except by lawful authority, prints, photo-
23 graphs, or makes, executes, or sells any engraving,
24 photograph, print, or impression in the likeness of
25 any genuine note, bond, obligation, or other security,

1 or any part thereof, of any foreign government,
2 bank, or corporation; or

3 “(5) brings into the United States any counter-
4 feit plate, stone, or other thing, engraving, photo-
5 graph, print, or other impressions of the notes,
6 bonds, obligations, or other securities of any foreign
7 government, bank, or corporation;

8 shall be imprisoned not more than 25 years.

9 **“§ 703. Uttering counterfeit foreign bank notes**

10 “Whoever, within the United States, utters, passes,
11 puts off, or tenders in payment, with intent to defraud,
12 any such false, forged, altered, or counterfeited bank note
13 or bill issued by a bank or corporation of any foreign coun-
14 try, and intended by the law or usage of such foreign coun-
15 try to circulate as money, knowing the same to be so false,
16 forged, altered, and counterfeited, whether or not the
17 same was made, forged, altered, or counterfeited within
18 the United States, shall be imprisoned not more than 20
19 years.

20 **“§ 704. Connecting parts of different notes**

21 “Whoever so places or connects together different
22 parts of two or more notes, bills, or other genuine instru-
23 ments issued under the authority of the United States,
24 or by any foreign government, or corporation, as to
25 produce one instrument, with intent to defraud, shall be

1 guilty of forgery in the same manner as if the parts so
2 put together were falsely made or forged, and shall be im-
3 prisoned not more than 10 years.

4 **“§ 705. Tokens or paper used as money**

5 “Whoever—

6 “(1) being 18 years of age or over, not lawfully
7 authorized, makes, issues, or passes any coin, card,
8 token, or device in metal, or its compounds, intended
9 to be used as money, or whoever, being 18 years of
10 age or over, with intent to defraud, makes, utters,
11 inserts, or uses any card, token, slug, disk, device,
12 paper, or other thing similar in size and shape to
13 any of the lawful coins or other currency of the
14 United States or any coin or other currency not
15 legal tender in the United States, to procure any-
16 thing of value, or the use or enjoyment of any prop-
17 erty or service from any automatic merchandise
18 vending machine, postage-stamp machine, turnstile,
19 fare box, coinbox telephone, parking meter or other
20 lawful receptacle, depository, or contrivance designed
21 to receive or to be operated by lawful coins or other
22 currency of the United States; or

23 “(2) manufactures, sells, offers, or advertises
24 for sale, or exposes or keeps with intent to furnish
25 or sell any token, slug, disk, device, paper, or other

1 thing similar in size and shape to any of the lawful
2 coins or other currency of the United States, or any
3 token, disk, paper, or other device issued or author-
4 ized in connection with rationing or food and fiber
5 distribution by any agency of the United States,
6 with knowledge or reason to believe that such to-
7 kens, slugs, disks, devices, papers, or other things
8 are intended to be used unlawfully or fraudulently to
9 procure anything of value, or the use or enjoyment
10 of any property or service from any automatic mer-
11 chandise vending machine, postage-stamp machine,
12 turnstile, fare box, coinbox telephone, parking meter,
13 or other lawful receptacle, depository, or contrivance
14 designed to receive or to be operated by lawful coins
15 or other currency of the United States;

16 shall be imprisoned not more than one year.

17 **“§ 706. Forfeiture of counterfeit paraphernalia**

18 “(a) FORFEITURE.—All counterfeits of any coins or
19 obligations or other securities of the United States or of
20 any foreign government, or any articles, devices, and other
21 things made, possessed, or used in violation of this sub-
22 chapter or section 851 or 852, or any material or appa-
23 ratus used or fitted or intended to be used, in the making
24 of such counterfeits, articles, devices or things, found in
25 the possession of any person without authority from the

1 Secretary of the Treasury or other proper officer, shall
2 be forfeited to the United States.

3 “(b) OFFENSE.—Whoever, having the custody or con-
4 trol of any such counterfeits, material, apparatus, articles,
5 devices, or other things, fails or refuses to surrender pos-
6 session thereof upon request by any authorized agent of
7 the Treasury Department, or other proper officer, shall
8 be imprisoned not more than one year.

9 “(c) PETITION TO SECRETARY OF THE TREASURY.—
10 Whenever, except as hereinafter in this section provided,
11 any person interested in any article, device, or other thing,
12 or material or apparatus seized under this section files
13 with the Secretary of the Treasury, before the disposition
14 thereof, a petition for the remission or mitigation of such
15 forfeiture, the Secretary of the Treasury, if he finds that
16 such forfeiture was incurred without willful negligence or
17 without any intention on the part of the petitioner to vio-
18 late the law, or finds the existence of such mitigating cir-
19 cumstances as to justify the remission or the mitigation
20 of such forfeiture, may remit or mitigate the same upon
21 such terms and conditions as he deems reasonable and
22 just.

23 “(d) PETITION TO ATTORNEY GENERAL.—If the sei-
24 zure involves offenses other than offenses against the coin-
25 age, currency, obligations or securities of the United

1 States or any foreign government, the petition for the re-
2 mission or mitigation of forfeiture shall be referred to the
3 Attorney General, who may remit or mitigate the for-
4 feiture upon such terms as he deems reasonable and just.

5 **“§ 707. Bonds and obligations of certain lending agen-**
6 **cies**

7 “Whoever—

8 “(1) falsely makes, forges, counterfeits or alters
9 any note, bond, debenture, coupon, obligation, in-
10 strument, or writing in imitation or purporting to be
11 in imitation of, a note, bond, debenture, coupon, ob-
12 ligation, instrument or writing, issued by the Recon-
13 struction Finance Corporation, Federal Deposit In-
14 surance Corporation, National Credit Union Admin-
15 istration, Home Owners’ Loan Corporation, Farm
16 Credit Administration, Department of Housing and
17 Urban Development, or any land bank, intermediate
18 credit bank, insured credit union, bank for coopera-
19 tives or any lending, mortgage, insurance, credit or
20 savings and loan corporation or association author-
21 ized or acting under the laws of the United States;
22 or

23 “(2) passes, utters, or publishes, or attempts to
24 pass, utter or publish any note, bond, debenture,
25 coupon, obligation, instrument or document knowing

1 the same to have been falsely made, forged, counter-
2 feited or altered, contrary to this section;
3 shall be imprisoned not more than 10 years.

4 **“§ 708. Contracts, deeds, and powers of attorney**

5 “Whoever—

6 “(1) falsely makes, alters, forges, or counter-
7 feits any deed, power of attorney, order, certificate,
8 receipt, contract, or other writing, for the purpose of
9 obtaining or receiving, or of enabling any other per-
10 son, either directly or indirectly, to obtain or receive
11 from the United States or any officers or agents
12 thereof, any sum of money;

13 “(2) utters or publishes as true any such false,
14 forged, altered, or counterfeited writing, with intent
15 to defraud the United States, knowing the same to
16 be false, altered, forged, or counterfeited; or

17 “(3) transmits to, or presents at any office or
18 officer of the United States, any such writing in sup-
19 port of, or in relation to, any account or claim, with
20 intent to defraud the United States, knowing the
21 same to be false, altered, forged, or counterfeited;

22 shall be imprisoned not more than ten years.

23 **“§ 709. Military or naval discharge certificates**

24 “Whoever forges, counterfeits, or falsely alters any
25 certificate of discharge from the military or naval service

1 of the United States, or uses, unlawfully possesses or ex-
2 hibits any such certificate, knowing the same to be forged,
3 counterfeited, or falsely altered, shall be imprisoned not
4 more than one year.

5 **“§ 710. Military, naval, or official passes**

6 “Whoever falsely makes, forges, counterfeits, alters,
7 or tampers with any naval, military, or official pass or per-
8 mit, issued by or under the authority of the United States,
9 or with intent to defraud uses or possesses any such pass
10 or permit, or personates or falsely represents himself to
11 be or not to be a person to whom such pass or permit
12 has been duly issued, or knowingly allows any other person
13 to have or use any such pass or permit, issued for his
14 use alone, shall be imprisoned not more than five years.

15 **“§ 711. Money orders**

16 “Whoever—

17 “(1) with intent to defraud, falsely makes,
18 forges, counterfeits, engraves, or prints any order in
19 imitation of or purporting to be a blank money order
20 or a money order issued by or under the direction
21 of the Post Office Department or Postal Service;

22 “(2) forges or counterfeits the signature or ini-
23 tials of any person authorized to issue money orders
24 upon or to any money order, postal note, or blank
25 therefor provided or issued by or under the direction

1 of the Post Office Department or Postal Service, or
2 post office department or corporation of any foreign
3 country, and payable in the United States, or any
4 material signature or indorsement thereon, or any
5 material signature to any receipt or certificate of
6 identification thereof;

7 “(3) falsely alters, in any material respect, any
8 such money order or postal note;

9 “(4) with intent to defraud, passes, utters or
10 publishes or attempts to pass, utter or publish any
11 such forged or altered money order or postal note,
12 knowing any material initials, signature, stamp im-
13 pression or indorsement thereon to be false, forged,
14 or counterfeited, or any material alteration therein
15 to have been falsely made;

16 “(5) issues any money order or postal note
17 without having previously received or paid the full
18 amount of money payable therefor, with the purpose
19 of fraudulently obtaining or receiving, or fraudu-
20 lently enabling any other person, either directly or
21 indirectly, to obtain or receive from the United
22 States or Postal Service, or any officer, employee, or
23 agent thereof, any sum of money whatever;

24 “(6) embezzles, steals, or knowingly converts to
25 his own use or to the use of another, or without au-

1 thority converts or disposes of any blank money
2 order form provided by or under the authority of the
3 Post Office Department or Postal Service;

4 “(7) receives or possesses any such money order
5 form with the intent to convert it to his own use or
6 gain or use or gain of another knowing it to have
7 been embezzled, stolen or converted;

8 “(8) with intent to defraud the United States,
9 the Postal Service, or any person, transmits, pre-
10 sents, or causes to be transmitted or presented, any
11 money order or postal note knowing the same—

12 “(A) to contain any forged or counterfeited
13 signature, initials, or any stamped impression,

14 “(B) to contain any material alteration
15 therein unlawfully made,

16 “(C) to have been unlawfully issued with-
17 out previous payment of the amount required to
18 be paid upon such issue, or

19 “(D) to have been stamped without lawful
20 authority; or

21 “(9) steals, or with intent to defraud or without
22 being lawfully authorized by the Post Office Depart-
23 ment or Postal Service, receives, possesses, disposes
24 of or attempts to dispose of any postal money order
25 machine or any stamp, tool, or instrument specifi-

1 cally designed to be used in preparing or filling out
2 the blanks on postal money order forms;
3 shall be imprisoned not more than five years.

4 **“§ 712. Postage stamps, postage meter stamps, and**
5 **postal cards**

6 “Whoever—

7 “(1) forges or counterfeits any postage stamp,
8 postage meter stamp, or any stamp printed upon
9 any stamped envelope, or postal card, or any die,
10 plate, or engraving thereof;

11 “(2) makes or prints, or knowingly uses or
12 sells, or possesses with intent to use or sell, any such
13 forged or counterfeited postage stamp, postage
14 meter stamp, stamped envelope, postal card, die,
15 plate, or engraving;

16 “(3) makes, or knowingly uses or sells, or pos-
17 sesses with intent to use or sell, any paper bearing
18 the watermark of any stamped envelope, or postal
19 card, or any fraudulent imitation thereof;

20 “(4) makes or prints, or authorizes to be made
21 or printed, any postage stamp, postage meter stamp,
22 stamped envelope, or postal card, of the kind author-
23 ized and provided by the Post Office Department or
24 by the Postal Service, without the special authority

1 and direction of the Department or Postal Service;
2 or

3 “(5) after such postage stamp, postage meter
4 stamp, stamped envelope, or postal card has been
5 printed, with intent to defraud, delivers the same to
6 any person not authorized by an instrument in writ-
7 ing, duly executed under the hand of the Postmaster
8 General and the seal of the Post Office Department
9 or the Postal Service, to receive it;

10 shall be imprisoned not more than five years.

11 **“§ 713. Printing and filming of United States and for-**
12 **eign obligations and securities**

13 “Notwithstanding any other provision of this sub-
14 chapter, the following are permitted:

15 “(1) The printing, publishing, or importation,
16 or the making or importation of the necessary plates
17 for such printing or publishing, of illustrations of—

18 “(A) postage stamps of the United States,

19 “(B) revenue stamps of the United States,

20 “(C) any other obligation or other security
21 of the United States, and

22 “(D) postage stamps, revenue stamps,
23 notes, bonds, and any other obligation or other
24 security of any foreign government, bank, or
25 corporation.

1 “(2) Illustrations permitted by the foregoing
2 provisions of this section shall be made in accord-
3 ance with the following conditions—

4 “(A) all illustrations shall be in black and
5 white, except that illustrations of postage
6 stamps issued by the United States or by any
7 foreign government and stamps issued under
8 the Migratory Bird Hunting Stamp Act of 1934
9 may be in color;

10 “(B) all illustrations (including illustra-
11 tions of uncanceled postage stamps in color and
12 illustrations of stamps issued under the Migra-
13 tory Bird Hunting Stamp Act of 1934 in color)
14 shall be of a size less than three-fourths or
15 more than one and one-half, in linear dimen-
16 sion, of each part of any matter so illustrated
17 which is covered by subparagraph (A), (B), (C),
18 or (D) of this paragraph, except that black and
19 white illustrations of postage and revenue
20 stamps issued by the United States or by any
21 foreign government and colored illustrations of
22 canceled postage stamps issued by the United
23 States may be in the exact linear dimension in
24 which the stamps were issued; and

1 “(C) the negatives and plates used in mak-
2 ing the illustrations shall be destroyed after
3 their final use in accordance with this section.
4 The Secretary of the Treasury shall prescribe
5 regulations to permit color illustrations of such
6 currency of the United States as the Secretary
7 determines may be appropriate for such pur-
8 poses.

9 “(3) This section does not permit the reproduc-
10 tion of illustrations of obligations or other securities,
11 by or through electronic methods used for the acqui-
12 sition, recording, retrieval, transmission, or repro-
13 duction of any obligation or other security, unless
14 such use is authorized by the Secretary of the Treas-
15 ury. The Secretary shall establish a system to ensure
16 that the legitimate use of such electronic methods
17 and retention of such reproductions by businesses,
18 hobbyists, press or others shall not be unduly re-
19 stricted.

20 “(4) The making or importation of motion-pic-
21 ture films, microfilms, or slides, for projection upon
22 a screen or for use in telecasting, of postage and
23 revenue stamps and other obligations and securities
24 of the United States, and postage and revenue
25 stamps, notes, bonds, and other obligations or secu-

1 rities of any foreign government, bank, or corpora-
2 tion. No prints or other reproductions shall be made
3 from such films or slides, except for the purposes of
4 paragraph (1), without the permission of the Sec-
5 retary of the Treasury. For the purposes of this sec-
6 tion the term ‘postage stamp’ includes postage meter
7 stamps.

8 **“§ 714. Seals of courts; signatures of judges or Court**
9 **officers**

10 “Whoever forges the signature of any judge, register,
11 or other officer of any court of the United States, or of
12 any Territory thereof, or forges or counterfeits the seal
13 of any such court, or knowingly concurs in using any such
14 forged or counterfeit signature or seal, for the purpose of
15 authenticating any proceeding or document, or tenders in
16 evidence any such proceeding or document with a false or
17 counterfeit signature of any such judge, register, or other
18 officer, or a false or counterfeit seal of the court, sub-
19 scribed or attached thereto, knowing such signature or
20 seal to be false or counterfeit, shall be imprisoned not
21 more than five years.

22 **“§ 715. Seals of departments or agencies**

23 “(a) OFFENSE.—Whoever—

1 “(1) falsely makes, forges, counterfeits, muti-
2 lates, or alters the seal of any department or agency
3 of the United States, or any facsimile thereof;

4 “(2) knowingly uses, affixes, or impresses any
5 such fraudulently made, forged, counterfeited, muti-
6 lated, or altered seal or facsimile thereof to or upon
7 any certificate, instrument, commission, document,
8 or paper of any description; or

9 “(3) with fraudulent intent, possesses, sells, of-
10 fers for sale, furnishes, offers to furnish, gives away,
11 offers to give away, transports, offers to transport,
12 imports, or offers to import any such seal or fac-
13 simile thereof, knowing the same to have been so
14 falsely made, forged, counterfeited, mutilated, or al-
15 tered,

16 shall be imprisoned not more than 5 years.

17 “(b) INCREASED PENALTY.—Notwithstanding sub-
18 section (a) or any other provision of law, if a forged, coun-
19 terfeited, mutilated, or altered seal of a department or
20 agency of the United States, or any facsimile thereof, is—

21 “(1) so forged, counterfeited, mutilated, or al-
22 tered;

23 “(2) used, affixed, or impressed to or upon any
24 certificate, instrument, commission, document, or
25 paper of any description; or

1 “(3) with fraudulent intent, possessed, sold, of-
2 ferred for sale, furnished, offered to furnish, given
3 away, offered to give away, transported, offered to
4 transport, imported, or offered to import,
5 with the intent or effect of facilitating an alien’s applica-
6 tion for, or receipt of, a Federal benefit to which the alien
7 is not entitled, the penalties which may be imposed for
8 each offense under subsection (a) shall be two times the
9 maximum fine, and 3 times the maximum term of impris-
10 onment, or both, that would otherwise be imposed for an
11 offense under subsection (a).

12 “(c) DEFINITIONS.—For purposes of this section—

13 “(1) the term ‘Federal benefit’ means—

14 “(A) the issuance of any grant, contract,
15 loan, professional license, or commercial license
16 provided by any agency of the United States or
17 by appropriated funds of the United States; and

18 “(B) any retirement, welfare, Social Secu-
19 rity, health (including treatment of an emer-
20 gency medical condition in accordance with sec-
21 tion 1903(v) of the Social Security Act), dis-
22 ability, veterans, public housing, education, sup-
23 plemental nutrition assistance program, or un-
24 employment benefit, or any similar benefit for
25 which payments or assistance are provided by

1 an agency of the United States or by appro-
2 priated funds of the United States; and

3 “(2) each instance of forgery, counterfeiting,
4 mutilation, or alteration shall constitute a separate
5 offense under this section.

6 **“§ 716. Forging endorsements on Treasury checks or**
7 **bonds or securities of the United States**

8 “(a) IN GENERAL.—Whoever, with intent to de-
9 fraud—

10 “(1) falsely makes or forges any endorsement
11 or signature on a Treasury check or bond or security
12 of the United States; or

13 “(2) passes, utters, or publishes, or attempts to
14 pass, utter, or publish, any Treasury check or bond
15 or security of the United States bearing a falsely
16 made or forged endorsement or signature;
17 shall be imprisoned not more than ten years.

18 “(b) SALE EXCHANGE AND SIMILAR CONDUCT.—
19 Whoever, with knowledge that such Treasury check or
20 bond or security of the United States is stolen or bears
21 a falsely made or forged endorsement or signature buys,
22 sells, exchanges, receives, delivers, retains, or conceals any
23 such Treasury check or bond or security of the United
24 States shall be imprisoned not more than ten years.

1 “(2) PERSONS REFERRED TO IN PARAGRAPH
2 (1).—The persons referred to in paragraph (1) of
3 this subsection are—

4 “(A) a motor vehicle scrap processor or a
5 motor vehicle demolisher who complies with ap-
6 plicable State law with respect to such vehicle
7 or part;

8 “(B) a person who repairs such vehicle or
9 part, if the removal, obliteration, tampering, or
10 alteration is reasonably necessary for the re-
11 pair;

12 “(C) a person who restores or replaces an
13 identification number for such vehicle or part in
14 accordance with applicable State law; and

15 “(D) a person who removes, obliterates,
16 tampers with, or alters a decal or device affixed
17 to a motor vehicle pursuant to the Motor Vehi-
18 cle Theft Prevention Act, if that person is the
19 owner of the motor vehicle, or is authorized to
20 remove, obliterate, tamper with or alter the
21 decal or device by—

22 “(i) the owner or his authorized
23 agent;

24 “(ii) applicable State or local law; or

1 “(iii) regulations promulgated by the
2 Attorney General to implement the Motor
3 Vehicle Theft Prevention Act.

4 “(c) DEFINITIONS FOR SECTION.—As used in this
5 section—

6 “(1) the term ‘identification number’ means a
7 number or symbol that is inscribed or affixed for
8 purposes of identification under chapter 301 and
9 part C of subtitle VI of title 49;

10 “(2) the term ‘motor vehicle’ has the meaning
11 given that term in section 32101 of title 49;

12 “(3) the term ‘motor vehicle demolisher’ means
13 a person, including any motor vehicle dismantler or
14 motor vehicle recycler, who is engaged in the busi-
15 ness of reducing motor vehicles or motor vehicle
16 parts to metallic scrap that is unsuitable for use as
17 either a motor vehicle or a motor vehicle part;

18 “(4) the term ‘motor vehicle scrap processor’
19 means a person—

20 “(A) who is engaged in the business of
21 purchasing motor vehicles or motor vehicle
22 parts for reduction to metallic scrap for recy-
23 cling;

1 “(B) who, from a fixed location, uses ma-
2 chinery to process metallic scrap into prepared
3 grades; and

4 “(C) whose principal product is metallic
5 scrap for recycling;

6 but such term does not include any activity of any
7 such person relating to the recycling of a motor vehi-
8 cle or a motor vehicle part as a used motor vehicle
9 or a used motor vehicle part; and

10 “(5) the term ‘tampers with’ includes covering
11 a program decal or device affixed to a motor vehicle
12 pursuant to the Motor Vehicle Theft Prevention Act
13 for the purpose of obstructing its visibility.

14 **“§ 718. Securities of the States and private entities**

15 “(a) COUNTERFEIT SECURITIES.—Whoever makes,
16 utters or possesses a counterfeited security of a State or
17 a political subdivision thereof or of an organization, or
18 whoever makes, utters or possesses a forged security of
19 a State or political subdivision thereof or of an organiza-
20 tion that operates in or affecting commerce, with intent
21 to deceive another person shall be imprisoned for not more
22 than ten years.

23 “(b) IMPLEMENTS.—Whoever makes, receives, pos-
24 sesses, sells or otherwise transfers an implement designed
25 for or particularly suited for making a counterfeit or

1 forged security with the intent that it be so used shall
2 be punished by imprisonment for not more than ten years.

3 “(c) DEFINITIONS.—As used in this section—

4 “(1) the term ‘counterfeited’ means a document
5 that purports to be genuine but is not, because it
6 has been falsely made or manufactured in its en-
7 tirety;

8 “(2) the term ‘forged’ means a document that
9 purports to be genuine but is not because it has
10 been falsely altered, completed, signed, or endorsed,
11 or contains a false addition thereto or insertion
12 therein, or is a combination of parts of two or more
13 genuine documents; and

14 “(3) the term ‘security’ means—

15 “(A) a note, stock certificate, treasury
16 stock certificate, bond, treasury bond, debenture,
17 certificate of deposit, interest coupon, bill,
18 check, draft, warrant, debit instrument as de-
19 fined in section 916(c) of the Electronic Fund
20 Transfer Act, money order, traveler’s check, let-
21 ter of credit, warehouse receipt, negotiable bill
22 of lading, evidence of indebtedness, certificate
23 of interest in or participation in any profit-shar-
24 ing agreement, collateral-trust certificate, pre-
25 reorganization certificate of subscription, trans-

1 ferable share, investment contract, voting trust
2 certificate, or certificate of interest in tangible
3 or intangible property;

4 “(B) an instrument evidencing ownership
5 of goods, wares, or merchandise;

6 “(C) any other written instrument com-
7 monly known as a security;

8 “(D) a certificate of interest in, certificate
9 of participation in, certificate for, receipt for, or
10 warrant or option or other right to subscribe to
11 or purchase, any of the foregoing; or

12 “(E) a blank form of any of the foregoing.

13 **“§ 719. Fictitious obligations**

14 “(a) OFFENSE.—Whoever, with the intent to de-
15 fraud—

16 “(1) draws, prints, processes, produces, pub-
17 lishes, or otherwise makes, or attempts or causes the
18 same, within the United States;

19 “(2) passes, utters, presents, offers, brokers,
20 issues, sells, or attempts or causes the same, or with
21 like intent possesses, within the United States; or

22 “(3) utilizes interstate or foreign commerce, in-
23 cluding the use of the mails or wire, radio, or other
24 electronic communication, to transmit, transport,

1 ship, move, transfer, or attempts or causes the same,
 2 to, from, or through the United States,
 3 any false or fictitious instrument, document, or other item
 4 appearing, representing, purporting, or contriving through
 5 scheme or artifice, to be an actual security or other finan-
 6 cial instrument issued under the authority of the United
 7 States, a foreign government, a State or other political
 8 subdivision of the United States, or an organization, shall
 9 be imprisoned for not more than 25 years.

10 “(b) DEFINITIONS.—For purposes of this section,
 11 any term used in this section that is defined in section
 12 717(e) has the same meaning given such term in section
 13 717(e).

14 “(c) AUTHORITY OF THE UNITED STATES SECRET
 15 SERVICE.—The United States Secret Service, in addition
 16 to any other agency having such authority, shall have au-
 17 thority to investigate offenses under this section.

18 **“CHAPTER 25—FRAUD AND FALSE**

19 **STATEMENT CRIMES**

“Subchapter

“A. Fraud and false statements

“B. Mail fraud

20 “SUBCHAPTER A—FRAUD AND FALSE

21 STATEMENTS

“Sec.

“771. Definitions.

“772. Statements or entries generally.

“773. Bank entries, reports and transactions.

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- “775. Federal Deposit Insurance Corporation transactions.
- “776. Department of Housing and Urban Development and Federal Housing Administration transactions.
- “777. Department of Housing and Urban Development transactions.
- “778. Farm loan bonds and credit bank debentures.
- “779. Loan and credit applications generally; renewals and discounts; crop insurance.
- “780. Naturalization, citizenship, or alien registry.
- “781. Highway projects.
- “782. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974.
- “783. Fraud and related activity in connection with identification documents, authentication features, and information.
- “784. Aggravated identity theft.
- “785. Fraudulent use of credit card.
- “786. Fraud and related activity in connection with access devices.
- “787. Fraud and related activity in connection with computers.
- “788. Major fraud against the United States.
- “789. Concealment of assets from conservator, receiver, or liquidating agent.
- “790. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.
- “791. Civil penalties and injunctions for violations of Section 790.
- “792. False statements relating to health care matters.
- “793. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.
- “794. Fraud and related activity in connection with electronic mail.
- “795. False information and hoaxes.
- “796. Fraud and related activity in connection with obtaining confidential phone records information of a covered entity.

1 **“§ 771. Definitions**

2 “As used in this subchapter—

3 “(1) the term ‘member bank’ means any na-
 4 tional bank, state bank, or bank or trust company,
 5 which has become a member of one of the Federal
 6 Reserve banks;

7 “(2) the term ‘insured bank’ includes any state
 8 bank, banking association, trust company, savings
 9 bank, or other banking institution, the deposits of
 10 which are insured by the Federal Deposit Insurance
 11 Corporation;

1 “(3) the term ‘branch or agency of a foreign
2 bank’ means a branch or agency described in para-
3 graph (E) of the definition of financial institution in
4 section 1; and

5 “(4) the term ‘depository institution holding
6 company’ has the meaning given such term in sec-
7 tion 3(w)(1) of the Federal Deposit Insurance Act.

8 **“§ 772. Statements or entries generally**

9 “(a) OFFENSE.—Except as otherwise provided in this
10 section, whoever, in any matter within the jurisdiction of
11 the executive, legislative, or judicial branch of the Govern-
12 ment of the United States, knowingly—

13 “(1) falsifies, conceals, or covers up by any
14 trick, scheme, or device a material fact;

15 “(2) makes any materially false, fictitious, or
16 fraudulent statement or representation; or

17 “(3) makes or uses any false writing or docu-
18 ment knowing the same to contain any materially
19 false, fictitious, or fraudulent statement or entry;

20 shall be imprisoned not more than 5 years or, if the of-
21 fense involves international or domestic terrorism (as de-
22 fined in section 283), imprisoned not more than 8 years.
23 If the matter relates to an offense under chapter 13 or
24 section 1265, then the term of imprisonment imposed
25 under this section shall be not more than 8 years.

1 “(b) EXCLUSION.—Subsection (a) does not apply to
2 a party to a judicial proceeding, or that party’s counsel,
3 for statements, representations, writings or documents
4 submitted by such party or counsel to a judge or mag-
5 istrate in that proceeding.

6 “(c) APPLICATION TO MATTERS WITHIN THE JURIS-
7 DICTION OF THE LEGISLATIVE BRANCH.—With respect to
8 any matter within the jurisdiction of the legislative
9 branch, subsection (a) applies only to—

10 “(1) administrative matters, including a claim
11 for payment, a matter related to the procurement of
12 property or services, personnel or employment prac-
13 tices, or support services, or a document required by
14 law, rule, or regulation to be submitted to the Con-
15 gress or any office or officer within the legislative
16 branch; or

17 “(2) any investigation or review, conducted pur-
18 suant to the authority of any committee, sub-
19 committee, commission or office of the Congress,
20 consistent with applicable rules of the House or Sen-
21 ate.

22 **“§ 773. Bank entries, reports and transactions**

23 “Whoever—

24 “(1) being an officer, director, agent or em-
25 ployee of any Federal Reserve bank, member bank,

1 depository institution holding company, national
2 bank, insured bank, branch or agency of a foreign
3 bank, or organization operating under section 25 or
4 section 25A of the Federal Reserve Act, without au-
5 thority from the directors of such bank, branch,
6 agency, or organization or company, issues or puts
7 in circulation any notes of such bank, branch, agen-
8 cy, or organization or company;

9 “(2) without such authority, makes, draws,
10 issues, puts forth, or assigns any certificate of de-
11 posit, draft, order, bill of exchange, acceptance, note,
12 debenture, bond, or other obligation, or mortgage,
13 judgment or decree;

14 “(3) makes any false entry in any book, report,
15 or statement of such bank, company, branch, agen-
16 cy, or organization with intent to injure or defraud
17 such bank, company, branch, agency, or organiza-
18 tion, or any other company, body politic or cor-
19 porate, or any individual person, or to deceive any
20 officer of such bank, company, branch, agency, or
21 organization, or the Comptroller of the Currency, or
22 the Federal Deposit Insurance Corporation, or any
23 agent or examiner appointed to examine the affairs
24 of such bank, company, branch, agency, or organiza-

1 tion, or the Board of Governors of the Federal Re-
2 serve System; or

3 “(4) with intent to defraud the United States
4 or any agency thereof, or any financial institution
5 referred to in this section, participates or shares in
6 or receives (directly or indirectly) any money, profit,
7 property, or benefits through any transaction, loan,
8 commission, contract, or any other act of any such
9 financial institution;

10 shall be imprisoned not more than 30 years.

11 **“§ 774. Federal credit institution entries, reports, and**
12 **transactions**

13 “Whoever, being an officer, agent or employee of or
14 connected in any capacity with the Federal Deposit Insur-
15 ance Corporation, National Credit Union Administration,
16 any Federal home loan bank, the Federal Housing Fi-
17 nance Agency, Farm Credit Administration, Department
18 of Housing and Urban Development, Federal Crop Insur-
19 ance Corporation, the Secretary of Agriculture acting
20 through the Farmers Home Administration or successor
21 agency, the Rural Development Administration or suc-
22 cessor agency, or the Farm Credit System Insurance Cor-
23 poration, a Farm Credit Bank, a bank for cooperatives
24 or any lending, mortgage, insurance, credit or savings and
25 loan corporation or association authorized or acting under

1 the laws of the United States or any institution, other
2 than an insured bank, the accounts of which are insured
3 by the Federal Deposit Insurance Corporation, or by the
4 National Credit Union Administration Board or any small
5 business investment company, with intent to defraud any
6 such institution or any other company, body politic or cor-
7 porate, or any individual, or to deceive any officer, auditor,
8 examiner or agent of any such institution or of department
9 or agency of the United States, makes any false entry in
10 any book, report or statement of or to any such institu-
11 tion, or without being duly authorized, draws any order
12 or bill of exchange, makes any acceptance, or issues, puts
13 forth or assigns any note, debenture, bond or other obliga-
14 tion, or draft, bill of exchange, mortgage, judgment, or
15 decree, or, with intent to defraud the United States or
16 any agency thereof, or any corporation, institution, or as-
17 sociation referred to in this section, participates or shares
18 in or receives directly or indirectly any money, profit,
19 property, or benefits through any transaction, loan, com-
20 mission, contract, or any other act of any such corpora-
21 tion, institution, or association, shall be imprisoned not
22 more than 30 years.

1 **“§ 775. Federal Deposit Insurance Corporation trans-**
2 **actions**

3 “Whoever, for the purpose of influencing in any way
4 the action of the Federal Deposit Insurance Corporation,
5 knowingly makes or invites reliance on a false, forged, or
6 counterfeit statement, document, or thing shall be impris-
7 oned not more than 30 years.

8 **“§ 776. Department of Housing and Urban Develop-**
9 **ment and Federal Housing Administra-**
10 **tion transactions**

11 “Whoever, for the purpose of obtaining any loan or
12 advance of credit from any person, partnership, associa-
13 tion, or corporation with the intent that such loan or ad-
14 vance of credit shall be offered to or accepted by the De-
15 partment of Housing and Urban Development for insur-
16 ance, or for the purpose of obtaining any extension or re-
17 newal of any loan, advance of credit, or mortgage insured
18 by such Department, or the acceptance, release, or substi-
19 tution of any security on such a loan, advance of credit,
20 or for the purpose of influencing in any way the action
21 of such Department, makes, passes, utters, or publishes
22 any statement, knowing the same to be false, or alters,
23 forges, or counterfeits any instrument, paper, or docu-
24 ment, or utters, publishes, or passes as true any instru-
25 ment, paper, or document, knowing it to have been altered,
26 forged, or counterfeited, or knowingly overvalues any secu-

1 rity, asset, or income, shall be imprisoned not more than
2 two years.

3 **“§ 777. Department of Housing and Urban Develop-**
4 **ment transactions**

5 “Whoever—

6 “(1) with intent to defraud, makes any false
7 entry in any book of the Department of Housing
8 and Urban Development or makes any false report
9 or statement to or for such Department;

10 “(2) receives any compensation, rebate, or re-
11 ward, with intent to defraud such Department or
12 with intent unlawfully to defeat its purposes; or

13 “(3) induces or influences such Department to
14 purchase or acquire any property or to enter into
15 any contract and knowingly fails to disclose any in-
16 terest which that person has in such property or in
17 the property to which such contract relates, or any
18 special benefit which he expects to receive as a result
19 of such contract;

20 shall be imprisoned not more than one year.

21 **“§ 778. Farm loan bonds and credit bank debentures**

22 “Whoever deceives, defrauds, or imposes upon, or at-
23 tempts to deceive, defraud, or impose upon any person,
24 partnership, corporation, or association by making any
25 false pretense or representation concerning the character,

1 issue, security, contents, conditions, or terms of any farm
2 loan bond, or coupon, issued by any Federal land bank
3 or banks; or of any debenture, coupon, or other obligation,
4 issued by any Federal intermediate credit bank or banks;
5 or by falsely pretending or representing that any farm loan
6 bond, or coupon, is anything other than, or different from,
7 what it purports to be on the face of said bond or coupon,
8 shall be imprisoned not more than one year.

9 **“§ 779. Loan and credit applications generally; renew-**
10 **als and discounts; crop insurance**

11 “Whoever knowingly makes any false statement or
12 report, or knowingly overvalues any land, property or secu-
13 rity, for the purpose of influencing in any way the action
14 of the Federal Housing Administration the Farm Credit
15 Administration, Federal Crop Insurance Corporation or a
16 company the Corporation reinsures, the Secretary of Agri-
17 culture acting through the Farmers Home Administration
18 or successor agency, the Rural Development Administra-
19 tion or successor agency, any Farm Credit Bank, produc-
20 tion credit association, agricultural credit association,
21 bank for cooperatives, or any division, officer, or employee
22 thereof, or of any regional agricultural credit corporation
23 established pursuant to law, or a Federal land bank, a
24 Federal land bank association, a Federal Reserve bank,
25 a small business investment company, as defined in section

1 103 of the Small Business Investment Act of 1958, or the
2 Small Business Administration in connection with any
3 provision of that Act, a Federal credit union, an insured
4 State-chartered credit union, any institution the accounts
5 of which are insured by the Federal Deposit Insurance
6 Corporation, any Federal home loan bank, the Federal
7 Housing Finance Agency, the Federal Deposit Insurance
8 Corporation, the Farm Credit System Insurance Corpora-
9 tion, or the National Credit Union Administration Board,
10 a branch or agency of a foreign bank (as such terms are
11 defined in paragraphs (1) and (3) of section 1(b) of the
12 International Banking Act of 1978), an organization oper-
13 ating under section 25 or section 25A of the Federal Re-
14 serve Act, or a mortgage lending business, or any person
15 or entity that makes in whole or in part a federally related
16 mortgage loan as defined in section 3 of the Real Estate
17 Settlement Procedures Act of 1974, upon any application,
18 advance, discount, purchase, purchase agreement, repur-
19 chase agreement, commitment, loan, or insurance agree-
20 ment or application for insurance or a guarantee, or any
21 change or extension of any of the same, by renewal,
22 deferment of action or otherwise, or the acceptance, re-
23 lease, or substitution of security therefor, shall be impris-
24 oned not more than 30 years.

1 **“§ 780. Naturalization, citizenship, or alien registry**

2 “(a) OFFENSE.—Whoever—

3 “(1) knowingly makes any false statement
4 under oath, in any case, proceeding, or matter relat-
5 ing to, or under, or by virtue of any law of the
6 United States relating to naturalization, citizenship,
7 or registry of aliens;

8 “(2) knowingly, with intent to avoid any duty
9 or liability imposed or required by law, denies that
10 he has been naturalized or admitted to be a citizen,
11 after having been so naturalized or admitted;

12 “(3) uses or attempts to use any certificate of
13 arrival, declaration of intention, certificate of natu-
14 ralization, certificate of citizenship or other docu-
15 mentary evidence of naturalization or of citizenship,
16 or any duplicate or copy thereof, knowing the same
17 to have been procured by fraud or false evidence or
18 without required appearance or hearing of the appli-
19 cant in court or otherwise unlawfully obtained;

20 “(4) knowingly makes any false certificate, ac-
21 knowledgment or statement concerning the appear-
22 ance before him or the taking of an oath or affirma-
23 tion or the signature, attestation or execution by any
24 person with respect to any application, declaration,
25 petition, affidavit, deposition, certificate of natu-
26 ralization, certificate of citizenship or other paper or

1 writing required or authorized by the laws relating
2 to immigration, naturalization, citizenship, or reg-
3 istry of aliens;

4 “(5) knowingly makes any false statement or
5 claim that he is, or at any time has been, a citizen
6 or national of the United States, with the intent to
7 obtain on behalf of himself, or any other person, any
8 Federal or State benefit or service, or to engage un-
9 lawfully in employment in the United States; or

10 “(6) knowingly makes any false statement or
11 claim that he is a citizen of the United States in
12 order to register to vote or to vote in any Federal,
13 State, or local election (including an initiative, recall,
14 or referendum);

15 shall be imprisoned not more than five years.

16 “(b) EXCLUSION.—Subsection (a)(6) does not apply
17 to an alien if each natural parent of the alien (or, in the
18 case of an adopted alien, each adoptive parent of the alien)
19 is or was a citizen (whether by birth or naturalization),
20 the alien permanently resided in the United States prior
21 to attaining the age of 16, and the alien reasonably be-
22 lieved at the time of making the false statement or claim
23 that he or she was a citizen of the United States.

24 **“§ 781. Highway projects**

25 “Whoever—

1 “(1) knowingly makes any false statement, false
2 representation, or false report as to the character,
3 quality, quantity, or cost of the material used or to
4 be used, or the quantity or quality of the work per-
5 formed or to be performed, or the costs thereof in
6 connection with the submission of plans, maps, spec-
7 ifications, contracts, or costs of construction of any
8 highway or related project submitted for approval to
9 the Secretary of Transportation;

10 “(2) knowingly makes any false statement, false
11 representation, false report, or false claim with re-
12 spect to the character, quality, quantity, or cost of
13 any work performed or to be performed, or materials
14 furnished or to be furnished, in connection with the
15 construction of any highway or related project ap-
16 proved by the Secretary of Transportation; or

17 “(3) knowingly makes any false statement or
18 false representation as to a material fact in any
19 statement, certificate, or report submitted pursuant
20 to the Federal-Aid Road Act approved July 11, 1916
21 (39 Stat. 355), as amended and supplemented;

22 shall be imprisoned not more than five years.

1 **“§ 782. False statements and concealment of facts in**
2 **relation to documents required by the**
3 **Employee Retirement Income Security**
4 **Act of 1974**

5 “Whoever, in any document required by title I of the
6 Employee Retirement Income Security Act of 1974 to be
7 published, or kept as part of the records of any employee
8 welfare benefit plan or employee pension benefit plan, or
9 certified to the administrator of any such plan, makes any
10 false statement or representation of fact, knowing it to
11 be false, or knowingly conceals, covers up, or fails to dis-
12 close any fact the disclosure of which is required by such
13 title or is necessary to verify, explain, clarify or check for
14 accuracy and completeness any report required by such
15 title to be published or any information required by such
16 title to be certified, shall be imprisoned not more than five
17 years.

18 **“§ 783. Fraud and related activity in connection with**
19 **identification documents, authentication**
20 **features, and information**

21 “(a) OFFENSE.—Whoever, as made applicable by
22 subsection (c)—

23 “(1) knowingly and without lawful authority
24 produces an identification document, authentication
25 feature, or a false identification document;

1 “(2) knowingly transfers an identification docu-
2 ment, authentication feature, or a false identification
3 document knowing that such document or feature
4 was stolen or produced without lawful authority;

5 “(3) knowingly possesses with intent to use un-
6 lawfully or transfer unlawfully five or more identi-
7 fication documents (other than those issued lawfully
8 for the use of the possessor), authentication fea-
9 tures, or false identification documents;

10 “(4) knowingly possesses an identification docu-
11 ment (other than one issued lawfully for the use of
12 the possessor), authentication feature, or a false
13 identification document, with the intent such docu-
14 ment or feature be used to defraud the United
15 States;

16 “(5) knowingly produces, transfers, or possesses
17 a document-making implement or authentication fea-
18 ture with the intent such document-making imple-
19 ment or authentication feature will be used in the
20 production of a false identification document or an-
21 other document-making implement or authentication
22 feature which will be so used;

23 “(6) knowingly possesses an identification docu-
24 ment or authentication feature that is or appears to
25 be an identification document or authentication fea-

1 ture of the United States or a sponsoring entity of
2 an event designated as a special event of national
3 significance which is stolen or produced without law-
4 ful authority knowing that such document or feature
5 was stolen or produced without such authority;

6 “(7) knowingly transfers, possesses, or uses,
7 without lawful authority, a means of identification of
8 another person with the intent to commit, or to aid
9 or abet, or in connection with, any unlawful activity
10 that constitutes a violation of Federal law, or that
11 constitutes a felony under any applicable State or
12 local law; or

13 “(8) knowingly traffics in false or actual au-
14 thentication features for use in false identification
15 documents, document-making implements, or means
16 of identification;

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

18 “(b) PUNISHMENT.—The punishment for an offense
19 under subsection (a) of this section is—

20 “(1) except as provided in paragraphs (3) and
21 (4), a fine under this title or imprisonment for not
22 more than 15 years, or both, if the offense is—

23 “(A) the production or transfer of an iden-
24 tification document, authentication feature, or

1 false identification document that is or appears
2 to be—

3 “(i) an identification document or au-
4 thentication feature issued by or under the
5 authority of the United States; or

6 “(ii) a birth certificate, or a driver’s
7 license or personal identification card;

8 “(B) the production or transfer of more
9 than five identification documents, authentica-
10 tion features, or false identification documents;

11 “(C) an offense under paragraph (5) of
12 such subsection; or

13 “(D) an offense under paragraph (7) of
14 such subsection that involves the transfer, pos-
15 session, or use of 1 or more means of identifica-
16 tion if, as a result of the offense, any individual
17 committing the offense obtains anything of
18 value aggregating \$1,000 or more during any 1-
19 year period;

20 “(2) except as provided in paragraphs (3) and
21 (4), a fine under this title or imprisonment for not
22 more than 5 years, or both, if the offense is—

23 “(A) any other production, transfer, or use
24 of a means of identification, an identification

1 document, authentication feature, or a false
2 identification document; or

3 “(B) an offense under paragraph (3) or
4 (7) of such subsection;

5 “(3) a fine under this title or imprisonment for
6 not more than 20 years, or both, if the offense is
7 committed—

8 “(A) to facilitate a drug trafficking crime
9 (as defined in section 592(a)(2));

10 “(B) in connection with a crime of violence
11 (as defined in section 584(c)(3)); or

12 “(C) after a prior conviction under this
13 section becomes final;

14 “(4) a fine under this title or imprisonment for
15 not more than 30 years, or both, if the offense is
16 committed to facilitate an act of domestic terrorism
17 (as defined under section 283) or an act of inter-
18 national terrorism (as defined in section 283(1));

19 and

20 “(5) a fine under this title or imprisonment for
21 not more than one year, or both, in any other case.

22 “(c) APPLICABILITY.—Subsection (a) applies if—

23 “(1) the identification document, authentication
24 feature, or false identification document is or ap-
25 pears to be issued by or under the authority of the

1 United States or a sponsoring entity of an event des-
2 ignated as a special event of national significance or
3 the document-making implement is designed or suit-
4 ed for making such an identification document, au-
5 thentication feature, or false identification docu-
6 ment;

7 “(2) the offense is an offense under subsection
8 (a)(4) of this section; or

9 “(3) either—

10 “(A) the production, transfer, possession,
11 or use prohibited by this section is in or affects
12 interstate or foreign commerce, including the
13 transfer of a document by electronic means; or

14 “(B) the means of identification, identifica-
15 tion document, false identification document, or
16 document-making implement is transported in
17 the mail in the course of the production, trans-
18 fer, possession, or use prohibited by this sec-
19 tion.

20 “(d) DEFINITIONS.—In this section and section
21 784—

22 “(1) the term ‘authentication feature’ means
23 any hologram, watermark, certification, symbol,
24 code, image, sequence of numbers or letters, or other
25 feature that either individually or in combination

1 with another feature is used by the issuing authority
2 on an identification document, document-making im-
3 plement, or means of identification to determine if
4 the document is counterfeit, altered, or otherwise
5 falsified;

6 “(2) the term ‘document-making implement’
7 means any implement, impression, template, com-
8 puter file, computer disc, electronic device, or com-
9 puter hardware or software, that is specifically con-
10 figured or primarily used for making an identifica-
11 tion document, a false identification document, or
12 another document-making implement;

13 “(3) the term ‘identification document’ means a
14 document made or issued by or under the authority
15 of the United States Government, a State, political
16 subdivision of a State, or a sponsoring entity of an
17 event designated as a special event of national sig-
18 nificance, a foreign government, political subdivision
19 of a foreign government, an international govern-
20 mental or an international quasi-governmental orga-
21 nization which, when completed with information
22 concerning a particular individual, is of a type in-
23 tended or commonly accepted for the purpose of
24 identification of individuals;

1 “(4) the term ‘false identification document’
2 means a document of a type intended or commonly
3 accepted for the purposes of identification of individ-
4 uals that—

5 “(A) is not issued by or under the author-
6 ity of a governmental entity or was issued
7 under the authority of a governmental entity
8 but was subsequently altered for purposes of
9 deceit; and

10 “(B) appears to be issued by or under the
11 authority of the United States Government, a
12 State, a political subdivision of a State, or a
13 sponsoring entity of an event designated as a
14 special event of national significance, a foreign
15 government, a political subdivision of a foreign
16 government, or an international governmental
17 or quasi-governmental organization;

18 “(5) the term ‘false authentication feature’
19 means an authentication feature that—

20 “(A) is genuine in origin, but, without the
21 authorization of the issuing authority, has been
22 tampered with or altered for purposes of deceit;

23 “(B) is genuine, but has been distributed,
24 or is intended for distribution, without the au-
25 thorization of the issuing authority and not in

1 connection with a lawfully made identification
2 document, document-making implement, or
3 means of identification to which such authen-
4 tication feature is intended to be affixed or em-
5 bedded by the respective issuing authority; or

6 “(C) appears to be genuine, but is not;

7 “(6) the term ‘issuing authority’—

8 “(A) means any governmental entity or
9 agency that is authorized to issue identification
10 documents, means of identification, or authen-
11 tication features; and

12 “(B) includes the United States Govern-
13 ment, a State, a political subdivision of a State,
14 or a sponsoring entity of an event designated as
15 a special event of national significance, a for-
16 eign government, a political subdivision of a for-
17 eign government, or an international govern-
18 ment or quasi-governmental organization;

19 “(7) the term ‘means of identification’ means
20 any name or number that may be used, alone or in
21 conjunction with any other information, to identify
22 a specific individual, including any—

23 “(A) name, social security number, date of
24 birth, official State or government issued driv-
25 er’s license or identification number, alien reg-

1 istration number, government passport number,
2 employer or taxpayer identification number;

3 “(B) unique biometric data, such as finger-
4 print, voice print, retina or iris image, or other
5 unique physical representation;

6 “(C) unique electronic identification num-
7 ber, address, or routing code; or

8 “(D) telecommunication identifying infor-
9 mation or access device (as such terms are de-
10 fined in section 786);

11 “(8) the term ‘personal identification card’
12 means an identification document issued by a State
13 or local government solely for the purpose of identi-
14 fication;

15 “(9) the term ‘produce’ includes alter, authen-
16 ticate, or assemble;

17 “(10) the term ‘transfer’ includes selecting an
18 identification document, false identification docu-
19 ment, or document-making implement and placing or
20 directing the placement of such identification docu-
21 ment, false identification document, or document-
22 making implement on an online location where it is
23 available to others;

24 “(11) the term ‘traffic’ means—

1 “(A) to transport, transfer, or otherwise
2 dispose of, to another, as consideration for any-
3 thing of value; or

4 “(B) to make or obtain control of with in-
5 tent to so transport, transfer, or otherwise dis-
6 pose of.

7 “(e) EXCLUSION.—This section does not prohibit any
8 lawfully authorized investigative, protective, or intelligence
9 activity of a law enforcement agency of the United States,
10 a State, or a political subdivision of a State, or of an intel-
11 ligence agency of the United States, or any activity au-
12 thorized under chapter 224.

13 “(f) RULE OF CONSTRUCTION.—For purpose of sub-
14 section (a)(7), a single identification document or false
15 identification document that contains 1 or more means of
16 identification shall be construed to be 1 means of identi-
17 fication.

18 **“§ 784. Aggravated identity theft**

19 “(a) OFFENSES.—

20 “(1) IN GENERAL.—Whoever, during and in re-
21 lation to any felony violation enumerated in sub-
22 section (c), knowingly transfers, possesses, or uses,
23 without lawful authority, a means of identification of
24 another person shall, in addition to the punishment

1 provided for such felony, be sentenced to a term of
2 imprisonment of 2 years.

3 “(2) **TERRORISM OFFENSE.**—Whoever, during
4 and in relation to any felony violation enumerated in
5 section 273(g)(3)(B), knowingly transfers, possesses,
6 or uses, without lawful authority, a means of identi-
7 fication of another person or a false identification
8 document shall, in addition to the punishment pro-
9 vided for such felony, be sentenced to a term of im-
10 prisonment of 5 years.

11 “(b) **CONSECUTIVE SENTENCE.**—Notwithstanding
12 any other provision of law—

13 “(1) a court shall not place on probation any
14 person convicted of a violation of this section;

15 “(2) except as provided in paragraph (4), no
16 term of imprisonment imposed on a person under
17 this section shall run concurrently with any other
18 term of imprisonment imposed on the person under
19 any other provision of law, including any term of im-
20 prisonment imposed for the felony during which the
21 means of identification was transferred, possessed,
22 or used;

23 “(3) in determining any term of imprisonment
24 to be imposed for the felony during which the means
25 of identification was transferred, possessed, or used,

1 a court shall not in any way reduce the term to be
2 imposed for such crime so as to compensate for, or
3 otherwise take into account, any separate term of
4 imprisonment imposed or to be imposed for a viola-
5 tion of this section; and

6 “(4) a term of imprisonment imposed on a per-
7 son for a violation of this section may, in the discre-
8 tion of the court, run concurrently, in whole or in
9 part, only with another term of imprisonment that
10 is imposed by the court at the same time on that
11 person for an additional violation of this section,
12 provided that such discretion shall be exercised in
13 accordance with any applicable guidelines and policy
14 statements issued by the Sentencing Commission
15 pursuant to section 994 of title 28.

16 “(c) DEFINITION.—For purposes of this section, the
17 term ‘felony violation enumerated in subsection (c)’ means
18 any offense that is a felony violation of—

19 “(1) section 641 (relating to theft of public
20 money, property, or records), section 644 (relating
21 to theft, embezzlement, or misapplication by bank
22 officer or employee), or section 651 (relating to theft
23 from employee benefit plans);

24 “(2) section 1091 (relating to false personation
25 of citizenship);

1 “(3) section 582(a)(6) (relating to false state-
2 ments in connection with the acquisition of a fire-
3 arm);

4 “(4) any provision contained in this subchapter
5 (relating to fraud and false statements), other than
6 this section or section 783(a)(7);

7 “(5) any provision contained in subchapter B of
8 chapter 25 (relating to mail, bank, and wire fraud);

9 “(6) any provision contained in subchapter F of
10 chapter 15 (relating to nationality and citizenship);

11 “(7) section 523 of the Gramm-Leach-Bliley
12 Act (relating to obtaining customer information by
13 false pretenses);

14 “(8) section 243 or 266 of the Immigration and
15 Nationality Act (relating to knowingly failing to
16 leave the United States after deportation and cre-
17 ating a counterfeit alien registration card);

18 “(9) any provision contained in chapter 8 of
19 title II of the Immigration and Nationality Act (re-
20 lating to various immigration offenses); or

21 “(10) section 208, 811, 1107(b), 1128B(a), or
22 1632 of the Social Security Act (relating to false
23 statements relating to programs under the Act).

24 **“§ 785. Fraudulent use of credit card**

25 “(a) OFFENSE.—Whoever—

1 “(1) knowingly in a transaction affecting inter-
2 state or foreign commerce, uses any counterfeit, fic-
3 titious, altered, forged, lost, stolen, or fraudulently
4 obtained credit card to obtain money, goods, serv-
5 ices, or anything else of value which within any one-
6 year period has a value aggregating \$1,000 or more;

7 “(2) with unlawful intent, transports in inter-
8 state or foreign commerce a counterfeit, fictitious,
9 altered, forged, lost, stolen, or fraudulently obtained
10 credit card knowing the same to be counterfeit, ficti-
11 tious, altered, forged, lost, stolen, or fraudulently ob-
12 tained;

13 “(3) with unlawful intent, uses any instrumen-
14 tality of interstate or foreign commerce to sell or
15 transport a counterfeit, fictitious, altered, forged,
16 lost, stolen, or fraudulently obtained credit card
17 knowing the same to be counterfeit, fictitious, al-
18 tered, forged, lost, stolen, or fraudulently obtained;

19 “(4) knowingly receives, conceals, uses, or
20 transports money, goods, services, or anything else
21 of value (except tickets for interstate or foreign
22 transportation) which—

23 “(A) within any one-year period has a
24 value aggregating \$1,000 or more;

1 “(B) has moved in, is part of, or con-
2 stitutes interstate or foreign commerce; and

3 “(C) has been obtained with a counterfeit,
4 fictitious, altered, forged, lost, stolen, or fraud-
5 ulently obtained credit card;

6 “(5) knowingly receives, conceals, uses, sells, or
7 transports in interstate or foreign commerce one or
8 more tickets for interstate or foreign transportation,
9 which—

10 “(A) within any one-year period have a
11 value aggregating \$500 or more, and

12 “(B) have been purchased or obtained with
13 one or more counterfeit, fictitious, altered,
14 forged, lost, stolen, or fraudulently obtained
15 credit cards; or

16 “(6) in a transaction affecting interstate or for-
17 eign commerce furnishes money, property, services,
18 or anything else of value, which within any one-year
19 period has a value aggregating \$1,000 or more,
20 through the use of any counterfeit, fictitious, al-
21 tered, forged, lost, stolen, or fraudulently obtained
22 credit card knowing the same to be counterfeit, ficti-
23 tious, altered, forged, lost, stolen, or fraudulently ob-
24 tained;

25 shall be imprisoned not more than ten years.

1 “(b) DEFINITIONS.—A term used in this section that
2 has a definition for the purposes of the Consumer Credit
3 Protection Act has that same definition for the purposes
4 of this section.

5 **“§ 786. Fraud and related activity in connection with**
6 **access devices**

7 “(a) OFFENSE.—Whoever—

8 “(1) knowingly and with intent to defraud pro-
9 duces, uses, or traffics in one or more counterfeit ac-
10 cess devices;

11 “(2) knowingly and with intent to defraud traf-
12 fics in or uses one or more unauthorized access de-
13 vices during any one-year period, and by such con-
14 duct obtains anything of value aggregating \$1,000
15 or more during that period;

16 “(3) knowingly and with intent to defraud pos-
17 sesses fifteen or more devices which are counterfeit
18 or unauthorized access devices;

19 “(4) knowingly and with intent to defraud pro-
20 duces, traffics in, has control or custody of, or pos-
21 sesses device-making equipment;

22 “(5) knowingly and with intent to defraud ef-
23 fects transactions, with 1 or more access devices
24 issued to another person or persons, to receive pay-
25 ment or any other thing of value during any 1-year

1 period the aggregate value of which is equal to or
2 greater than \$1,000;

3 “(6) without the authorization of the issuer of
4 the access device, knowingly and with intent to de-
5 fraud solicits a person for the purpose of—

6 “(A) offering an access device; or

7 “(B) selling information regarding or an
8 application to obtain an access device;

9 “(7) knowingly and with intent to defraud uses,
10 produces, traffics in, has control or custody of, or
11 possesses a telecommunications instrument that has
12 been modified or altered to obtain unauthorized use
13 of telecommunications services;

14 “(8) knowingly and with intent to defraud uses,
15 produces, traffics in, has control or custody of, or
16 possesses a scanning receiver;

17 “(9) knowingly uses, produces, traffics in, has
18 control or custody of, or possesses hardware or soft-
19 ware, knowing it has been configured to insert or
20 modify telecommunication identifying information
21 associated with or contained in a telecommunications
22 instrument so that such instrument may be used to
23 obtain telecommunications service without authoriza-
24 tion; or

1 “(10) without the authorization of the credit
2 card system member or its agent, knowingly and
3 with intent to defraud causes or arranges for an-
4 other person to present to the member or its agent,
5 for payment, 1 or more evidences or records of
6 transactions made by an access device;

7 shall, if the offense affects interstate or foreign commerce,
8 be punished as provided in subsection (b) of this section.

9 “(b) PENALTIES.—The punishment for an offense
10 under subsection (a) is—

11 “(1) in the case of an offense that does not
12 occur after a conviction for another offense under
13 this section—

14 “(A) if the offense is under paragraph (1),
15 (2), (3), (6), (7), or (10) of subsection (a), a
16 fine under this title or imprisonment for not
17 more than 10 years, or both; and

18 “(B) if the offense is under paragraph (4),
19 (5), (8), or (9) of subsection (a), a fine under
20 this title or imprisonment for not more than 15
21 years, or both; and

22 “(2) in the case of an offense that occurs after
23 a conviction for another offense under this section,
24 a fine under this title or imprisonment for not more
25 than 20 years, or both.

1 “(c) EXTRATERRITORIAL JURISDICTION.—There is
2 extraterritorial jurisdiction over an offense under this sec-
3 tion if—

4 “(1) the offense involves an access device
5 issued, owned, managed, or controlled by a financial
6 institution, account issuer, credit card system mem-
7 ber, or other entity within the jurisdiction of the
8 United States; and

9 “(2) the person transports, delivers, conveys,
10 transfers to or through, or otherwise stores, secrets,
11 or holds within the jurisdiction of the United States,
12 any article used to assist in the commission of the
13 offense or the proceeds of such offense or property
14 derived therefrom.

15 “(d) AUTHORITY OF UNITED STATES SECRET SERV-
16 ICE.—The United States Secret Service shall, in addition
17 to any other agency having such authority, have the au-
18 thority to investigate offenses under this section. Such au-
19 thority of the United States Secret Service shall be exer-
20 cised in accordance with an agreement which shall be en-
21 tered into by the Secretary of the Treasury and the Attor-
22 ney General.

23 “(e) OFFICIAL DUTY EXCLUSION.—This section does
24 not prohibit any lawfully authorized investigative, protec-
25 tive, or intelligence activity of a law enforcement agency

1 of the United States, a State, or a political subdivision
2 of a State, or of an intelligence agency of the United
3 States, or any activity authorized under chapter 224.

4 “(f) BUSINESS EXCLUSION.—It is not a violation of
5 subsection (a)(9) for an officer, employee, or agent of, or
6 a person engaged in business with, a facilities-based car-
7 rier, to engage in conduct (other than trafficking) other-
8 wise prohibited by that subsection for the purpose of pro-
9 tecting the property or legal rights of that carrier, unless
10 such conduct is for the purpose of obtaining telecommuni-
11 cations service provided by another facilities-based carrier
12 without the authorization of such carrier.

13 “(g) AFFIRMATIVE DEFENSE.—In a prosecution for
14 a violation of subsection (a)(9) (other than a violation con-
15 sisting of producing or trafficking), it is an affirmative
16 defense that the conduct charged was engaged in for re-
17 search or development in connection with a lawful pur-
18 pose.

19 “(h) DEFINITIONS.—As used in this section—

20 “(1) the term ‘access device’ means any card,
21 plate, code, account number, electronic serial num-
22 ber, mobile identification number, personal identi-
23 fication number, or other telecommunications serv-
24 ice, equipment, or instrument identifier, or other
25 means of account access that can be used, alone or

1 in conjunction with another access device, to obtain
2 money, goods, services, or any other thing of value,
3 or that can be used to initiate a transfer of funds
4 (other than a transfer originated solely by paper in-
5 strument);

6 “(2) the term ‘counterfeit access device’ means
7 any access device that is counterfeit, fictitious, al-
8 tered, or forged, or an identifiable component of an
9 access device or a counterfeit access device;

10 “(3) the term ‘unauthorized access device’
11 means any access device that is lost, stolen, expired,
12 revoked, canceled, or obtained with intent to de-
13 fraud;

14 “(4) the term ‘produce’ includes design, alter,
15 authenticate, duplicate, or assemble;

16 “(5) the term ‘traffic’ means transfer, or other-
17 wise dispose of, to another, or obtain control of with
18 intent to transfer or dispose of;

19 “(6) the term ‘device-making equipment’ means
20 any equipment, mechanism, or impression designed
21 or primarily used for making an access device or a
22 counterfeit access device;

23 “(7) the term ‘credit card system member’
24 means a financial institution or other entity that is
25 a member of a credit card system, including an enti-

1 ty, whether affiliated with or identical to the credit
2 card issuer, that is the sole member of a credit card
3 system;

4 “(8) the term ‘scanning receiver’ means a de-
5 vice or apparatus that can be used to intercept a
6 wire or electronic communication in violation of sub-
7 chapter B of chapter 37 or to intercept an electronic
8 serial number, mobile identification number, or other
9 identifier of any telecommunications service, equip-
10 ment, or instrument;

11 “(9) the term ‘telecommunications service’ has
12 the meaning given such term in section 3 of title I
13 of the Communications Act of 1934;

14 “(10) the term ‘facilities-based carrier’ means
15 an entity that owns communications transmission fa-
16 cilities, is responsible for the operation and mainte-
17 nance of those facilities, and holds an operating li-
18 cense issued by the Federal Communications Com-
19 mission under the authority of title III of the Com-
20 munications Act of 1934; and

21 “(11) the term ‘telecommunication identifying
22 information’ means electronic serial number or any
23 other number or signal that identifies a specific tele-
24 communications instrument or account, or a specific

1 communication transmitted from a telecommuni-
2 cations instrument.

3 **“§ 787. Fraud and related activity in connection with**
4 **computers**

5 “(a) OFFENSE.—Whoever—

6 “(1) having knowingly accessed a computer
7 without authorization or exceeding authorized ac-
8 cess, and by means of such conduct having obtained
9 information that has been determined by the United
10 States Government pursuant to an Executive order
11 or statute to require protection against unauthorized
12 disclosure for reasons of national defense or foreign
13 relations, or any restricted data, as defined in para-
14 graph y. of section 11 of the Atomic Energy Act of
15 1954, with reason to believe that such information
16 so obtained could be used to the injury of the United
17 States, or to the advantage of any foreign nation
18 knowingly communicates, delivers, transmits, or
19 causes to be communicated, delivered, or trans-
20 mitted, or attempts to communicate, deliver, trans-
21 mit or cause to be communicated, delivered, or
22 transmitted the same to any person not entitled to
23 receive it, or knowingly retains the same and fails to
24 deliver it to the officer or employee of the United
25 States entitled to receive it;

1 “(2) intentionally accesses a computer without
2 authorization or exceeds authorized access, and
3 thereby obtains—

4 “(A) information contained in a financial
5 record of a financial institution, or of a card
6 issuer as defined in section 1602(n) of title 15,
7 or contained in a file of a consumer reporting
8 agency on a consumer, as such terms are de-
9 fined in the Fair Credit Reporting Act;

10 “(B) information from any department or
11 agency of the United States; or

12 “(C) information from any protected com-
13 puter;

14 “(3) intentionally, without authorization to ac-
15 cess any nonpublic computer of a department or
16 agency of the United States, accesses such a com-
17 puter of that department or agency that is exclu-
18 sively for the use of the Government of the United
19 States or, in the case of a computer not exclusively
20 for such use, is used by or for the Government of
21 the United States and such conduct affects that use
22 by or for the Government of the United States;

23 “(4) knowingly and with intent to defraud, ac-
24 cesses a protected computer without authorization,
25 or exceeds authorized access, and by means of such

1 conduct furthers the intended fraud and obtains
2 anything of value, unless the object of the fraud and
3 the thing obtained consists only of the use of the
4 computer and the value of such use is not more than
5 \$5,000 in any 1-year period;

6 “(5)(A) knowingly causes the transmission of a
7 program, information, code, or command, and as a
8 result of such conduct, intentionally causes damage
9 without authorization, to a protected computer;

10 “(B) intentionally accesses a protected com-
11 puter without authorization, and as a result of such
12 conduct, recklessly causes damage; or

13 “(C) intentionally accesses a protected com-
14 puter without authorization, and as a result of such
15 conduct, causes damage and loss;

16 “(6) knowingly and with intent to defraud traf-
17 fics (as defined in section 1029) in any password or
18 similar information through which a computer may
19 be accessed without authorization, if—

20 “(A) such trafficking affects interstate or
21 foreign commerce; or

22 “(B) such computer is used by or for the
23 Government of the United States; or

24 “(7) with intent to extort from any person any
25 money or other thing of value, transmits in inter-

1 state or foreign commerce any communication con-
2 taining any—

3 “(A) threat to cause damage to a protected
4 computer;

5 “(B) threat to obtain information from a
6 protected computer without authorization or in
7 excess of authorization or to impair the con-
8 fidentiality of information obtained from a pro-
9 tected computer without authorization or by ex-
10 ceeding authorized access; or

11 “(C) demand or request for money or
12 other thing of value in relation to damage to a
13 protected computer, where such damage was
14 caused to facilitate the extortion;

15 shall be punished as provided in subsection (b) of this sec-
16 tion.

17 “(b) PUNISHMENT.—The punishment for an offense
18 under subsection (a) is—

19 “(1)(A) a fine under this title or imprisonment
20 for not more than ten years, or both, in the case of
21 an offense under subsection (a)(1) of this section
22 which does not occur after a conviction for another
23 offense under this section, or an attempt to commit
24 an offense punishable under this subparagraph; and

1 “(B) a fine under this title or imprisonment for
2 not more than twenty years, or both, in the case of
3 an offense under subsection (a)(1) of this section
4 which occurs after a conviction for another offense
5 under this section, or an attempt to commit an of-
6 fense punishable under this subparagraph;

7 “(2)(A) except as provided in subparagraph
8 (B), a fine under this title or imprisonment for not
9 more than one year, or both, in the case of an of-
10 fense under subsection (a)(2), (a)(3), (a)(5)(A)(iii),
11 or (a)(6) of this section which does not occur after
12 a conviction for another offense under this section,
13 or an attempt to commit an offense punishable
14 under this subparagraph;

15 “(B) a fine under this title or imprisonment for
16 not more than 5 years, or both, in the case of an
17 offense under subsection (a)(2) or an attempt to
18 commit an offense punishable under this subpara-
19 graph, if—

20 “(i) the offense was committed for pur-
21 poses of commercial advantage or private finan-
22 cial gain;

23 “(ii) the offense was committed in further-
24 ance of any criminal or tortious act in violation

1 of the Constitution or laws of the United States
2 or of any State; or

3 “(iii) the value of the information obtained
4 exceeds \$5,000; and

5 “(C) a fine under this title or imprisonment for
6 not more than ten years, or both, in the case of an
7 offense under subsection (a)(2), (a)(3) or (a)(6) of
8 this section which occurs after a conviction for an-
9 other offense under such subsection, or an attempt
10 to commit an offense punishable under this subpara-
11 graph;

12 “(3)(A) a fine under this title or imprisonment
13 for not more than five years, or both, in the case of
14 an offense under subsection (a)(4) or (a)(7) of this
15 section which does not occur after a conviction for
16 another offense under this section, or an attempt to
17 commit an offense punishable under this subpara-
18 graph; and

19 “(B) a fine under this title or imprisonment for
20 not more than ten years, or both, in the case of an
21 offense under subsection (a)(4), (a)(5)(A)(iii), or
22 (a)(7) of this section which occurs after a conviction
23 for another offense under this section, or an attempt
24 to commit an offense punishable under this subpara-
25 graph;

1 “(4)(A) except as provided in subparagraphs
2 (E) and (F), a fine under this title, imprisonment
3 for not more than 5 years, or both, in the case of—

4 “(i) an offense under subsection (a)(5)(B),
5 which does not occur after a conviction for an-
6 other offense under this section, if the offense
7 caused (or, in the case of an attempted offense,
8 would, if completed, have caused)—

9 “(I) loss to 1 or more persons during
10 any 1-year period (and, for purposes of an
11 investigation, prosecution, or other pro-
12 ceeding brought by the United States only,
13 loss resulting from a related course of con-
14 duct affecting 1 or more other protected
15 computers) aggregating at least \$5,000 in
16 value;

17 “(II) the modification or impairment,
18 or potential modification or impairment, of
19 the medical examination, diagnosis, treat-
20 ment, or care of 1 or more individuals;

21 “(III) physical injury to any person;

22 “(IV) a threat to public health or
23 safety;

24 “(V) damage affecting a computer
25 used by or for an entity of the United

1 States Government in furtherance of the
2 administration of justice, national defense,
3 or national security; or

4 “(VI) damage affecting 10 or more
5 protected computers during any 1-year pe-
6 riod; or

7 “(ii) an attempt to commit an offense pun-
8 ishable under this subparagraph;

9 “(B) except as provided in subparagraphs (E)
10 and (F), a fine under this title, imprisonment for
11 not more than 10 years, or both, in the case of—

12 “(i) an offense under subsection (a)(5)(A),
13 which does not occur after a conviction for an-
14 other offense under this section, if the offense
15 caused (or, in the case of an attempted offense,
16 would, if completed, have caused) a harm pro-
17 vided in subclauses (I) through (VI) of subpara-
18 graph (A)(i); or

19 “(ii) an attempt to commit an offense pun-
20 ishable under this subparagraph;

21 “(C) except as provided in subparagraphs (E)
22 and (F), a fine under this title, imprisonment for
23 not more than 20 years, or both, in the case of—

24 “(i) an offense or an attempt to commit an
25 offense under subparagraphs (A) or (B) of sub-

1 section (a)(5) that occurs after a conviction for
2 another offense under this section; or

3 “(ii) an attempt to commit an offense pun-
4 ishable under this subparagraph;

5 “(D) a fine under this title, imprisonment for
6 not more than 10 years, or both, in the case of—

7 “(i) an offense or an attempt to commit an
8 offense under subsection (a)(5)(C) that occurs
9 after a conviction for another offense under this
10 section; or

11 “(ii) an attempt to commit an offense pun-
12 ishable under this subparagraph;

13 “(E) if the offender attempts to cause or know-
14 ingly or recklessly causes serious bodily injury from
15 conduct in violation of subsection (a)(5)(A), a fine
16 under this title, imprisonment for not more than 20
17 years, or both;

18 “(F) if the offender attempts to cause or know-
19 ingly or recklessly causes death from conduct in vio-
20 lation of subsection (a)(5)(A), a fine under this title,
21 imprisonment for any term of years or for life, or
22 both; or

23 “(G) a fine under this title, imprisonment for
24 not more than 1 year, or both, for—

1 “(i) any other offense under subsection
2 (a)(5); or

3 “(ii) an attempt to commit an offense pun-
4 ishable under this subparagraph.

5 “(c) INVESTIGATIVE AUTHORITY.—

6 “(1) UNITED STATES SECRET SERVICE.—The
7 United States Secret Service shall, in addition to
8 any other agency having such authority, have the
9 authority to investigate offenses under this section.

10 “(2) FEDERAL BUREAU OF INVESTIGATION.—
11 The Federal Bureau of Investigation shall have pri-
12 mary authority to investigate offenses under sub-
13 section (a)(1) for any cases involving espionage, for-
14 eign counterintelligence, information protected
15 against unauthorized disclosure for reasons of na-
16 tional defense or foreign relations, or Restricted
17 Data (as that term is defined in section 11 y. of the
18 Atomic Energy Act of 1954, except for offenses af-
19 fecting the duties of the United States Secret Serv-
20 ice pursuant to section 3056(a).

21 “(3) AGREEMENT.—Such authority shall be ex-
22 ercised in accordance with an agreement which shall
23 be entered into by the Secretary of the Treasury and
24 the Attorney General.

25 “(d) DEFINITIONS.—As used in this section—

1 “(1) the term ‘computer’ means an electronic,
2 magnetic, optical, electrochemical, or other high
3 speed data processing device performing logical,
4 arithmetic, or storage functions, and includes any
5 data storage facility or communications facility di-
6 rectly related to or operating in conjunction with
7 such device, but such term does not include an auto-
8 mated typewriter or typesetter, a portable hand held
9 calculator, or other similar device;

10 “(2) the term ‘protected computer’ means a
11 computer—

12 “(A) exclusively for the use of a financial
13 institution or the United States Government,
14 or, in the case of a computer not exclusively for
15 such use, used by or for a financial institution
16 or the United States Government and the con-
17 duct constituting the offense affects that use by
18 or for the financial institution or the Govern-
19 ment; or

20 “(B) which is used in interstate or foreign
21 commerce or communication, including a com-
22 puter located outside the United States that is
23 used in a manner that affects interstate or for-
24 eign commerce or communication of the United
25 States;

1 “(3) the term ‘financial institution’ has mean-
2 ing given the term in section 1, except that such
3 term—

4 “(A) includes—

5 “(i) a broker or dealer registered with
6 the Securities and Exchange Commission
7 pursuant to section 15 of the Securities
8 Exchange Act of 1934; and

9 “(ii) the Securities Investor Protection
10 Corporation; and

11 “(B) does not include—

12 “(i) a small business investment com-
13 pany (as defined in section 103 of the
14 Small Business Investment Act of 1958);
15 or

16 “(ii) a depository institution holding
17 company (as defined in section 3(w)(1) of
18 the Federal Deposit Insurance Act).

19 “(4) the term ‘financial record’ means informa-
20 tion derived from any record held by a financial in-
21 stitution pertaining to a customer’s relationship with
22 the financial institution;

23 “(5) the term ‘exceeds authorized access’ means
24 to access a computer with authorization and to use
25 such access to obtain or alter information in the

1 computer that the accesser is not entitled so to ob-
2 tain or alter;

3 “(6) the term ‘department of the United States’
4 means the legislative or judicial branch of the Gov-
5 ernment or one of the executive departments enu-
6 merated in section 101 of title 5;

7 “(7) the term ‘damage’ means any impairment
8 to the integrity or availability of data, a program, a
9 system, or information;

10 “(8) the term ‘government entity’ includes the
11 Government of the United States, any State or polit-
12 ical subdivision of the United States, any foreign
13 country, and any state, province, municipality, or
14 other political subdivision of a foreign country;

15 “(9) the term ‘conviction’ shall include a convic-
16 tion under the law of any State for a crime punish-
17 able by imprisonment for more than 1 year, an ele-
18 ment of which is unauthorized access, or exceeding
19 authorized access, to a computer; and

20 “(10) the term ‘loss’ means any reasonable cost
21 to any victim, including the cost of responding to an
22 offense, conducting a damage assessment, and re-
23 storing the data, program, system, or information to
24 its condition prior to the offense, and any revenue

1 lost, cost incurred, or other consequential damages
2 incurred because of interruption of service.

3 “(e) EXCLUSION.—This section does not prohibit any
4 lawfully authorized investigative, protective, or intelligence
5 activity of a law enforcement agency of the United States,
6 a State, or a political subdivision of a State, or of an intel-
7 ligence agency of the United States.

8 “(f) CIVIL ACTION.—Whoever suffers damage or loss
9 by reason of a violation of this section may maintain a
10 civil action against the violator to obtain compensatory
11 damages and injunctive relief or other equitable relief. A
12 civil action for a violation of this section may be brought
13 only if the conduct involves 1 of the factors set forth in
14 clause subclause (I), (II), (III), (IV), or (V) of subsection
15 (b)(4)(A)(i). Damages for a violation involving only con-
16 duct described in subsection (b)(4)(A)(i)(I) are limited to
17 economic damages. No action may be brought under this
18 subsection unless such action is begun within 2 years of
19 the date of the act complained of or the date of the dis-
20 covery of the damage. No action may be brought under
21 this subsection for the negligent design or manufacture
22 of computer hardware, computer software, or firmware.

23 **“§ 788. Major fraud against the United States**

24 “(a) OFFENSE.—Whoever knowingly executes, or at-
25 tempts to execute, any scheme or artifice with the intent—

1 “(1) to defraud the United States; or

2 “(2) to obtain money or property by means of
3 false or fraudulent pretenses, representations, or
4 promises,

5 in any grant, contract, subcontract, subsidy, loan, guar-
6 antee, insurance, or other form of Federal assistance, in-
7 cluding through the Troubled Asset Relief Program, an
8 economic stimulus, recovery or rescue plan provided by the
9 Government, or the Government’s purchase of any trou-
10 bled asset as defined in the Emergency Economic Sta-
11 bilization Act of 2008, or in any procurement of property
12 or services as a prime contractor with the United States
13 or as a subcontractor or supplier on a contract in which
14 there is a prime contract with the United States, if the
15 value of such grant, contract, subcontract, subsidy, loan,
16 guarantee, insurance, or other form of Federal assistance
17 , or any constituent part thereof, is \$1,000,000 or more
18 shall, subject to the applicability of subsection (c) of this
19 section, be imprisoned not more than 10 years.

20 “(b) INCREASED FINE.—The fine imposed for an of-
21 fense under this section may exceed the maximum other-
22 wise provided by law, if such fine does not exceed
23 \$5,000,000 and—

24 “(1) the gross loss to the Government or the
25 gross gain to a defendant is \$500,000 or greater; or

1 “(2) the offense involves a conscious or reckless
2 risk of serious personal injury.

3 “(c) INCREASED FINE ON MULTIPLE COUNTS.—The
4 maximum fine imposed upon a defendant for a prosecution
5 including a prosecution with multiple counts under this
6 section shall not exceed \$10,000,000.

7 “(d) DISCLAIMER.—Nothing in this section shall pre-
8 clude a court from imposing any other sentences available
9 under this title, including a fine up to twice the amount
10 of the gross loss or gross gain involved in the offense pur-
11 suant to section 3571(d).

12 “(e) LIMITATION.—A prosecution of an offense under
13 this section may be commenced any time not later than
14 7 years after the offense is committed, plus any additional
15 time otherwise allowed by law.

16 “(f) WHISTLEBLOWER.—Any individual who—

17 “(1) is discharged, demoted, suspended, threat-
18 ened, harassed, or in any other manner discrimi-
19 nated against in the terms and conditions of employ-
20 ment by an employer because of lawful acts done by
21 the employee on behalf of the employee or others in
22 furtherance of a prosecution under this section (in-
23 cluding investigation for, initiation of, testimony for,
24 or assistance in such prosecution), and

1 “(2) was not a participant in the unlawful ac-
2 tivity that is the subject of such prosecution;
3 may, in a civil action, obtain all relief necessary to make
4 such individual whole. Such relief shall include reinstatement
5 with the same seniority status such individual would
6 have had but for the discrimination, 2 times the amount
7 of back pay, interest on the back pay, and compensation
8 for any special damages sustained as a result of the discrimination,
9 including litigation costs and reasonable attorney’s fees.
10

11 **“§ 789. Concealment of assets from conservator, receiver, or liquidating agent**
12

13 “Whoever—

14 “(1) knowingly conceals an asset or property
15 from the Federal Deposit Insurance Corporation,
16 acting as conservator or receiver or in the Corporation’s
17 corporate capacity with respect to any asset
18 acquired or liability assumed by the Corporation
19 under section 11, 12, or 13 of the Federal Deposit
20 Insurance Act, any conservator appointed by the
21 Comptroller of the Currency, the Federal Deposit
22 Insurance Corporation acting as receiver for a covered
23 financial company, in accordance with title II
24 of the Dodd-Frank Wall Street Reform and Consumer
25 Protection Act, or the National Credit Union

1 Administration Board, acting as conservator or liqui-
2 dating agent;

3 “(2) corruptly impedes the functions of such
4 Corporation, Board, or conservator; or

5 “(3) corruptly places an asset or property be-
6 yond the reach of such Corporation, Board, or con-
7 servator,

8 shall be imprisoned not more than 5 years.

9 **“§ 790. Crimes by or affecting persons engaged in the**
10 **business of insurance whose activities af-**
11 **fect interstate commerce**

12 “(a) FALSE STATEMENT OFFENSE.—(1) Whoever is
13 engaged in the business of insurance whose activities af-
14 fect interstate commerce and knowingly, with the intent
15 to deceive, makes any false material statement or report
16 or knowingly and materially overvalues any land, property
17 or security—

18 “(A) in connection with any financial reports or
19 documents presented to any insurance regulatory of-
20 ficial or agency or an agent or examiner appointed
21 by such official or agency to examine the affairs of
22 such person, and

23 “(B) for the purpose of influencing the actions
24 of such official or agency or such an appointed agent
25 or examiner,

1 shall be punished as provided in paragraph (2).

2 “(2) The punishment for an offense under paragraph
3 (1) is a fine as established under this title or imprison-
4 ment for not more than 10 years, or both, except that
5 the term of imprisonment shall be not more than 15 years
6 if the statement or report or overvaluing of land, property,
7 or security jeopardized the safety and soundness of an in-
8 surer and was a significant cause of such insurer being
9 placed in conservation, rehabilitation, or liquidation by an
10 appropriate court.

11 “(b) EMBEZZLEMENT AND SIMILAR CONDUCT.—(1)

12 Whoever—

13 “(A) acting as, or being an officer, director,
14 agent, or employee of, any person engaged in the
15 business of insurance whose activities affect inter-
16 state commerce, or

17 “(B) is engaged in the business of insurance
18 whose activities affect interstate commerce or is in-
19 volved (other than as an insured or beneficiary
20 under a policy of insurance) in a transaction relating
21 to the conduct of affairs of such a business,

22 knowingly embezzles, abstracts, purloins, or misappro-
23 priates any of the moneys, funds, premiums, credits, or
24 other property of such person so engaged shall be pun-
25 ished as provided in paragraph (2).

1 “(2) The punishment for an offense under paragraph
2 (1) is a fine as provided under this title or imprisonment
3 for not more than 10 years, or both, except that if such
4 embezzlement, abstraction, purloining, or misappropria-
5 tion described in paragraph (1) jeopardized the safety and
6 soundness of an insurer and was a significant cause of
7 such insurer being placed in conservation, rehabilitation,
8 or liquidation by an appropriate court, such imprisonment
9 shall be not more than 15 years. If the amount or value
10 so embezzled, abstracted, purloined, or misappropriated
11 does not exceed \$5,000, whoever violates paragraph (1)
12 shall be imprisoned not more than one year.

13 “(c) FALSE ENTRIES.—(1) Whoever is engaged in
14 the business of insurance and whose activities affect inter-
15 state commerce or is involved (other than as an insured
16 or beneficiary under a policy of insurance) in a transaction
17 relating to the conduct of affairs of such a business, know-
18 ingly makes any false entry of material fact in any book,
19 report, or statement of such person engaged in the busi-
20 ness of insurance with intent to deceive any person, includ-
21 ing any officer, employee, or agent of such person engaged
22 in the business of insurance, any insurance regulatory offi-
23 cial or agency, or any agent or examiner appointed by such
24 official or agency to examine the affairs of such person,

1 about the financial condition or solvency of such business
2 shall be punished as provided in paragraph (2).

3 “(2) The punishment for an offense under paragraph
4 (1) is a fine as provided under this title or imprisonment
5 for not more than 10 years, or both, except that if the
6 false entry in any book, report, or statement of such per-
7 son jeopardized the safety and soundness of an insurer
8 and was a significant cause of such insurer being placed
9 in conservation, rehabilitation, or liquidation by an appro-
10 priate court, such imprisonment shall be not more than
11 15 years.

12 “(d) OBSTRUCTION.—Whoever, by threats or force or
13 by any threatening letter or communication, corruptly in-
14 fluences, obstructs, or impedes or endeavors corruptly to
15 influence, obstruct, or impede the due and proper adminis-
16 tration of the law under which any proceeding involving
17 the business of insurance whose activities affect interstate
18 commerce is pending before any insurance regulatory offi-
19 cial or agency or any agent or examiner appointed by such
20 official or agency to examine the affairs of a person en-
21 gaged in the business of insurance whose activities affect
22 interstate commerce, shall be imprisoned not more than
23 10 years.

24 “(e) DISQUALIFICATION FOR INSURANCE BUSI-
25 NESS.—(1)(A) Any individual who has been convicted of

1 any criminal felony involving dishonesty or a breach of
2 trust, or who has been convicted of an offense under this
3 section, and who knowingly engages in the business of in-
4 surance whose activities affect interstate commerce or par-
5 ticipates in such business, shall be imprisoned not more
6 than 5 years.

7 “(B) Any individual who is engaged in the business
8 of insurance whose activities affect interstate commerce
9 and who knowingly permits the participation described in
10 subparagraph (A) shall be imprisoned not more than 5
11 years.

12 “(2) A person described in paragraph (1)(A) may en-
13 gage in the business of insurance or participate in such
14 business if such person has the written consent of any in-
15 surance regulatory official authorized to regulate the in-
16 surer, which consent specifically refers to this subsection.

17 “(f) DEFINITIONS.—As used in this section—

18 “(1) the term ‘business of insurance’ means—

19 “(A) the writing of insurance, or

20 “(B) the reinsuring of risks,

21 by an insurer, including all acts necessary or inci-
22 dental to such writing or reinsuring and the activi-
23 ties of persons who act as, or are, officers, directors,
24 agents, or employees of insurers or who are other

1 persons authorized to act on behalf of such persons;
2 and

3 “(2) the term ‘insurer’ means any entity the
4 business activity of which is the writing of insurance
5 or the reinsuring of risks, and includes any person
6 who acts as, or is, an officer, director, agent, or em-
7 ployee of that business.

8 **“§ 791. Civil penalties and injunctions for violations**
9 **of Section 790**

10 “(a) CIVIL PENALTY.—The Attorney General may
11 bring a civil action in the appropriate United States dis-
12 trict court against any person who engages in conduct con-
13 stituting an offense under section 790 and, upon proof of
14 such conduct by a preponderance of the evidence, such
15 person shall be subject to a civil penalty of not more than
16 \$50,000 for each violation or the amount of compensation
17 which the person received or offered for the prohibited
18 conduct, whichever amount is greater. If the offense has
19 contributed to the decision of a court of appropriate juris-
20 diction to issue an order directing the conservation, reha-
21 bilitation, or liquidation of an insurer, such penalty shall
22 be remitted to the appropriate regulatory official for the
23 benefit of the policyholders, claimants, and creditors of
24 such insurer. The imposition of a civil penalty under this
25 subsection does not preclude any other criminal or civil

1 statutory, common law, or administrative remedy, which
2 is available by law to the United States or any other per-
3 son.

4 “(b) ORDER PROHIBITING.—If the Attorney General
5 has reason to believe that a person is engaged in conduct
6 constituting an offense under section 790, the Attorney
7 General may petition an appropriate United States district
8 court for an order prohibiting that person from engaging
9 in such conduct. The court may issue an order prohibiting
10 that person from engaging in such conduct if the court
11 finds that the conduct constitutes such an offense. The
12 filing of a petition under this section does not preclude
13 any other remedy which is available by law to the United
14 States or any other person.

15 **“§ 792. False statements relating to health care mat-**
16 **ters**

17 “Whoever, in any matter involving a health care ben-
18 efit program, knowingly—

19 “(1) falsifies, conceals, or covers up by any
20 trick, scheme, or device a material fact; or

21 “(2) makes any materially false, fictitious, or
22 fraudulent statements or representations, or makes
23 or uses any materially false writing or document
24 knowing the same to contain any materially false,
25 fictitious, or fraudulent statement or entry, in con-

1 nection with the delivery of or payment for health
2 care benefits, items, or services,
3 shall be imprisoned not more than 5 years.

4 **“§ 793. Entry by false pretenses to any real property,**
5 **vessel, or aircraft of the United States or**
6 **secure area of any airport or seaport**

7 “(a) OFFENSE.—Whoever, by any fraud or false pre-
8 tense, enters—

9 “(1) any real property belonging in whole or in
10 part to, or leased by, the United States;

11 “(2) any vessel or aircraft belonging in whole or
12 in part to, or leased by, the United States;

13 “(3) any secure or restricted area of any sea-
14 port, designated as secure in an approved security
15 plan, as required under section 70103 of title 46 and
16 the rules and regulations promulgated under that
17 section; or

18 “(4) any secure area of any airport,
19 shall be punished as provided in subsection (b).

20 “(b) PUNISHMENT.—The punishment for an offense
21 under subsection (a) is—

22 “(1) imprisonment for not more than 10 years,
23 if the offense is committed with the intent to commit
24 a felony; or

1 “(2) imprisonment for not more than 6 months,
2 in any other case.

3 “(c) DEFINITIONS.—As used in this section—

4 “(1) the term ‘secure area’ means an area ac-
5 cess to which is restricted by the airport authority,
6 captain of the seaport, or a public agency; and

7 “(2) the term ‘airport’ has the meaning given
8 such term in section 47102 of title 49.

9 **“§ 794. Fraud and related activity in connection with**
10 **electronic mail**

11 “(a) IN GENERAL.—Whoever, in or affecting inter-
12 state or foreign commerce, knowingly—

13 “(1) accesses a protected computer without au-
14 thorization, and intentionally initiates the trans-
15 mission of multiple commercial electronic mail mes-
16 sages from or through such computer,

17 “(2) uses a protected computer to relay or re-
18 transmit multiple commercial electronic mail mes-
19 sages, with the intent to deceive or mislead recipi-
20 ents, or any Internet access service, as to the origin
21 of such messages,

22 “(3) materially falsifies header information in
23 multiple commercial electronic mail messages and in-
24 tentionally initiates the transmission of such mes-
25 sages,

1 “(4) registers, using information that materially
2 falsifies the identity of the actual registrant, for five
3 or more electronic mail accounts or online user ac-
4 counts or two or more domain names, and inten-
5 tionally initiates the transmission of multiple com-
6 mercial electronic mail messages from any combina-
7 tion of such accounts or domain names, or

8 “(5) falsely represents oneself to be the reg-
9 istrant or the legitimate successor in interest to the
10 registrant of 5 or more Internet Protocol addresses,
11 and intentionally initiates the transmission of mul-
12 tiple commercial electronic mail messages from such
13 addresses,

14 shall be punished as provided in paragraph (b).

15 “(b) PENALTIES.—The punishment for an offense
16 under subsection (a) is—

17 “(1) a fine under this title, imprisonment for
18 not more than 5 years, or both, if—

19 “(A) the offense is committed in further-
20 ance of any felony under the laws of the United
21 States or of any State; or

22 “(B) the defendant has previously been
23 convicted under this section or section 787, or
24 under the law of any State for conduct involv-
25 ing the transmission of multiple commercial

1 electronic mail messages or unauthorized access
2 to a computer system;

3 “(2) a fine under this title, imprisonment for
4 not more than 3 years, or both, if—

5 “(A) the offense is an offense under sub-
6 section (a)(1);

7 “(B) the offense is an offense under sub-
8 section (a)(4) and involved 20 or more falsified
9 electronic mail or online user account registra-
10 tions, or 10 or more falsified domain name reg-
11 istrations;

12 “(C) the volume of electronic mail mes-
13 sages transmitted in furtherance of the offense
14 exceeded 2,500 during any 24-hour period,
15 25,000 during any 30-day period, or 250,000
16 during any 1-year period;

17 “(D) the offense caused loss to one or
18 more persons aggregating \$5,000 or more in
19 value during any 1-year period;

20 “(E) as a result of the offense any indi-
21 vidual committing the offense obtained anything
22 of value aggregating \$5,000 or more during any
23 1-year period; or

24 “(F) the offense was undertaken by the de-
25 fendant in concert with three or more other

1 persons with respect to whom the defendant oc-
2 cupied a position of organizer or leader; and

3 “(3) a fine under this title or imprisonment for
4 not more than 1 year, or both, in any other case.

5 “(c) DEFINITIONS.—For the purposes of this sec-
6 tion—

7 “(1) the term ‘loss’ has the meaning given that
8 term in section 787(d);

9 “(2) for purposes of paragraphs (3) and (4) of
10 subsection (a), header information or registration in-
11 formation is materially falsified if it is altered or
12 concealed in a manner that would impair the ability
13 of a recipient of the message, an Internet access
14 service processing the message on behalf of a recipi-
15 ent, a person alleging a violation of this section, or
16 a law enforcement agency to identify, locate, or re-
17 spond to a person who initiated the electronic mail
18 message or to investigate the alleged violation;

19 “(3) the term ‘multiple’ means more than 100
20 electronic mail messages during a 24-hour period,
21 more than 1,000 electronic mail messages during a
22 30-day period, or more than 10,000 electronic mail
23 messages during a 1-year period; and

24 “(4) any other term has the meaning given that
25 term by section 3 of the CAN–SPAM Act of 2003.

1 **“§ 795. False information and hoaxes**

2 “(a) CRIMINAL VIOLATION.—

3 “(1) IN GENERAL.—Whoever engages in any
4 conduct with intent to convey false or misleading in-
5 formation under circumstances where such informa-
6 tion may reasonably be believed and where such in-
7 formation indicates that an activity has taken, is
8 taking, or will take place that would constitute a vio-
9 lation of subchapter A or D of chapter 33, sub-
10 chapter B of chapter 15, or subchapter B, D, E, or
11 F of chapter 21 of this title, section 236 of the
12 Atomic Energy Act of 1954, or section 46502, the
13 second sentence of section 46504, section
14 46505(b)(3) or (c), section 46506 if homicide or at-
15 tempted homicide is involved, or section 60123(b) of
16 title 49, shall—

17 “(A) be imprisoned not more than 5 years;

18 “(B) if serious bodily injury results, be im-
19 prisoned not more than 20 years; and

20 “(C) if death results, be imprisoned for
21 any number of years up to life.

22 “(2) ARMED FORCES.—Whoever makes a false
23 statement, with intent to convey false or misleading
24 information, about the death, injury, capture, or dis-
25 appearance of a member of the Armed Forces of the

1 United States during a war or armed conflict in
2 which the United States is engaged—

3 “(A) shall be imprisoned not more than 5
4 years;

5 “(B) if serious bodily injury results, shall
6 be imprisoned not more than 20 years; and

7 “(C) if death results, shall be imprisoned
8 for any number of years or for life.

9 “(b) CIVIL ACTION.—Whoever engages in any con-
10 duct with intent to convey false or misleading information
11 under circumstances where such information may reason-
12 ably be believed and where such information indicates that
13 an activity has taken, is taking, or will take place that
14 would constitute a violation of subchapter A or D of chap-
15 ter 33, subchapter B of chapter 15, or subchapter B, D,
16 E, or F of chapter 21 of this title, section 236 of the
17 Atomic Energy Act of 1954, or section 46502, the second
18 sentence of section 46504, section 46505(b)(3) or (c), sec-
19 tion 46506 if homicide or attempted homicide is involved,
20 or section 60123(b) of title 49 is liable in a civil action
21 to any party incurring expenses incident to any emergency
22 or investigative response to that conduct, for those ex-
23 penses.

24 “(c) REIMBURSEMENT.—

1 “(1) IN GENERAL.—The court, in imposing a
2 sentence on a defendant who has been convicted of
3 an offense under subsection (a), shall order the de-
4 fendant to reimburse any state or local government,
5 or private not-for-profit organization that provides
6 fire or rescue service incurring expenses incident to
7 any emergency or investigative response to that con-
8 duct, for those expenses.

9 “(2) LIABILITY.—A person ordered to make re-
10 imbursement under this subsection shall be jointly
11 and severally liable for such expenses with each
12 other person, if any, who is ordered to make reim-
13 bursement under this subsection for the same ex-
14 penses.

15 “(3) CIVIL JUDGMENT.—An order of reim-
16 bursement under this subsection shall, for the pur-
17 poses of enforcement, be treated as a civil judgment.

18 “(d) ACTIVITIES OF LAW ENFORCEMENT.—This sec-
19 tion does not prohibit any lawfully authorized investiga-
20 tive, protective, or intelligence activity of a law enforce-
21 ment agency of the United States, a State, or political sub-
22 division of a State, or of an intelligence agency of the
23 United States.

1 **“§ 796. Fraud and related activity in connection with**
2 **obtaining confidential phone records in-**
3 **formation of a covered entity**

4 “(a) CRIMINAL VIOLATION.—Whoever, in interstate
5 or foreign commerce, knowingly and intentionally obtains,
6 or attempts to obtain, confidential phone records informa-
7 tion of a covered entity, by—

8 “(1) making false or fraudulent statements or
9 representations to an employee of a covered entity;

10 “(2) making such false or fraudulent state-
11 ments or representations to a customer of a covered
12 entity;

13 “(3) providing a document to a covered entity
14 knowing that such document is false or fraudulent;
15 or

16 “(4) accessing customer accounts of a covered
17 entity via the Internet, or by means of conduct that
18 violates section 787, without prior authorization
19 from the customer to whom such confidential phone
20 records information relates;

21 shall be imprisoned for not more than 10 years.

22 “(b) PROHIBITION ON SALE OR TRANSFER OF CON-
23 FIDENTIAL PHONE RECORDS INFORMATION.—

24 “(1) Except as otherwise permitted by applica-
25 ble law, whoever, in interstate or foreign commerce,
26 knowingly and intentionally sells or transfers, or at-

1 attempts to sell or transfer, confidential phone records
2 information of a covered entity, without prior au-
3 thorization from the customer to whom such con-
4 fidential phone records information relates, or know-
5 ing or having reason to know such information was
6 obtained fraudulently, shall be imprisoned not more
7 than 10 years.

8 “(2) For purposes of this subsection, the excep-
9 tions specified in section 222(d) of the Communica-
10 tions Act of 1934 apply for the use of confidential
11 phone records information by any covered entity, as
12 defined in subsection (h).

13 “(c) PROHIBITION ON PURCHASE OR RECEIPT OF
14 CONFIDENTIAL PHONE RECORDS INFORMATION.—

15 “(1) Except as otherwise permitted by applica-
16 ble law, whoever, in interstate or foreign commerce,
17 knowingly and intentionally purchases or receives, or
18 attempts to purchase or receive, confidential phone
19 records information of a covered entity, without
20 prior authorization from the customer to whom such
21 confidential phone records information relates, or
22 knowing or having reason to know such information
23 was obtained fraudulently, shall be imprisoned not
24 more than 10 years.

1 “(2) For purposes of this subsection, the excep-
2 tions specified in section 222(d) of the Communica-
3 tions Act of 1934 apply for the use of confidential
4 phone records information by any covered entity, as
5 defined in subsection (h).

6 “(d) ENHANCED PENALTIES FOR AGGRAVATED
7 CASES.—Whoever violates, or attempts to violate, sub-
8 section (a), (b), or (c) while violating another law of the
9 United States or as part of a pattern of any illegal activity
10 involving more than \$100,000, or more than 50 customers
11 of a covered entity, in a 12-month period shall, in addition
12 to the penalties provided for in such subsection, be impris-
13 oned for not more than 5 years.

14 “(e) ENHANCED PENALTIES FOR USE OF INFORMA-
15 TION IN FURTHERANCE OF CERTAIN CRIMINAL OF-
16 FENSES.—

17 “(1) Whoever, violates, or attempts to violate,
18 subsection (a), (b), or (c) knowing that such infor-
19 mation may be used in furtherance of, or with the
20 intent to commit, an offense described in section 161
21 or any other crime of violence shall, in addition to
22 the penalties provided for in such subsection, be im-
23 prisoned not more than 5 years.

24 “(2) Whoever, violates, or attempts to violate,
25 subsection (a), (b), or (c) knowing that such infor-

1 mation may be used in furtherance of, or with the
2 intent to commit, an offense under section 102, 112,
3 131, 1132, 1137, or 1138, or to intimidate, threat-
4 en, harass, injure, or kill any Federal, State, or local
5 law enforcement officer shall, in addition to the pen-
6 alties provided for in such subsection, be and impris-
7 oned not more than 5 years.

8 “(f) EXTRATERRITORIAL JURISDICTION.—There is
9 extraterritorial jurisdiction over an offense under this sec-
10 tion.

11 “(g) NONAPPLICABILITY TO LAW ENFORCEMENT
12 AGENCIES.—This section does not prohibit any lawfully
13 authorized investigative, protective, or intelligence activity
14 of a law enforcement agency of the United States, a State,
15 or political subdivision of a State, or of an intelligence
16 agency of the United States.

17 “(h) DEFINITIONS.—In this section:

18 “(1) CONFIDENTIAL PHONE RECORDS INFOR-
19 MATION.—The term ‘confidential phone records in-
20 formation’ means information that—

21 “(A) relates to the quantity, technical con-
22 figuration, type, destination, location, or
23 amount of use of a service offered by a covered
24 entity, subscribed to by any customer of that
25 covered entity, and kept by or on behalf of that

1 covered entity solely by virtue of the relation-
2 ship between that covered entity and the cus-
3 tomer;

4 “(B) is made available to a covered entity
5 by a customer solely by virtue of the relation-
6 ship between that covered entity and the cus-
7 tomer; or

8 “(C) is contained in any bill, itemization,
9 or account statement provided to a customer by
10 or on behalf of a covered entity solely by virtue
11 of the relationship between that covered entity
12 and the customer.

13 “(2) COVERED ENTITY.—The term ‘covered en-
14 tity’—

15 “(A) has the same meaning given the term
16 ‘telecommunications carrier’ in section 3 of the
17 Communications Act of 1934; and

18 “(B) includes any provider of IP-enabled
19 voice service.

20 “(3) CUSTOMER.—The term ‘customer’ means,
21 with respect to a covered entity, any individual, part-
22 nership, association, joint stock company, trust, or
23 corporation, or authorized representative of such
24 customer, to whom the covered entity provides a
25 product or service.

1 “(4) IP-ENABLED VOICE SERVICE.—The term
 2 ‘IP-enabled voice service’ means the provision of
 3 real-time voice communications offered to the public,
 4 or such class of users as to be effectively available
 5 to the public, transmitted through customer prem-
 6 ises equipment using TCP/IP protocol, or a suc-
 7 cessor protocol, (whether part of a bundle of services
 8 or separately) with interconnection capability such
 9 that the service can originate traffic to, or terminate
 10 traffic from, the public switched telephone network,
 11 or a successor network.

12 “SUBCHAPTER B—MAIL FRAUD

“Sec.

“801. Frauds and swindles.

“802. Fictitious name or address.

“803. Fraud by wire, radio, or television.

“804. Bank fraud.

“805. Definition of ‘scheme or artifice to defraud’.

“806. Health care fraud.

“807. Securities and commodities fraud.

“808. Failure of corporate officers to certify financial reports.

13 “§ 801. **Frauds and swindles**

14 “Whoever, having devised or intending to devise any
 15 scheme or artifice to defraud, or for obtaining money or
 16 property by means of false or fraudulent pretenses, rep-
 17 resentations, or promises, or to sell, dispose of, loan, ex-
 18 change, alter, give away, distribute, supply, or furnish or
 19 procure for unlawful use any counterfeit or spurious coin,
 20 obligation, security, or other article, or anything rep-
 21 resented to be or intimated or held out to be such counter-

1 feit or spurious article, for the purpose of executing such
2 scheme or artifice or attempting so to do, places in any
3 post office or authorized depository for mail matter, any
4 matter or thing whatever to be sent or delivered by the
5 Postal Service, or deposits or causes to be deposited any
6 matter or thing whatever to be sent or delivered by any
7 private or commercial interstate carrier, or takes or re-
8 ceives therefrom, any such matter or thing, or knowingly
9 causes to be delivered by mail or such carrier according
10 to the direction thereon, or at the place at which it is di-
11 rected to be delivered by the person to whom it is ad-
12 dressed, any such matter or thing, shall be imprisoned not
13 more than 20 years. If the violation occurs in relation to,
14 or involving any benefit authorized, transported, trans-
15 mitted, transferred, disbursed, or paid in connection with,
16 a presidentially declared major disaster or emergency (as
17 those terms are defined in section 102 of the Robert T.
18 Stafford Disaster Relief and Emergency Assistance Act),
19 or affects a financial institution, such person shall be im-
20 prisoned not more than 30 years.

21 **“§ 802. Fictitious name or address**

22 “Whoever, for the purpose of conducting, promoting,
23 or carrying on by means of the Postal Service, any scheme
24 or device mentioned in section 801 or any other unlawful
25 business, uses or assumes, or requests to be addressed by,

1 any fictitious, false, or assumed title, name, or address
2 or name other than his own proper name, or takes or re-
3 ceives from any post office or authorized depository of
4 mail matter, any letter, postal card, package, or other mail
5 matter addressed to any such fictitious, false, or assumed
6 title, name, or address, or name other than his or her own
7 proper name, shall be imprisoned not more than five years.

8 **“§ 803. Fraud by wire, radio, or television**

9 “Whoever, having devised or intending to devise any
10 scheme or artifice to defraud, or for obtaining money or
11 property by means of false or fraudulent pretenses, rep-
12 resentations, or promises, transmits or causes to be trans-
13 mitted by means of wire, radio, or television communica-
14 tion in interstate or foreign commerce, any writings, signs,
15 signals, pictures, or sounds for the purpose of executing
16 such scheme or artifice, shall be imprisoned not more than
17 20 years. If the violation occurs in relation to, or involving
18 any benefit authorized, transported, transmitted, trans-
19 ferred, disbursed, or paid in connection with, a presi-
20 dentially declared major disaster or emergency (as those
21 terms are defined in section 102 of the Robert T. Stafford
22 Disaster Relief and Emergency Assistance Act), or affects
23 a financial institution, such person shall be imprisoned not
24 more than 30 years.

1 **“§ 804. Bank fraud**

2 “Whoever knowingly executes, a scheme or artifice—

3 “(1) to defraud a financial institution; or

4 “(2) to obtain any of the moneys, funds, cred-
5 its, assets, securities, or other property owned by, or
6 under the custody or control of, a financial institu-
7 tion, by means of false or fraudulent pretenses, rep-
8 resentations, or promises;

9 shall be imprisoned not more than 30 years.

10 **“§ 805. Definition of ‘scheme or artifice to defraud’**

11 “For the purposes of this subchapter, the term
12 ‘scheme or artifice to defraud’ includes a scheme or arti-
13 fice to deprive another of the intangible right of honest
14 services.

15 **“§ 806. Health care fraud**

16 “Whoever knowingly executes a scheme or artifice—

17 “(1) to defraud any health care benefit pro-
18 gram; or

19 “(2) to obtain, by means of false or fraudulent
20 pretenses, representations, or promises, any of the
21 money or property owned by, or under the custody
22 or control of, any health care benefit program,

23 in connection with the delivery of or payment for health
24 care benefits, items, or services, shall be fined under this
25 title or imprisoned not more than 10 years, or both. If
26 the violation results in serious bodily injury, such person

1 shall be imprisoned not more than 20 years, and if the
2 violation results in death, such person shall be imprisoned
3 for any term of years or for life.

4 **“§ 807. Securities and commodities fraud**

5 “Whoever knowingly executes a scheme or artifice—

6 “(1) to defraud any person in connection with
7 any commodity for future delivery, or any option on
8 a commodity for future delivery, or any security of
9 an issuer with a class of securities registered under
10 section 12 of the Securities Exchange Act of 1934
11 or that is required to file reports under section 15(d)
12 of the Securities Exchange Act of 1934; or

13 “(2) to obtain, by means of false or fraudulent
14 pretenses, representations, or promises, any money
15 or property in connection with the purchase or sale
16 of any commodity for future delivery, or any option
17 on a commodity for future delivery, or any security
18 of an issuer with a class of securities registered
19 under section 12 of the Securities Exchange Act of
20 1934 or that is required to file reports under section
21 15(d) of the Securities Exchange Act of 1934;

22 shall be imprisoned not more than 25 years.

1 **“§ 808. Failure of corporate officers to certify finan-**
2 **cial reports**

3 “(a) CERTIFICATION OF PERIODIC FINANCIAL RE-
4 PORTS.—Each periodic report containig financial state-
5 ments filed by an issuer with the Securities Exchange
6 Commission pursuant to section 13(a) or 15(d) of the Se-
7 curities Exchange Act of 1934 shall be accompanied by
8 a written statement by the chief executive officer and chief
9 financial officer (or equivalent thereof) of the issuer.

10 “(b) CONTENT.—The statement required under sub-
11 section (a) shall certify that the periodic report containing
12 the financial statements fully complies with the require-
13 ments of section 13(a) or 15(d) of the Securities Exchange
14 Act of 1934 and that information contained in the periodic
15 report fairly presents, in all material respects, the finan-
16 cial condition and results of operations of the issuer.

17 “(c) CRIMINAL PENALTIES.—Whoever knowingly—
18 “(1) certifies any statement as set forth in sub-
19 sections (a) and (b) knowing that the periodic report
20 accompanying the statement does not comport with
21 all the requirements set forth in this section shall be
22 imprisoned not more than 10 years; or

23 “(2) certifies any statement as set forth in sub-
24 sections (a) and (b) knowing that the periodic report
25 accompanying the statement does not comport with
26 all the requirements set forth in this section

1 shall be imprisoned not more than 20 years.

2 **“CHAPTER 27—CRIMES RELATED TO FED-**
 3 **ERAL GOVERNMENT RESPONSIBIL-**
 4 **ITIES**

“Subchapter

“A. Coins and currency

“B. Customs

“C. Indians

“D. Bankruptcy

“E. Civil rights

“F. Foreign relations

“G. Postal service

“H. Special maritime and territorial jurisdiction of the United States

5 **“SUBCHAPTER A—COINS AND CURRENCY**

“Sec.

“851. Mutilation, diminution, and falsification of coins.

“852. Mutilation of national bank obligations.

6 **“§ 851. Mutilation, diminution, and falsification of**
 7 **coins**

8 “Whoever—

9 “(1) fraudulently alters, defaces, mutilates, im-
 10 pairs, diminishes, falsifies, scales, or lightens any of
 11 the coins coined at the mints of the United States,
 12 or any foreign coins which are by law made current
 13 or are in actual use or circulation as money within
 14 the United States; or

15 “(2) fraudulently possesses, passes, utters, pub-
 16 lishes, or sells, or attempts to pass, utter, publish,
 17 or sell, or brings into the United States, any such
 18 coin, knowing the same to be altered, defaced, muti-

1 lated, impaired, diminished, falsified, scaled, or
2 lightened;
3 shall be imprisoned not more than five years.

4 **“§ 852. Mutilation of national bank obligations**

5 “Whoever mutilates, cuts, defaces, disfigures, or per-
6 forates, or unites or cements together, or does any other
7 thing to any bank bill, draft, note, or other evidence of
8 debt issued by any national banking association, or Fed-
9 eral Reserve bank, or the Federal Reserve System, with
10 intent to render such bank bill, draft, note, or other evi-
11 dence of debt unfit to be reissued, shall be imprisoned not
12 more than six months.

13 “SUBCHAPTER B—CUSTOMS

“Sec.

“861. Entry of goods falsely classified.

“862. Entry of goods by means of false statements.

“863. Smuggling goods into the United States.

“864. Smuggling goods into foreign countries.

“865. Removing goods from Customs custody; breaking seals.

“866. Importation or exportation of stolen motor vehicles, off-highway mobile
equipment, vessels, or aircraft.

“867. Smuggling goods from the United States.

“868. Border tunnels and passages.

14 **“§ 861. Entry of goods falsely classified**

15 “Whoever knowingly effects any entry of goods,
16 wares, or merchandise, at less than the true weight or
17 measure thereof, or upon a false classification as to quality
18 or value, or by the payment of less than the amount of
19 duty legally due, shall be imprisoned not more than two
20 years.

1 **“§ 862. Entry of goods by means of false statements**

2 “(a) OFFENSE.—Whoever—

3 “(1) enters or introduces, or attempts to enter
4 or introduce, into the commerce of the United States
5 any imported merchandise by means of any fraudu-
6 lent or false invoice, declaration, affidavit, letter,
7 paper, or by means of any false statement, written
8 or verbal, or by means of any false or fraudulent
9 practice or appliance, or makes any false statement
10 in any declaration without reasonable cause to be-
11 lieve the truth of such statement, or procures the
12 making of any such false statement as to any matter
13 material thereto without reasonable cause to believe
14 the truth of such statement, whether or not the
15 United States shall or may be deprived of any lawful
16 duties; or

17 “(2) knowingly engages in an act or omission
18 whereby the United States is or may be deprived of
19 any lawful duties accruing upon merchandise em-
20 braced or referred to in such invoice, declaration, af-
21 fidavit, letter, paper, or statement, or affected by
22 such act or omission;

23 shall be imprisoned not more than two years.

24 “(b) DEFINITION.—As used in this section, the term
25 ‘commerce of the United States’ does not include com-
26 merce with Virgin Islands, American Samoa, Wake Island,

1 Midway Islands, Kingman Reef, Johnston Island, or
2 Guam.

3 **“§ 863. Smuggling goods into the United States**

4 “(a) OFFENSE.—Whoever—

5 “(1) knowingly and with intent to defraud the
6 United States, smuggles, or clandestinely introduces
7 or attempts to smuggle or clandestinely introduce
8 into the United States any merchandise which
9 should have been invoiced, or makes out or passes,
10 or attempts to pass, through the customhouse any
11 false, forged, or fraudulent invoice, or other docu-
12 ment or paper; or

13 “(2) fraudulently or knowingly imports or
14 brings into the United States, any merchandise con-
15 trary to law, or receives, conceals, buys, sells, or in
16 any manner facilitates the transportation, conceal-
17 ment, or sale of such merchandise after importation,
18 knowing the same to have been imported or brought
19 into the United States contrary to law;
20 shall be imprisoned not more than 20 years.

21 “(b) FORFEITURE.—Merchandise introduced into the
22 United States in violation of this section, or the value
23 thereof, to be recovered from any person described in sub-
24 section (a), shall be forfeited to the United States.

1 “(c) DEFINITION.—The term ‘United States’, as
2 used in this section, does not include Virgin Islands,
3 American Samoa, Wake Island, Midway Islands, Kingman
4 Reef, Johnston Island, or Guam.

5 **“§ 864. Smuggling goods into foreign countries**

6 “(a) OFFENSE.—Whoever, owning in whole or in part
7 any vessel of the United States, employs, or participates
8 in, or allows the employment of, such vessel for the pur-
9 pose of smuggling, or attempting to smuggle, or assisting
10 in smuggling, any merchandise into the territory of any
11 foreign government in violation of the laws there in force,
12 if under the laws of such foreign government any penalty
13 or forfeiture is provided for violation of the laws of the
14 United States respecting the customs revenue, and any
15 citizen of, or person domiciled in, or any corporation incor-
16 porated in, the United States, controlling or substantially
17 participating in the control of any such vessel, directly or
18 indirectly, whether through ownership of corporate shares
19 or otherwise, and allowing the employment of said vessel
20 for any such purpose, and any person found, or discovered
21 to have been, on board of any such vessel so employed
22 and participating or assisting in any such purpose, shall
23 be imprisoned not more than two years.

24 “(b) HIRING OR CHARTERING OF VESSELS.—It shall
25 constitute an offense under this section to hire out or

1 charter a vessel if the lessor or charterer has knowledge
2 or reasonable grounds for belief that the lessee or person
3 chartering the vessel intends to employ such vessel for any
4 of the purposes described in this section and if such vessel
5 is, during the time such lease or charter is in effect, em-
6 ployed for any such purpose.

7 **“§ 865. Removing goods from Customs custody; break-**
8 **ing seals**

9 “Whoever knowingly—

10 “(1) without authority, affixes or attaches a
11 customs seal, fastening, or mark, or any seal, fas-
12 tening, or mark purporting to be a customs seal, fas-
13 tening, or mark to any vessel, vehicle, warehouse, or
14 package;

15 “(2) without authority, removes, breaks, in-
16 jures, or defaces any customs seal or other fastening
17 or mark placed upon any vessel, vehicle, warehouse,
18 or package containing merchandise or baggage in
19 bond or in customs custody;

20 “(3) enters any bonded warehouse or any vessel
21 or vehicle laden with or containing bonded merchan-
22 dise with intent unlawfully to remove therefrom any
23 merchandise or baggage therein, or unlawfully re-
24 moves any merchandise or baggage in such vessel,

1 vehicle, or bonded warehouse or otherwise in cus-
2 toms custody or control; or

3 “(4) receives or transports any merchandise or
4 baggage unlawfully removed from any such vessel,
5 vehicle, or warehouse, knowing the same to have
6 been unlawfully removed;

7 shall be imprisoned not more than 10 years.

8 **“§ 866. Importation or exportation of stolen motor ve-**
9 **hicles, off-highway mobile equipment,**
10 **vessels, or aircraft**

11 “(a) OFFENSE.—Whoever knowingly imports, ex-
12 ports, or attempts to import or export—

13 “(1) any motor vehicle, off-highway mobile
14 equipment, vessel, aircraft, or part of any motor ve-
15 hicle, off-highway mobile equipment, vessel, or air-
16 craft, knowing the same to have been stolen; or

17 “(2) any motor vehicle or off-highway mobile
18 equipment or part of any motor vehicle or off-high-
19 way mobile equipment, knowing that the identifica-
20 tion number of such motor vehicle, equipment, or
21 part has been removed, obliterated, tampered with,
22 or altered;

23 shall be imprisoned not more than 10 years.

24 “(b) EXCLUSION.—Subsection (a)(2) does not apply
25 if the removal, obliteration, tampering, or alteration—

1 “(1) is caused by collision or fire; or

2 “(2)(A) in the case of a motor vehicle, is not a
3 violation of section 717 (relating to altering or re-
4 moving motor vehicle identification numbers); or

5 “(B) in the case of off-highway mobile equip-
6 ment, would not be a violation of section 717 if such
7 equipment were a motor vehicle.

8 “(c) DEFINITIONS.—As used in this section—

9 “(1) the term ‘motor vehicle’ has the meaning
10 given that term in section 32101 of title 49;

11 “(2) the term ‘off-highway mobile equipment’
12 means any self-propelled agricultural equipment,
13 self-propelled construction equipment, and self-pro-
14 pelled special use equipment, used or designed for
15 running on land but not on rail or highway;

16 “(3) the term ‘vessel’ has the meaning given
17 that term in section 401 of the Tariff Act of 1930;

18 “(4) the term ‘aircraft’ has the meaning given
19 that term in section 40102(a) of title 49; and

20 “(5) the term ‘identification number’—

21 “(A) in the case of a motor vehicle, has the
22 meaning given that term in section 717; and

23 “(B) in the case of any other vehicle or
24 equipment covered by this section, means a
25 number or symbol assigned to the vehicle or

1 equipment, or part thereof, by the manufac-
2 turer primarily for the purpose of identifying
3 such vehicle, equipment, or part.

4 **“§ 867. Smuggling goods from the United States**

5 “(a) OFFENSE.—Whoever fraudulently or knowingly
6 exports or sends from the United States any merchandise,
7 article, or object contrary to any law or regulation of the
8 United States, or receives, conceals, buys, sells, or in any
9 manner facilitates the transportation, concealment, or sale
10 of such merchandise, article or object, prior to exportation,
11 knowing the same to be intended for exportation contrary
12 to any law or regulation of the United States, shall be
13 imprisoned not more than 10 years.

14 “(b) DEFINITION.—As used in this section, the term
15 ‘United States’ has the meaning given that term in section
16 863.

17 **“§ 868. Border tunnels and passages**

18 “(a) CONSTRUCTION.—Whoever knowingly con-
19 structs or finances the construction of a tunnel or sub-
20 terranean passage that crosses the international border
21 between the United States and another country, other
22 than a lawfully authorized tunnel or passage known to the
23 Secretary of Homeland Security and subject to inspection
24 by Immigration and Customs Enforcement, shall be im-
25 prisoned for not more than 20 years.

1 “(b) DISREGARDING CONSTRUCTION.—Whoever
 2 knows or recklessly disregards the construction or use of
 3 a tunnel or passage described in subsection (a) on land
 4 that the person owns or controls shall be imprisoned for
 5 not more than 10 years.

6 “(c) USE.—

7 “(1) OFFENSE.—Whoever uses a tunnel or pas-
 8 sage described in subsection (a) to unlawfully smug-
 9 gle an alien, goods (in violation of section 863), con-
 10 trolled substances, weapons of mass destruction (in-
 11 cluding biological weapons), or a member of a ter-
 12 rorist organization shall be subject to a maximum
 13 term of imprisonment that is twice the maximum
 14 term of imprisonment that would have otherwise
 15 been applicable had the unlawful activity not made
 16 use of such a tunnel or passage.

17 “(2) DEFINITION.—As used in this subsection,
 18 the term ‘terrorist organization’ means an organiza-
 19 tion designated as a terrorist organization under sec-
 20 tion 219 of the Immigration and Nationality Act.

21 “SUBCHAPTER C—INDIANS

“Sec.

“871. Indian country defined.

“872. Laws governing.

“873. Offenses committed within Indian country.

“874. State jurisdiction over offenses committed by or against Indians in the
 Indian country.

“875. Embezzlement and theft from Indian Tribal organizations.

“876. Theft from gaming establishments on Indian lands.

“877. Theft by officers or employees of gaming establishments on Indian lands.

“878. Reporting of child abuse.

“879. Illegal trafficking in Native American human remains and cultural items.

1 **“§ 871. Indian country defined**

2 “The term ‘Indian country’, as used in this sub-
3 chapter, means—

4 “(1) all land within the limits of any Indian
5 reservation under the jurisdiction of the United
6 States Government, notwithstanding the issuance of
7 any patent, and, including rights-of-way running
8 through the reservation;

9 “(2) all dependent Indian communities within
10 the borders of the United States whether within the
11 original or subsequently acquired territory thereof,
12 and whether within or without the limits of a State;
13 and

14 “(3) all Indian allotments, the Indian titles to
15 which have not been extinguished, including rights-
16 of-way running through the same.

17 **“§ 872. Laws governing**

18 “(a) GENERALLY.—Except as otherwise expressly
19 provided by law, the general laws of the United States as
20 to the punishment of offenses committed in any place
21 within the sole and exclusive jurisdiction of the United
22 States, except the District of Columbia, shall extend to
23 the Indian country.

1 “(b) LIMITATION.—This section does not extend to
2 offenses committed by one Indian against the person or
3 property of another Indian, nor to any Indian committing
4 any offense in the Indian country who has been punished
5 by the local law of the tribe, or to any case where, by
6 treaty stipulations, the exclusive jurisdiction over such of-
7 fenses is or may be secured to the Indian tribes respec-
8 tively.

9 “§ 873. Offenses committed within Indian country

10 “(a) MAJOR CRIMES.—Any Indian who commits
11 against the person or property of another Indian or other
12 person any of the following offenses, namely, murder,
13 manslaughter, kidnapping, maiming, a felony under sub-
14 chapter A of chapter 13, incest, assault with intent to
15 commit murder, assault with a dangerous weapon, assault
16 resulting in serious bodily injury, an assault against an
17 individual who has not attained the age of 16 years, arson,
18 burglary, robbery, and a felony under section 649 within
19 the Indian country, shall be subject to the same law and
20 penalties as all other persons committing any of the above
21 offenses, within the exclusive jurisdiction of the United
22 States.

23 “(b) DEFINITION OF CERTAIN OFFENSES.—Any of-
24 fense referred to in subsection (a) of this section that is
25 not defined and punished by Federal law in force within

1 the exclusive jurisdiction of the United States shall be de-
 2 fined and punished in accordance with the laws of the
 3 State in which such offense was committed as are in force
 4 at the time of such offense.

5 **“§ 874. State jurisdiction over offenses committed by**
 6 **or against Indians in the Indian country**

7 “(a) IN GENERAL.—Each State listed in the fol-
 8 lowing table shall have jurisdiction over offenses com-
 9 mitted by or against Indians in the areas of Indian coun-
 10 try listed opposite the name of the State to the same ex-
 11 tent that such State has jurisdiction over offenses com-
 12 mitted elsewhere within the State, and the criminal laws
 13 of such State shall have the same force and effect within
 14 such Indian country as they have elsewhere within the
 15 State:

“Alaska	All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

16 “(b) NON-CRIMINAL MATTERS NOT AFFECTED.—
 17 Nothing in this section—

1 “(1) authorizes the alienation, encumbrance, or
2 taxation of any real or personal property, including
3 water rights, belonging to any Indian or any Indian
4 tribe, band, or community that is held in trust by
5 the United States or is subject to a restriction
6 against alienation imposed by the United States;

7 “(2) authorizes regulation of the use of such
8 property in a manner inconsistent with any Federal
9 treaty, agreement, or statute or with any regulation
10 made pursuant thereto; or

11 “(3) deprives any Indian or any Indian tribe,
12 band, or community of any right, privilege, or immu-
13 nity afforded under Federal treaty, agreement, or
14 statute with respect to hunting, trapping, or fishing
15 or the control, licensing, or regulation thereof.

16 “(c) NONAPPLICATION.—Sections 872 and 873 do
17 not apply within the areas of Indian country listed in sub-
18 section (a) as areas over which a State has exclusive juris-
19 diction.

20 “(d) EXCEPTION.—Notwithstanding subsection (c),
21 at the request of an Indian tribe, and after consultation
22 with and consent by the Attorney General—

23 “(1) sections 872 and 873 apply in the areas of
24 the Indian country of the Indian tribe; and

1 “(2) jurisdiction over those areas shall be con-
2 current among the Federal Government, State gov-
3 ernments, and, where applicable, tribal governments.

4 **“§ 875. Embezzlement and theft from Indian Tribal**
5 **organizations**

6 “(a) OFFENSE.—Whoever embezzles, steals, unlaw-
7 fully converts, knowingly misapplies, or knowingly permits
8 to be misapplied, any of the property belonging to any In-
9 dian tribal organization or entrusted to the custody or care
10 of any officer, employee, or agent of an Indian tribal orga-
11 nization shall be imprisoned not more than five years; but
12 if the value of such property does not exceed the sum of
13 \$1,000, shall be imprisoned not more than one year.

14 “(b) DEFINITION.—As used in this section, the term
15 ‘Indian tribal organization’ means any tribe, band, or com-
16 munity of Indians which is subject to the laws of the
17 United States relating to Indian affairs or any corpora-
18 tion, association, or group which is organized under any
19 of such laws.

20 **“§ 876. Theft from gaming establishments on Indian**
21 **lands**

22 “Whoever abstracts, purloins, knowingly misapplies,
23 or takes and carries away with intent to steal, any money,
24 funds, or other property belonging to a gaming establish-
25 ment operated by or for or licensed by an Indian tribe

1 pursuant to an ordinance or resolution approved by the
2 National Indian Gaming Commission shall be imprisoned
3 for not more than ten years, but if the value of such prop-
4 erty does not exceed \$1,000, shall be imprisoned not more
5 than one year.

6 **“§ 877. Theft by officers or employees of gaming es-**
7 **tablissements on Indian lands**

8 “Whoever, being an officer, employee, or individual
9 licensee of a gaming establishment operated by or for or
10 licensed by an Indian tribe pursuant to an ordinance or
11 resolution approved by the National Indian Gaming Com-
12 mission, embezzles, abstracts, purloins, knowingly
13 misapplies, or takes and carries away with intent to steal,
14 any moneys, funds, assets, or other property of such estab-
15 lishment shall be imprisoned for not more than 20 years,
16 but if the value of such property is \$1,000 or less shall
17 be imprisoned not more than five years.

18 **“§ 878. Reporting of child abuse**

19 “(a) BASIC REPORTING OFFENSE.—Whoever—

20 “(1) is a—

21 “(A) physician, surgeon, dentist, podia-
22 trist, chiropractor, nurse, dental hygienist, op-
23 tometrist, medical examiner, emergency medical
24 technician, paramedic, or health care provider,

1 “(B) teacher, school counselor, instruc-
2 tional aide, teacher’s aide, teacher’s assistant,
3 or bus driver employed by any tribal, Federal,
4 public or private school,

5 “(C) administrative officer, supervisor of
6 child welfare and attendance, or truancy officer
7 of any tribal, Federal, public or private school,

8 “(D) child day care worker, headstart
9 teacher, public assistance worker, worker in a
10 group home or residential or day care facility,
11 or social worker,

12 “(E) psychiatrist, psychologist, or psycho-
13 logical assistant,

14 “(F) licensed or unlicensed marriage, fam-
15 ily, or child counselor,

16 “(G) person employed in the mental health
17 profession, or

18 “(H) law enforcement officer, probation of-
19 ficer, worker in a juvenile rehabilitation or de-
20 tention facility, or person employed in a public
21 agency who is responsible for enforcing statutes
22 and judicial orders;

23 “(2) knows, or has reasonable suspicion, that—

24 “(A) a child was abused in Indian country,

25 or

1 “(B) actions are being taken, or are going
2 to be taken, that would reasonably be expected
3 to result in abuse of a child in Indian country;
4 and

5 “(3) fails to immediately report such abuse or
6 actions described in paragraph (2) to the local child
7 protective services agency or local law enforcement
8 agency,

9 shall be imprisoned for not more than 6 months.

10 “(b) OFFENSE BY SUPERVISORS.—Whoever—

11 “(1) supervises, or has authority over, a person
12 described in subsection (a)(1), and

13 “(2) inhibits or prevents that person from mak-
14 ing the report described in subsection (a),

15 shall be imprisoned for not more than 6 months.

16 “(c) DEFINITIONS.—As used in this section—

17 “(1) the term ‘abuse’ includes—

18 “(A) any case in which—

19 “(i) a child is dead or exhibits evi-
20 dence of skin bruising, bleeding, malnutri-
21 tion, failure to thrive, burns, fracture of
22 any bone, subdural hematoma, soft tissue
23 swelling, and

1 “(ii) such condition is not justifiably
2 explained or may not be the product of an
3 accidental occurrence; and

4 “(B) any case in which a child is subjected
5 to sexual assault, sexual molestation, sexual ex-
6 ploitation, sexual contact, or prostitution;

7 “(2) the term ‘child’ means an individual who—

8 “(A) is not married, and

9 “(B) has not attained 18 years of age;

10 “(3) the term ‘local child protective services
11 agency’ means that agency of the Federal Govern-
12 ment, of a State, or of an Indian tribe that has the
13 primary responsibility for child protection on any In-
14 dian reservation or within any community in Indian
15 country; and

16 “(4) the term ‘local law enforcement agency’
17 means that Federal, tribal, or State law enforcement
18 agency that has the primary responsibility for the
19 investigation of an instance of alleged child abuse
20 within the portion of Indian country involved.

21 “(d) IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY
22 FOR REPORTING.—Any person making a report described
23 in subsection (a) which is based upon their reasonable be-
24 lief and which is made in good faith shall be immune from
25 civil or criminal liability for making that report.

1 **“§ 879. Illegal trafficking in Native American human**
 2 **remains and cultural items**

3 “(a) HUMAN REMAINS.—Whoever knowingly sells,
 4 purchases, uses for profit, or transports for sale or profit,
 5 the human remains of a Native American without the
 6 right of possession to those remains as provided in the
 7 Native American Graves Protection and Repatriation Act
 8 shall be imprisoned not more than 12 months, and in the
 9 case of a second or subsequent violation, be imprisoned
 10 not more than 5 years.

11 “(b) CULTURAL ITEMS.—Whoever knowingly sells,
 12 purchases, uses for profit, or transports for sale or profit
 13 any Native American cultural items obtained in violation
 14 of the Native American Grave Protection and Repatriation
 15 Act shall be imprisoned not more than one year, and in
 16 the case of a second or subsequent violation, be imprisoned
 17 not more than 5 years.

18 “SUBCHAPTER D—BANKRUPTCY

“Sec.

“881. Concealment of assets; false oaths and claims; bribery.

“882. Embezzlement against estate.

“883. Adverse interest and conduct of officers.

“884. Fee agreements in cases under title 11 and receiverships.

“885. Bankruptcy fraud.

“886. Definition.

19 **“§ 881. Concealment of assets; false oaths and claims;**
 20 **bribery**

21 “Whoever—

1 “(1) knowingly conceals from a custodian,
2 trustee, marshal, or other officer of the court
3 charged with the control or custody of property, or,
4 in connection with a case under title 11, from credi-
5 tors or the United States Trustee, any property be-
6 longing to the estate of a debtor;

7 “(2) knowingly makes a false oath or account
8 in or in relation to any case under title 11;

9 “(3) knowingly makes a false declaration, cer-
10 tificate, verification, or statement under penalty of
11 perjury as permitted under section 1746 of title 28,
12 in or in relation to any case under title 11;

13 “(4) knowingly presents any false claim for
14 proof against the estate of a debtor, or uses any
15 such claim in any case under title 11, in a personal
16 capacity or as or through an agent, proxy, or attor-
17 ney;

18 “(5) knowingly receives any material amount of
19 property from a debtor after the filing of a case
20 under title 11, with intent to defeat the provisions
21 of title 11;

22 “(6) knowingly and corruptly gives, offers, re-
23 ceives, or attempts to obtain any money or property,
24 remuneration, compensation, reward, advantage, or

1 promise thereof for acting or forbearing to act in
2 any case under title 11;

3 “(7) in a personal capacity or as an agent or
4 officer of any person or corporation, in contempla-
5 tion of a case under title 11 by or against the person
6 or any other person or corporation, or with intent to
7 defeat the provisions of title 11, knowingly transfers
8 or conceals any of his property or the property of
9 such other person or corporation;

10 “(8) after the filing of a case under title 11 or
11 in contemplation thereof, knowingly conceals, de-
12 stroys, mutilates, falsifies, or makes a false entry in
13 any recorded information (including books, docu-
14 ments, records, and papers) relating to the property
15 or financial affairs of a debtor; or

16 “(9) after the filing of a case under title 11,
17 knowingly withholds from a custodian, trustee, mar-
18 shal, or other officer of the court or a United States
19 Trustee entitled to its possession, any recorded in-
20 formation (including books, documents, records, and
21 papers) relating to the property or financial affairs
22 of a debtor,

23 shall be imprisoned not more than 5 years.

1 **“§ 882. Embezzlement against estate**

2 “(a) OFFENSE.—Whoever, being described in sub-
3 section (b), knowingly and unlawfully appropriates to the
4 person’s own use, embezzles, spends, or transfers any
5 property or secretes or destroys any document belonging
6 to the estate of a debtor shall be imprisoned not more than
7 5 years.

8 “(b) PERSON TO WHOM SECTION APPLIES.—A per-
9 son described in this subsection is one who has access to
10 property or documents belonging to an estate by virtue
11 of the person’s participation in the administration of the
12 estate as a trustee, custodian, marshal, attorney, or other
13 officer of the court or as an agent, employee, or other per-
14 son engaged by such an officer to perform a service with
15 respect to the estate.

16 **“§ 883. Adverse interest and conduct of officers**

17 “Whoever, being a custodian, trustee, marshal, or
18 other officer of the court—

19 “(1) knowingly purchases any property of the
20 estate of which the person is such an officer in a
21 case under title 11;

22 “(2) knowingly refuses to permit a reasonable
23 opportunity for the inspection by parties in interest
24 of the documents and accounts relating to the af-
25 fairs of estates in the person’s charge by parties
26 when directed by the court to do so; or

1 “(3) knowingly refuses to permit a reasonable
2 opportunity for the inspection by the United States
3 Trustee of the documents and accounts relating to
4 the affairs of an estate in the person’s charge,
5 shall be fined under this title and shall forfeit the person’s
6 office, which shall thereupon become vacant.

7 **“§ 884. Fee agreements in cases under title 11 and re-**
8 **ceiverships**

9 “Whoever, being a party in interest, whether as a
10 debtor, creditor, receiver, trustee or representative of any
11 of them, or attorney for any such party in interest, in any
12 receivership or case under title 11 in any United States
13 court or under its supervision, knowingly and corruptly en-
14 ters into any agreement, express or implied, with another
15 such party in interest or attorney for another such party
16 in interest, for the purpose of fixing the fees or other com-
17 pensation to be paid to any party in interest or to any
18 attorney for any party in interest for services rendered in
19 connection therewith, from the assets of the estate, shall
20 be imprisoned not more than one year.

21 **“§ 885. Bankruptcy fraud**

22 “Whoever for the purpose of executing or concealing
23 a scheme or artifice to defraud—

1 “(1) files a petition under title 11, including a
2 fraudulent involuntary petition under section 303 of
3 such title;

4 “(2) files a document in a proceeding under
5 title 11; or

6 “(3) makes a false or fraudulent representation,
7 claim, or promise concerning or in relation to a pro-
8 ceeding under title 11, at any time before or after
9 the filing of the petition, or in relation to a pro-
10 ceeding falsely asserted to be pending under such
11 title,

12 shall be imprisoned not more than 5 years.

13 **“§ 886. Definition**

14 “As used in this subchapter, the term ‘debtor’ means
15 a debtor concerning whom a petition has been filed under
16 title 11.

17 “SUBCHAPTER E—CIVIL RIGHTS

“Sec.

“891. Conspiracy against rights.

“892. Deprivation of rights under color of law.

“893. Exclusion of jurors on account of race or color.

“894. Discrimination against person wearing uniform of Armed Forces.

“895. Federally protected activities.

“896. Deprivation of relief benefits.

“897. Damage to religious property; obstruction of persons in the free exercise
of religious beliefs.

“898. Freedom of access to clinic entrances.

“899. Voting Rights Act violations.

“900. Prevention of intimidation in fair housing cases.

“901. Hate crime acts.

18 **“§ 891. Conspiracy against rights**

19 “If two or more persons—

1 “(1) conspire to injure, oppress, threaten, or in-
2 timidate any person in any State in the free exercise
3 or enjoyment of any right or privilege secured to
4 that person by the Constitution or laws of the
5 United States, or because of that person’s having so
6 exercised the same; or

7 “(2) go in disguise on the highway, or on the
8 premises of another, with intent to prevent or hinder
9 that other’s free exercise or enjoyment of any right
10 or privilege so secured;

11 each shall be imprisoned not more than ten years; and
12 if death results from the acts committed in violation of
13 this section or if such acts include kidnapping or an at-
14 tempt to kidnap, aggravated sexual abuse or an attempt
15 to commit aggravated sexual abuse, or an attempt to kill,
16 each shall be imprisoned for any term of years or for life,
17 or may be sentenced to death.

18 **“§ 892. Deprivation of rights under color of law**

19 “Whoever, under color of any law, statute, ordinance,
20 regulation, or custom, knowingly subjects any person in
21 any State to the deprivation of any rights, privileges, or
22 immunities secured or protected by the Constitution or
23 laws of the United States, or to different punishments,
24 pains, or penalties, on account of such person being an
25 alien, or by reason of his color, or race, than are pre-

1 scribed for the punishment of citizens, shall be imprisoned
2 not more than one year; and if bodily injury results from
3 the acts committed in violation of this section or if such
4 acts include the use, attempted use, or threatened use of
5 a dangerous weapon, explosives, or fire, shall be impris-
6 oned not more than ten years; and if death results from
7 the acts committed in violation of this section or if such
8 acts include kidnapping or an attempt to kidnap, aggra-
9 vated sexual abuse, or an attempt to commit aggravated
10 sexual abuse, or an attempt to kill, shall be imprisoned
11 for any term of years or for life, or may be sentenced to
12 death.

13 **“§ 893. Exclusion of jurors on account of race or color**

14 “No citizen possessing all other qualifications which
15 are or may be prescribed by law shall be disqualified for
16 service as grand or petit juror in any court of the United
17 States, or of any State on account of race, color, or pre-
18 vious condition of servitude; and whoever, being an officer
19 or other person charged with any duty in the selection or
20 summoning of jurors, excludes or fails to summon any cit-
21 izen for such cause, shall be fined not more than \$5,000.

22 **“§ 894. Discrimination against person wearing uni-**
23 **form of Armed Forces**

24 “Whoever, being a proprietor, manager, or employee
25 of a theater or other public place of entertainment or

1 amusement in the District of Columbia, or in any terri-
2 tory, or possession of the United States, causes any person
3 wearing the uniform of any of the armed forces of the
4 United States to be discriminated against because of that
5 uniform, shall be fined under this title.

6 **“§ 895. Federally protected activities**

7 “(a) CONSTRUCTION.—

8 “(1) Nothing in this section shall be construed
9 as indicating an intent on the part of Congress to
10 prevent any State, any possession or Commonwealth
11 of the United States, or the District of Columbia,
12 from exercising jurisdiction over any offense over
13 which it would have jurisdiction in the absence of
14 this section, nor shall anything in this section be
15 construed as depriving State and local law enforce-
16 ment authorities of responsibility for prosecuting
17 acts that may be violations of this section and that
18 are violations of State and local law. No prosecution
19 of any offense described in this section shall be un-
20 dertaken by the United States except upon the cer-
21 tification in writing of the Attorney General, the
22 Deputy Attorney General, the Associate Attorney
23 General, or any Assistant Attorney General specially
24 designated by the Attorney General that in his judg-
25 ment a prosecution by the United States is in the

1 public interest and necessary to secure substantial
2 justice, which function of certification may not be
3 delegated.

4 “(2) Nothing in this subsection shall be con-
5 strued to limit the authority of Federal officers, or
6 a Federal grand jury, to investigate possible viola-
7 tions of this section.

8 “(b) OFFENSE.—Whoever, by force or threat of force,
9 knowingly injures, intimidates, or interferes with—

10 “(1) any person because he is or has been, or
11 in order to intimidate such person or any other per-
12 son or any class of persons from—

13 “(A) voting or qualifying to vote, quali-
14 fying or campaigning as a candidate for elective
15 office, or qualifying or acting as a poll watcher,
16 or any legally authorized election official, in any
17 primary, special, or general election;

18 “(B) participating in or enjoying any ben-
19 efit, service, privilege, program, facility, or ac-
20 tivity provided or administered by the United
21 States;

22 “(C) applying for or enjoying employment,
23 or any perquisite thereof, by any agency of the
24 United States;

1 “(D) serving, or attending upon any court
2 in connection with possible service, as a grand
3 or petit juror in any court of the United States;
4 or

5 “(E) participating in or enjoying the bene-
6 fits of any program or activity receiving Federal
7 financial assistance;

8 “(2) any person because of his race, color, reli-
9 gion or national origin and because he is or has
10 been—

11 “(A) enrolling in or attending any public
12 school or public college;

13 “(B) participating in or enjoying any ben-
14 efit service, privilege, program, facility or activ-
15 ity provided or administered by any State or
16 subdivision thereof;

17 “(C) applying for or enjoying employment,
18 or any perquisite thereof, by any private em-
19 ployer or any agency of any State or subdivision
20 thereof, or joining or using the services or ad-
21 vantages of any labor organization, hiring hall,
22 or employment agency;

23 “(D) serving, or attending upon any court
24 of any State in connection with possible service,
25 as a grand or petit juror;

1 “(E) traveling in or using any facility of
2 interstate commerce, or using any vehicle, ter-
3 minal, or facility of any common carrier by
4 motor, rail, water, or air;

5 “(F) enjoying the goods, services, facilities,
6 privileges, advantages, or accommodations of
7 any inn, hotel, motel, or other establishment
8 which provides lodging to transient guests, or of
9 any restaurant, cafeteria, lunchroom, lunch
10 counter, soda fountain, or other facility which
11 serves the public and which is principally en-
12 gaged in selling food or beverages for consump-
13 tion on the premises, or of any gasoline station,
14 or of any motion picture house, theater, concert
15 hall, sports arena, stadium, or any other place
16 of exhibition or entertainment which serves the
17 public, or of any other establishment which
18 serves the public and—

19 “(i) which is located within the prem-
20 ises of any of the aforesaid establishments
21 or within the premises of which is phys-
22 ically located any of the aforesaid estab-
23 lishments; and

24 “(ii) which holds itself out as serving
25 patrons of such establishments;

1 “(3) during or incident to a riot or civil dis-
2 order, any person engaged in a business in com-
3 merce or affecting commerce, including, but not lim-
4 ited to, any person engaged in a business which sells
5 or offers for sale to interstate travelers a substantial
6 portion of the articles, commodities, or services
7 which it sells or where a substantial portion of the
8 articles or commodities which it sells or offers for
9 sale have moved in commerce; or

10 “(4) any person because that person is or has
11 been, or in order to intimidate such person or any
12 other person or any class of persons from—

13 “(A) participating, without discrimination
14 on account of race, color, religion or national
15 origin, in any of the benefits or activities de-
16 scribed in subparagraphs (1)(A) through (1)(E)
17 or subparagraphs (2)(A) through (2)(F); or

18 “(B) affording another person or class of
19 persons opportunity or protection to so partici-
20 pate; or

21 “(5) any citizen because that person is or has
22 been, or in order to intimidate such citizen or any
23 other citizen from lawfully aiding or encouraging
24 other persons to participate, without discrimination
25 on account of race, color, religion or national origin,

1 in any of the benefits or activities described in sub-
2 paragraphs (1)(A) through (1)(E) or subparagraphs
3 (2)(A) through (2)(F), or participating lawfully in
4 speech or peaceful assembly opposing any denial of
5 the opportunity to so participate,
6 shall be imprisoned not more than one year; and if bodily
7 injury results from the acts committed in violation of this
8 section or if such acts include the use, attempted use, or
9 threatened use of a dangerous weapon, explosives, or fire,
10 shall be imprisoned not more than ten years; and if death
11 results from the acts committed in violation of this section
12 or if such acts include kidnapping or an attempt to kid-
13 nap, aggravated sexual abuse or an attempt to commit ag-
14 gravated sexual abuse, or an attempt to kill, shall be im-
15 prisoned for any term of years or for life or may be sen-
16 tenced to death.

17 “(c) DEFINITION.—As used in this section, the term
18 ‘participating lawfully in speech or peaceful assembly’
19 shall not mean the aiding, abetting, or inciting of other
20 persons to riot or to commit any act of physical violence
21 upon any individual or against any real or personal prop-
22 erty in furtherance of a riot. Nothing in subparagraph
23 (2)(F) or (4)(A) of this subsection applies to the propri-
24 etor of any establishment which provides lodging to tran-
25 sient guests, or to any employee acting on behalf of such

1 proprietor, with respect to the enjoyment of the goods,
2 services, facilities, privileges, advantages, or accommoda-
3 tions of such establishment if such establishment is lo-
4 cated within a building which contains not more than five
5 rooms for rent or hire and which is actually occupied by
6 the proprietor as the proprietor's residence.

7 “(d) LAW ENFORCEMENT DUTIES NOT AF-
8 FECTED.—Nothing in this section shall be construed so
9 as to deter any law enforcement officer from lawfully car-
10 rying out the duties of his office; and no law enforcement
11 officer shall be considered to be in violation of this section
12 for lawfully carrying out the duties of his office or lawfully
13 enforcing ordinances and laws of the United States, the
14 District of Columbia, any of the several States, or any po-
15 litical subdivision of a State. For purposes of the pre-
16 ceding sentence, the term ‘law enforcement officer’ means
17 any officer of the United States, the District of Columbia,
18 a State, or political subdivision of a State, who is empow-
19 ered by law to conduct investigations of, or make arrests
20 because of, offenses against the United States, the District
21 of Columbia, a State, or a political subdivision of a State.

22 **“§ 896. Deprivation of relief benefits**

23 “Whoever directly or indirectly deprives, attempts to
24 deprive, or threatens to deprive any person of any employ-
25 ment, position, work, compensation, or other benefit pro-

1 vided for or made possible in whole or in part by any Act
2 of Congress appropriating funds for work relief or relief
3 purposes, on account of political affiliation, race, color,
4 sex, religion, or national origin, shall be imprisoned not
5 more than one year.

6 **“§ 897. Damage to religious property; obstruction of**
7 **persons in the free exercise of religious**
8 **beliefs**

9 “(a) RELIGIOUS PROPERTY OFFENSE RELATING TO
10 RELIGIOUS CHARACTER.—Whoever, in or affecting inter-
11 state or foreign commerce—

12 “(1) knowingly defaces, damages, or destroys
13 any religious real property, because of the religious
14 character of that property; or

15 “(2) knowingly obstructs, by force or threat of
16 force, any person in the enjoyment of that person’s
17 free exercise of religious beliefs;

18 shall be punished as provided in subsection (c).

19 “(b) PROPERTY OFFENSE MOTIVATED BY RACIAL
20 AND OTHER CHARACTERISTICS.—Whoever knowingly de-
21 faces, damages, or destroys any religious real property be-
22 cause of the race, color, or ethnic characteristics of any
23 individual associated with that religious property, shall be
24 punished as provided in subsection (c).

1 “(c) PUNISHMENT.—The punishment for a violation
2 of subsection (a) is—

3 “(1) if death results from acts committed in
4 violation of this section or if such acts include kid-
5 napping or an attempt to kidnap, aggravated sexual
6 abuse or an attempt to commit aggravated sexual
7 abuse, or an attempt to kill, imprisonment for any
8 term of years or for life, or death;

9 “(2) if bodily injury results to any person, in-
10 cluding any public safety officer performing duties
11 as a direct or proximate result of conduct prohibited
12 by this section, and the violation is by means of fire
13 or an explosive, or imprisonment for more than 40
14 years;

15 “(3) if bodily injury to any person, including
16 any public safety officer performing duties as a di-
17 rect or proximate result of conduct prohibited by
18 this section, results from the acts committed in vio-
19 lation of this section or if such acts include the use,
20 attempted use, or threatened use of a dangerous
21 weapon, explosives, or fire, imprisonment for not
22 more than 20 years; and

23 “(4) in any other case, imprisonment for not
24 more than one year.

1 “(d) CERTIFICATION.—No prosecution of any offense
2 described in this section shall be undertaken by the United
3 States except upon the certification in writing of the At-
4 torney General or his designee that in his judgment a
5 prosecution by the United States is in the public interest
6 and necessary to secure substantial justice.

7 “(e) DEFINITION.—As used in this section, the term
8 ‘religious real property’ means any church, synagogue,
9 mosque, religious cemetery, or other religious real prop-
10 erty, including fixtures or religious objects contained with-
11 in a place of religious worship.

12 “(f) LIMITATION.—No person shall be prosecuted,
13 tried, or punished for any noncapital offense under this
14 section unless the indictment is found or the information
15 is instituted not later than 7 years after the date on which
16 the offense was committed.

17 **“§ 898. Freedom of access to clinic entrances**

18 “(a) PROHIBITED ACTIVITIES.—Whoever—

19 “(1) by force or threat of force or by physical
20 obstruction, knowingly injures, intimidates or inter-
21 feres with any person because that person is or has
22 been, or in order to intimidate such person or any
23 other person or any class of persons from, obtaining
24 or providing reproductive health services;

1 “(2) by force or threat of force or by physical
2 obstruction, knowingly injures, intimidates or inter-
3 feres with any person lawfully exercising or seeking
4 to exercise the First Amendment right of religious
5 freedom at a place of religious worship; or

6 “(3) knowingly damages or destroys the prop-
7 erty of a facility, or attempts to do so, because such
8 facility provides reproductive health services, or
9 knowingly damages or destroys the property of a
10 place of religious worship,

11 shall be subject to the penalties provided in subsection (b)
12 and the civil remedies provided in subsection (c), except
13 that a parent or legal guardian of a child shall not be sub-
14 ject to any penalties or civil remedies under this section
15 for such activities insofar as they are directed exclusively
16 at that child.

17 “(b) PENALTIES.—Whoever violates this section
18 shall—

19 “(1) in the case of a first offense, be impris-
20 oned not more than one year; and

21 “(2) in the case of a second or subsequent of-
22 fense after a prior conviction under this section, be
23 imprisoned not more than 3 years;

24 except that for an offense involving exclusively a non-
25 violent physical obstruction, the fine shall, notwith-

1 standing section 3571, not be more than \$10,000 and the
2 length of imprisonment shall be not more than six months,
3 or both, for the first offense; and the fine shall, notwith-
4 standing section 3571, be not more than \$25,000 and the
5 length of imprisonment shall be not more than 18 months,
6 or both, for a subsequent offense; and except that if bodily
7 injury results, the length of imprisonment shall be not
8 more than 10 years, and if death results, it shall be for
9 any term of years or for life.

10 “(c) CIVIL REMEDIES.—

11 “(1) RIGHT OF ACTION.—

12 “(A) IN GENERAL.—Any person aggrieved
13 by reason of the conduct prohibited by sub-
14 section (a) may commence a civil action for the
15 relief set forth in subparagraph (B), except that
16 such an action may be brought under sub-
17 section (a)(1) only by a person involved in pro-
18 viding or seeking to provide, or obtaining or
19 seeking to obtain, services in a facility that pro-
20 vides reproductive health services, and such an
21 action may be brought under subsection (a)(2)
22 only by a person lawfully exercising or seeking
23 to exercise the First Amendment right of reli-
24 gious freedom at a place of religious worship or

1 by the entity that owns or operates such place
2 of religious worship.

3 “(B) RELIEF.—In any action under sub-
4 paragraph (A), the court may award appro-
5 priate relief, including temporary, preliminary
6 or permanent injunctive relief and compen-
7 satory and punitive damages, as well as the
8 costs of suit and reasonable fees for attorneys
9 and expert witnesses. With respect to compen-
10 satory damages, the plaintiff may elect, at any
11 time prior to the rendering of final judgment,
12 to recover, in lieu of actual damages, an award
13 of statutory damages in the amount of \$5,000
14 per violation.

15 “(2) ACTION BY ATTORNEY GENERAL OF THE
16 UNITED STATES.—

17 “(A) IN GENERAL.—If the Attorney Gen-
18 eral of the United States has reasonable cause
19 to believe that any person or group of persons
20 is being, has been, or may be injured by con-
21 duct constituting a violation of this section, the
22 Attorney General may commence a civil action
23 in any appropriate United States District
24 Court.

1 “(B) RELIEF.—In any action under sub-
2 paragraph (A), the court may award appro-
3 priate relief, including temporary, preliminary
4 or permanent injunctive relief, and compen-
5 satory damages to persons aggrieved as de-
6 scribed in paragraph (1)(B). The court, to vin-
7 dicate the public interest, may also assess a
8 civil penalty against each respondent—

9 “(i) in an amount not exceeding
10 \$10,000 for a nonviolent physical obstruc-
11 tion and \$15,000 for other first violations;
12 and

13 “(ii) in an amount not exceeding
14 \$15,000 for a nonviolent physical obstruc-
15 tion and \$25,000 for any other subsequent
16 violation.

17 “(3) ACTIONS BY STATE ATTORNEYS GEN-
18 ERAL.—

19 “(A) IN GENERAL.—If the Attorney Gen-
20 eral of a State has reasonable cause to believe
21 that any person or group of persons is being,
22 has been, or may be injured by conduct consti-
23 tuting a violation of this section, such Attorney
24 General may commence a civil action in the
25 name of such State, as *parens patriae* on behalf

1 of natural persons residing in such State, in
2 any appropriate United States District Court.

3 “(B) RELIEF.—In any action under sub-
4 paragraph (A), the court may award appro-
5 priate relief, including temporary, preliminary
6 or permanent injunctive relief, compensatory
7 damages, and civil penalties as described in
8 paragraph (2)(B).

9 “(d) RULES OF CONSTRUCTION.—Nothing in this
10 section shall be construed—

11 “(1) to prohibit any expressive conduct (includ-
12 ing peaceful picketing or other peaceful demonstra-
13 tion) protected from legal prohibition by the First
14 Amendment to the Constitution; or

15 “(2) to create new remedies for interference
16 with activities protected by the free speech or free
17 exercise clauses of the First Amendment to the Con-
18 stitution, occurring outside a facility, regardless of
19 the point of view expressed, or to limit any existing
20 legal remedies for such interference.

21 “(e) DEFINITIONS.—As used in this section—

22 “(1) the term ‘facility’ includes a hospital, clin-
23 ic, physician’s office, or other facility that provides
24 reproductive health services, and includes the build-
25 ing or structure in which the facility is located;

1 “(2) the term ‘interfere with’ means to restrict
2 a person’s freedom of movement;

3 “(3) the term ‘intimidate’ means to place a per-
4 son in reasonable apprehension of bodily harm to
5 him-or herself or to another;

6 “(4) the term ‘physical obstruction’ means ren-
7 dering impassable ingress to or egress from a facility
8 that provides reproductive health services or to or
9 from a place of religious worship, or rendering pas-
10 sage to or from such a facility or place of religious
11 worship unreasonably difficult or hazardous; and

12 “(5) the term ‘reproductive health services’
13 means reproductive health services provided in a
14 hospital, clinic, physician’s office, or other facility,
15 and includes medical, surgical, counseling or referral
16 services relating to the human reproductive system,
17 including services relating to pregnancy or the termi-
18 nation of a pregnancy.

19 **“§ 899. Voting Rights Act violations**

20 “(a) DEPRIVATION OF RIGHTS.—Whoever deprives
21 any person of any right secured by section 2, 3, 4, 5, 7,
22 or 10 of the Voting Rights Act of 1965 or violates section
23 11(a) of such Act, shall be imprisoned not more than five
24 years.

1 “(b) **BALLOTS AND RECORDS OF VOTING.**—Whoever,
2 within a year following an election in a political subdivision
3 in which an examiner has been appointed under the Voting
4 Rights Act of 1965—

5 “(1) destroys, defaces, mutilates, or otherwise
6 alters the marking of a paper ballot which has been
7 cast in such election; or

8 “(2) alters any official record of voting in such
9 election tabulated from a voting machine or other-
10 wise;

11 shall be imprisoned not more than five years.

12 “(c) **INTERFERENCE WITH RIGHTS.**—Whoever inter-
13 feres with any right secured by section 2, 3, 4, 5, 7, 10,
14 or 11(a) of the Voting Rights Act of 1965 shall be impris-
15 oned not more than five years.

16 **“§ 900. Prevention of intimidation in fair housing**
17 **cases**

18 “Whoever by force or threat of force willfully injures,
19 intimidates or interferes with—

20 “(1) any person because of that person’s race,
21 color, religion, sex, handicap (as such term is de-
22 fined in section 802 of the Fair Housing Act), famil-
23 ial status (as such term is defined in section 802 of
24 that Act), or national origin and because that person
25 is or has been selling, purchasing, renting, financing,

1 occupying, or contracting or negotiating for the sale,
2 purchase, rental, financing or occupation of any
3 dwelling, or applying for or participating in any
4 service, organization, or facility relating to the busi-
5 ness of selling or renting dwellings; or

6 “(2) any person because that person is or has
7 been, or in order to intimidate such person or any
8 other person or any class of persons from—

9 “(A) participating, without discrimination
10 on account of race, color, religion, sex, handicap
11 (as such term is defined in section 802 of the
12 Fair Housing Act), familial status (as such
13 term is defined in section 802 of that Act), or
14 national origin, in any of the activities, services,
15 organizations or facilities described in para-
16 graph (1);

17 “(B) affording another person or class of
18 persons opportunity or protection so to partici-
19 pate; or

20 “(C) any citizen because that citizen is or
21 has been, or in order to discourage such citizen
22 or any other citizen from lawfully aiding or en-
23 couraging other persons to participate, without
24 discrimination on account of race, color, reli-
25 gion, sex, handicap (as such term is defined in

1 section 802 of the Fair Housing Act), familial
2 status (as such term is defined in section 802
3 of that Act), or national origin, in any of the
4 activities, services, organizations or facilities de-
5 scribed in paragraph (1), or participating law-
6 fully in speech or peaceful assembly opposing
7 any denial of the opportunity to so participate;
8 shall be imprisoned not more than one year; and if bodily
9 injury results from the acts committed in violation of this
10 section or if such acts include the use, attempted use, or
11 threatened use of a dangerous weapon, explosives, or fire
12 shall be imprisoned not more than ten years; and if death
13 results from the acts committed in violation of this section
14 or if such acts include kidnapping or an attempt to kid-
15 nap, aggravated sexual abuse or an attempt to commit ag-
16 gravated sexual abuse, or an attempt to kill, shall be im-
17 prisoned for any term of years or for life.

18 **“§ 901. Hate crime acts**

19 “(a) IN GENERAL.—

20 “(1) OFFENSES INVOLVING ACTUAL OR PER-
21 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
22 GIN.—Whoever, whether or not acting under color of
23 law, knowingly causes bodily injury to any person or,
24 through the use of fire, a firearm, a dangerous
25 weapon, or an explosive or incendiary device, at-

1 attempts to cause bodily injury to any person, because
2 of the actual or perceived race, color, religion, or na-
3 tional origin of any person—

4 “(A) shall be imprisoned not more than 10
5 years, fined in accordance with this title, or
6 both; and

7 “(B) shall be imprisoned for any term of
8 years or for life, fined in accordance with this
9 title, or both, if—

10 “(i) death results from the offense; or

11 “(ii) the offense includes kidnapping
12 or an attempt to kidnap, aggravated sexual
13 abuse or an attempt to commit aggravated
14 sexual abuse, or an attempt to kill.

15 “(2) OFFENSES INVOLVING ACTUAL OR PER-
16 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-
17 UAL ORIENTATION, GENDER IDENTITY, OR DIS-
18 ABILITY.—

19 “(A) IN GENERAL.—Whoever, whether or
20 not acting under color of law, in any cir-
21 cumstance described in subparagraph (B) or
22 paragraph (3), knowingly causes bodily injury
23 to any person or, through the use of fire, a fire-
24 arm, a dangerous weapon, or an explosive or in-
25 cendiary device, attempts to cause bodily injury

1 to any person, because of the actual or per-
2 ceived religion, national origin, gender, sexual
3 orientation, gender identity, or disability of any
4 person—

5 “(i) shall be imprisoned not more
6 than 10 years, fined in accordance with
7 this title, or both; and

8 “(ii) shall be imprisoned for any term
9 of years or for life, fined in accordance
10 with this title, or both, if—

11 “(I) death results from the of-
12 fense; or

13 “(II) the offense includes kidnap-
14 ping or an attempt to kidnap, aggra-
15 vated sexual abuse or an attempt to
16 commit aggravated sexual abuse, or
17 an attempt to kill.

18 “(B) CIRCUMSTANCES DESCRIBED.—For
19 purposes of subparagraph (A), the cir-
20 cumstances described in this subparagraph are
21 that—

22 “(i) the conduct described in subpara-
23 graph (A) occurs during the course of, or
24 as the result of, the travel of the defendant
25 or the victim—

1 “(I) across a State line or na-
2 tional border; or

3 “(II) using a channel, facility, or
4 instrumentality of interstate or for-
5 eign commerce;

6 “(ii) the defendant uses a channel, fa-
7 cility, or instrumentality of interstate or
8 foreign commerce in connection with the
9 conduct described in subparagraph (A);

10 “(iii) in connection with the conduct
11 described in subparagraph (A), the defend-
12 ant employs a firearm, dangerous weapon,
13 explosive or incendiary device, or other
14 weapon that has traveled in interstate or
15 foreign commerce; or

16 “(iv) the conduct described in sub-
17 paragraph (A)—

18 “(I) interferes with commercial
19 or other economic activity in which
20 the victim is engaged at the time of
21 the conduct; or

22 “(II) otherwise affects interstate
23 or foreign commerce.

24 “(3) OFFENSES OCCURRING IN THE SPECIAL
25 MARITIME OR TERRITORIAL JURISDICTION OF THE

1 UNITED STATES.—Whoever, within the special mari-
2 time or territorial jurisdiction of the United States,
3 engages in conduct described in paragraph (1) or in
4 paragraph (2)(A) (without regard to whether that
5 conduct occurred in a circumstance described in
6 paragraph (2)(B)) shall be subject to the same pen-
7 alties as prescribed in those paragraphs.

8 “(4) GUIDELINES.—All prosecutions conducted
9 by the United States under this section shall be un-
10 dertaken pursuant to guidelines issued by the Attor-
11 ney General, or the designee of the Attorney Gen-
12 eral, to be included in the United States Attorneys’
13 Manual that shall establish neutral and objective cri-
14 teria for determining whether a crime was com-
15 mitted because of the actual or perceived status of
16 any person.

17 “(b) CERTIFICATION REQUIREMENT.—

18 “(1) IN GENERAL.—No prosecution of any of-
19 fense described in this subsection may be undertaken
20 by the United States, except under the certification
21 in writing of the Attorney General, or a designee,
22 that—

23 “(A) the State does not have jurisdiction;

24 “(B) the State has requested that the Fed-
25 eral Government assume jurisdiction;

1 “(C) the verdict or sentence obtained pur-
 2 suant to State charges left demonstratively
 3 unvindicated the Federal interest in eradicating
 4 bias-motivated violence; or

5 “(D) a prosecution by the United States is
 6 in the public interest and necessary to secure
 7 substantial justice.

8 “(2) RULE OF CONSTRUCTION.—Nothing in
 9 this subsection shall be construed to limit the au-
 10 thority of Federal officers, or a Federal grand jury,
 11 to investigate possible violations of this section.

12 “(c) DEFINITIONS.—In this section—

13 “(1) the term ‘bodily injury’ does not include
 14 solely emotional or psychological harm to the victim;

15 “(2) the term ‘explosive or incendiary device’
 16 has the meaning given such term in section 296(c);

17 “(3) the term ‘firearm’ has the meaning given
 18 such term in section 581;

19 “(4) the term ‘gender identity’ means actual or
 20 perceived gender-related characteristics; and

21 “SUBCHAPTER F—FOREIGN RELATIONS

“Sec.

“921. Agents of foreign governments.

“922. Diplomatic codes and correspondence.

“923. False statements influencing foreign Government.

“924. Conspiracy to kill, kidnap, maim, or injure persons or damage property
 in a foreign country.

“925. Enlistment in foreign Service.

“926. Expedition against friendly nation.

“927. Detention of armed vessel.

“928. Protection of property occupied by foreign governments.

1 **“§ 921. Agents of foreign governments**

2 “(a) OFFENSE.—Whoever, other than a diplomatic or
3 consular officer or attache, acts in the United States as
4 an agent of a foreign government without prior notifica-
5 tion to the Attorney General if required in subsection (b),
6 shall be imprisoned not more than ten years.

7 “(b) RULES AND REGULATIONS.—The Attorney Gen-
8 eral shall promulgate rules and regulations establishing re-
9 quirements for notification.

10 “(c) TRANSMISSION.—The Attorney General shall,
11 upon receipt, promptly transmit one copy of each notifica-
12 tion statement filed under this section to the Secretary
13 of State for such comment and use as the Secretary of
14 State may determine to be appropriate from the point of
15 view of the foreign relations of the United States. Failure
16 of the Attorney General to do so is not a bar to prosecu-
17 tion under this section.

18 “(d) DEFINITION.—As used in this section, the term
19 ‘agent of a foreign government’ means an individual who
20 agrees to operate within the United States subject to the
21 direction or control of a foreign government or official, ex-
22 cept that such term does not include—

1 “(1) a duly accredited diplomatic or consular
2 officer of a foreign government, who is so recognized
3 by the Department of State;

4 “(2) any officially and publicly acknowledged
5 and sponsored official or representative of a foreign
6 government;

7 “(3) any officially and publicly acknowledged
8 and sponsored member of the staff of, or employee
9 of, an officer, official, or representative described in
10 paragraph (1) or (2), who is not a United States cit-
11 izen; or

12 “(4) any person engaged in a legal commercial
13 transaction.

14 “(e) ADDITIONAL BASIS FOR DETERMINING AGEN-
15 CY.—Notwithstanding subsection (d)(4), any person en-
16 gaged in a legal commercial transaction shall be consid-
17 ered to be an agent of a foreign government for purposes
18 of this section if—

19 “(1) such person agrees to operate within the
20 United States subject to the direction or control of
21 a foreign government or official; and

22 “(2) such person—

23 “(A) is an agent of Cuba or any other
24 country that the President determines (and so
25 reports to the Congress) poses a threat to the

1 national security interest of the United States
2 for purposes of this section, unless the Attorney
3 General, after consultation with the Secretary
4 of State, determines and so reports to the Con-
5 gress that the national security or foreign policy
6 interests of the United States require that this
7 section does not apply in specific circumstances
8 to agents of such country; or

9 “(B) has been convicted of, or has entered
10 a plea of nolo contendere with respect to, any
11 offense under section 301, 302, 303, 601, or
12 261 of this title or under section 11 of the Ex-
13 port Administration Act of 1979, except that
14 this subsection does not apply to a person de-
15 scribed in this subparagraph for a period of
16 more than five years beginning on the date of
17 the conviction or the date of entry of the plea
18 of nolo contendere, as the case may be.

19 **“§ 922. Diplomatic codes and correspondence**

20 “Whoever, by virtue of his employment by the United
21 States, obtains from another or has or has had custody
22 of or access to, any official diplomatic code or any matter
23 prepared in any such code, or which purports to have been
24 prepared in any such code, and without authorization or
25 competent authority, knowingly publishes or furnishes to

1 another any such code or matter, or any matter which was
2 obtained while in the process of transmission between any
3 foreign government and its diplomatic mission in the
4 United States, shall be or imprisoned not more than ten
5 years.

6 **“§ 923. False statements influencing foreign Govern-**
7 **ment**

8 “Whoever, in relation to any dispute or controversy
9 between a foreign government and the United States,
10 knowingly makes any untrue statement, either orally or
11 in writing, under oath before any person authorized and
12 empowered to administer oaths, which the affiant has
13 knowledge or reason to believe will, or may be used to in-
14 fluence the measures or conduct of any foreign govern-
15 ment, or of any officer or agent of any foreign government,
16 to the injury of the United States, or with a view or intent
17 to influence any measure of or action by the United States
18 or any department or agency thereof, to the injury of the
19 United States, shall be imprisoned not more than ten
20 years.

21 **“§ 924. Conspiracy to kill, kidnap, maim, or injure**
22 **persons or damage property in a foreign**
23 **country**

24 “(a) OFFENSE AGAINST PERSONS.—

1 “(1) ELEMENTS.—Whoever, within the jurisdic-
2 tion of the United States, conspires with one or
3 more other persons, regardless of where such other
4 person or persons are located, to commit at any
5 place outside the United States an act that would
6 constitute the offense of murder, kidnapping, or
7 maiming if committed in the special maritime and
8 territorial jurisdiction of the United States shall, if
9 any of the conspirators commits an act within the
10 jurisdiction of the United States to effect any object
11 of the conspiracy, be punished as provided in para-
12 graph (2).

13 “(2) PUNISHMENT.—The punishment for an offense
14 under paragraph (1) is—

15 “(A) imprisonment for any term of years or for
16 life if the offense is conspiracy to murder or kidnap;
17 and

18 “(B) imprisonment for not more than 35 years
19 if the offense is conspiracy to maim.

20 “(b) OFFENSE AGAINST PROPERTY.—Whoever, with-
21 in the jurisdiction of the United States, conspires with one
22 or more persons, regardless of where such other person
23 or persons are located, to damage or destroy specific prop-
24 erty situated within a foreign country and belonging to
25 a foreign government or to any political subdivision there-

1 of with which the United States is at peace, or any rail-
2 road, canal, bridge, airport, airfield, or other public utility,
3 public conveyance, or public structure, or any religious,
4 educational, or cultural property so situated, shall, if any
5 of the conspirators commits an act within the jurisdiction
6 of the United States to effect any object of the conspiracy,
7 be imprisoned not more than 25 years.

8 **“§ 925. Enlistment in foreign Service**

9 “(a) OFFENSE.—Whoever, within the United States,
10 enlists or enters himself, or hires or retains another to
11 enlist or enter himself, or to go beyond the jurisdiction
12 of the United States with intent to be enlisted or entered
13 in the service of any foreign prince, state, colony, district,
14 or people as a soldier or as a marine or seaman on board
15 any vessel of war, letter of marque, or privateer, shall be
16 imprisoned not more than three years.

17 “(b) EXCLUSIONS.—

18 “(1) This section does not apply to citizens or
19 subjects of any country engaged in war with a coun-
20 try with which the United States is at war, unless
21 such citizen or subject of such foreign country shall
22 hire or solicit a citizen of the United States to enlist
23 or go beyond the jurisdiction of the United States
24 with intent to enlist or enter the service of a foreign
25 country. Enlistments under this subsection shall be

1 under regulations prescribed by the Secretary of the
2 Army.

3 “(2) This section and section 926 do not apply
4 to any subject or citizen of any foreign prince, state,
5 colony, district, or people who is transiently within
6 the United States and enlists or enters himself on
7 board any vessel of war, letter of marque, or pri-
8 vateer, which at the time of its arrival within the
9 United States was fitted and equipped as such, or
10 hires or retains another subject or citizen of the
11 same foreign prince, state, colony, district, or people
12 who is transiently within the United States to enlist
13 or enter himself to serve such foreign prince, state,
14 colony, district, or people on board such vessel of
15 war, letter of marque, or privateer, if the United
16 States shall then be at peace with such foreign
17 prince, state, colony, district, or people.

18 **“§ 926. Expedition against friendly nation**

19 “Whoever, within the United States, knowingly be-
20 gins or sets on foot or provides or prepares a means for
21 or furnishes the money for, or takes part in, any military
22 or naval expedition or enterprise to be carried on from
23 thence against the territory or dominion of any foreign
24 prince or state, or of any colony, district, or people with

1 whom the United States is at peace, shall be imprisoned
2 not more than three years.

3 **“§ 927. Detention of armed vessel**

4 “(a) AUTHORITY OF PRESIDENT.—During a war in
5 which the United States is a neutral nation, the President,
6 or any person authorized by him, may detain any armed
7 vessel owned wholly or in part by citizens of the United
8 States, or any vessel, domestic or foreign (other than one
9 which has entered the ports of the United States as a pub-
10 lic vessel), which is manifestly built for warlike purposes
11 or has been converted or adapted from a private vessel
12 to one suitable for warlike use, until the owner or master,
13 or person having charge of such vessel, shall furnish proof
14 satisfactory to the President, or to the person duly author-
15 ized by him, that the vessel will not be employed to cruise
16 against or commit or attempt to commit hostilities upon
17 the subjects, citizens, or property of any foreign prince
18 or state, or of any colony, district, or people with which
19 the United States is at peace, and that the said vessel
20 will not be sold or delivered to any belligerent nation, or
21 to an agent, officer, or citizen of such nation, by them
22 or any of them, within the jurisdiction of the United
23 States, or upon the high seas.

24 “(b) OFFENSE.—Whoever, in violation of this section
25 takes, or attempts to take, or authorizes the taking of any

1 such vessel, out of port or from the United States, shall
2 be imprisoned not more than ten years.

3 **“§ 928. Protection of property occupied by foreign**
4 **governments**

5 “(a) PROPERTY OFFENSE.—Whoever knowingly in-
6 jures, damages, or destroys, or attempts to injure, dam-
7 age, or destroy, any property, real or personal, located
8 within the United States and belonging to or utilized or
9 occupied by any foreign government or international orga-
10 nization, by a foreign official or official guest, shall be im-
11 prisoned not more than five years.

12 “(b) THREAT AND HARASSMENT OFFENSE.—Who-
13 ever, knowingly with intent to intimidate, coerce, threaten,
14 or harass—

15 “(1) forcibly thrusts any part of himself or any
16 object within or upon that portion of any building or
17 premises located within the United States, which
18 portion is used or occupied for official business or
19 for diplomatic, consular, or residential purposes
20 by—

21 “(A) a foreign government, including such
22 use as a mission to an international organiza-
23 tion;

24 “(B) an international organization;

25 “(C) a foreign official; or

1 “(D) an official guest; or

2 “(2) refuses to depart from such portion of
3 such building or premises after a request—

4 “(A) by an employee of a foreign govern-
5 ment or of an international organization, if
6 such employee is authorized to make such re-
7 quest by the senior official of the unit of such
8 government or organization which occupies such
9 portion of such building or premises;

10 “(B) by a foreign official or any member
11 of the foreign official’s staff who is authorized
12 by the foreign official to make such request;

13 “(C) by an official guest or any member of
14 the official guest’s staff who is authorized by
15 the official guest to make such request; or

16 “(D) by any person present having law en-
17 forcement powers;

18 shall be imprisoned not more than six months.

19 “(c) DEFINITIONS.—For purposes of this section, the
20 terms ‘foreign government’, ‘foreign official’, ‘inter-
21 national organization’, and ‘official guest’ have the same
22 meanings as those provided in section 136.

23 “SUBCHAPTER G—POSTAL SERVICE

“Sec.

“941. Obstruction of mails generally.

“942. Obstruction of correspondence.

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“944. Keys or locks stolen or reproduced.

- “945. Destruction of letter boxes or mail.
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- “947. Theft or receipt of stolen mail matter generally.
- “948. Theft of mail matter by officer or employee.
- “949. Misappropriation of postal funds.
- “950. Injurious articles as nonmailable.
- “951. Tobacco products as nonmailable.
- “952. Franking privilege.

1 **“§ 941. Obstruction of mails generally**

2 “Whoever knowingly obstructs the passage of the
3 mail, or any carrier or conveyance carrying the mail, shall
4 be imprisoned not more than six months.

5 **“§ 942. Obstruction of correspondence**

6 “Whoever takes any letter, postal card, or package
7 out of any post office or any authorized depository for mail
8 matter, or from any letter or mail carrier, or which has
9 been in any post office or authorized depository, or in the
10 custody of any letter or mail carrier, before it has been
11 delivered to the person to whom it was directed, with in-
12 tent to obstruct the correspondence, or to pry into the
13 business or secrets of another, or opens, secretes, embez-
14 zles, or destroys the same, shall be imprisoned not more
15 than five years.

16 **“§ 943. Delay or destruction of mail or newspapers**

17 “(a) MAIL MATTER.—Whoever, being a Postal Serv-
18 ice officer or employee, unlawfully secretes, destroys, de-
19 tains, delays, or opens any letter, postal card, package,
20 bag, or mail entrusted to that officer or employee or which
21 shall come into his or her possession, and which was in-

1 tended to be conveyed by mail, or carried or delivered by
2 any carrier or other employee of the Postal Service, or for-
3 warded through or delivered from any post office or sta-
4 tion thereof established by authority of the Postmaster
5 General or the Postal Service, shall be imprisoned not
6 more than five years.

7 “(b) NEWSPAPER.—Whoever, being a Postal Service
8 officer or employee, improperly detains, delays, or destroys
9 any newspaper, or permits any other person to detain,
10 delay, or destroy the same, or opens, or permits any other
11 person to open, any mail or package of newspapers not
12 directed to the office where he is employed.

13 “(c) BY ANY PERSON.—Whoever, without authority,
14 opens or destroys any mail or package of newspapers not
15 directed to him, shall be imprisoned not more than one
16 year.

17 **“§ 944. Keys or locks stolen or reproduced**

18 “Whoever—

19 “(1) steals, purloins, embezzles, or obtains by
20 false pretense any key suited to any lock adopted by
21 the Post Office Department or the Postal Service
22 and in use on any of the mails or bags thereof, or
23 any key to any lock box, lock drawer, or other au-
24 thorized receptacle for the deposit or delivery of mail
25 matter;

1 “(2) knowingly and unlawfully makes, forges,
2 or counterfeits any such key, or possesses any such
3 mail lock or key with the intent unlawfully or im-
4 properly to use, sell, or otherwise dispose of the
5 same, or to cause the same to be unlawfully or im-
6 properly used, sold, or otherwise disposed of; or

7 “(3) being engaged as a contractor or otherwise
8 in the manufacture of any such mail lock or key, de-
9 livers any finished or unfinished lock or the interior
10 part thereof, or key, used or designed for use by the
11 department, to any person not duly authorized under
12 the hand of the Postmaster General and the seal of
13 the Post Office Department or the Postal Service, to
14 receive the same, unless the person receiving it is the
15 contractor for furnishing the same or engaged in the
16 manufacture thereof in the manner authorized by
17 the contract, or the agent of such manufacturer;
18 shall be imprisoned not more than ten years.

19 **“§ 945. Destruction of letter boxes or mail**

20 “Whoever knowingly injures, tears down, or destroys
21 any letter box or other receptacle intended or used for the
22 receipt or delivery of mail on any mail route, or breaks
23 open the same or knowingly injures, defaces, or destroys
24 any mail deposited therein, shall be imprisoned not more
25 than three years.

1 **“§ 946. Theft of property used by Postal Service**

2 “Whoever steals, purloins, or embezzles any property
3 used by the Postal Service, or appropriates any such prop-
4 erty to any other than its proper use, or conveys away
5 any such property to the hindrance or detriment of the
6 public service, shall be imprisoned not more than three
7 years, but if the value of such property does not exceed
8 \$1,000, the offender shall be imprisoned not more than
9 one year.

10 **“§ 947. Theft or receipt of stolen mail matter gen-**
11 **erally**

12 “Whoever—

13 “(1) steals, takes, or abstracts, or by fraud or
14 deception obtains, or attempts so to obtain, from or
15 out of any mail, post office, or station thereof, letter
16 box, mail receptacle, or any mail route or other au-
17 thorized depository for mail matter, or from a letter
18 or mail carrier, any letter, postal card, package, bag,
19 or mail, or abstracts or removes from any such let-
20 ter, package, bag, or mail, any article or thing con-
21 tained therein, or secretes, embezzles, or destroys
22 any such letter, postal card, package, bag, or mail,
23 or any article or thing contained therein;

24 “(2) steals, takes, or abstracts, or by fraud or
25 deception obtains any letter, postal card, package,
26 bag, or mail, or any article or thing contained there-

1 in which has been left for collection upon or adjacent
2 to a collection box or other authorized depository of
3 mail matter; or

4 “(3) buys, receives, or conceals, or unlawfully
5 has in his possession, any letter, postal card, pack-
6 age, bag, or mail, or any article or thing contained
7 therein, which has been so stolen, taken, embezzled,
8 or abstracted, as herein described, knowing the same
9 to have been stolen, taken, embezzled, or abstracted;
10 shall be imprisoned not more than five years.

11 **“§ 948. Theft of mail matter by officer or employee**

12 “Whoever, being a Postal Service officer or employee,
13 embezzles any letter, postal card, package, bag, or mail,
14 or any article or thing contained therein entrusted to him
15 or which comes into his possession intended to be conveyed
16 by mail, or carried or delivered by any carrier, messenger,
17 agent, or other person employed in any department of the
18 Postal Service, or forwarded through or delivered from
19 any post office or station thereof established by authority
20 of the Postmaster General or of the Postal Service; or
21 steals, abstracts, or removes from any such letter, pack-
22 age, bag, or mail, any article or thing contained therein,
23 shall be imprisoned not more than five years.

1 **“§ 949. Misappropriation of postal funds**

2 “(a) OFFENSE.—Whoever, being a Postal Service of-
3 ficer or employee, loans, uses, pledges, hypothecates, or
4 converts to his own use, or deposits in any bank, or ex-
5 changes for other funds or property, except as authorized
6 by law, any money or property coming into his hands or
7 under his control in any manner, in the execution or under
8 color of his office, employment, or service, whether or not
9 the same shall be the money or property of the United
10 States; or fails or refuses to remit to or deposit in the
11 Treasury of the United States or in a designated deposi-
12 tory, or to account for or turn over to the proper officer
13 or agent, any such money or property, when required to
14 do so by law or the regulations of the Postal Service, or
15 upon demand or order of the Postal Service, either directly
16 or through a duly authorized officer or agent, is guilty
17 of embezzlement; and every such person, as well as every
18 other person advising or knowingly participating therein,
19 shall be imprisoned not more than ten years; but if the
20 amount or value thereof does not exceed \$1,000, he shall
21 be imprisoned not more than one year.

22 “(b) EXCLUSION.—This section does not prohibit any
23 Postal Service officer or employee from depositing, under
24 the direction of the Postal Service, in a national bank des-
25 ignated by the Secretary of the Treasury for that purpose,
26 to his own credit as Postal Service officer or employee any

1 funds in his charge, nor prevent his negotiating drafts or
2 other evidences of debt through such bank, or through
3 United States disbursing officers, or otherwise, when in-
4 structed or required so to do by the Postal Service, for
5 the purpose of remitting surplus funds from one post of-
6 fice to another.

7 **“§ 950. Injurious articles as nonmailable**

8 “(a) IN GENERAL.—All kinds of poison, and all arti-
9 cles and compositions containing poison, and all poisonous
10 animals, insects, reptiles, and all explosives, inflammable
11 materials, infernal machines, and mechanical, chemical, or
12 other devices or compositions which may ignite or explode,
13 including firearms, and all disease germs or scabs, and
14 all other natural or artificial articles, compositions, or ma-
15 terial which may kill or injure another, or injure the mails
16 or other property, whether or not sealed as first-class mat-
17 ter, are nonmailable matter and shall not be conveyed in
18 the mails or delivered from any post office or station
19 thereof, nor by any officer or employee of the Postal Serv-
20 ice.

21 “(b) EXCEPTIONS.—The Postal Service may permit
22 the transmission in the mails, under such rules and regu-
23 lations as it shall prescribe as to preparation and packing,
24 of any such articles which are not outwardly or of their

1 own force dangerous or injurious to life, health, or prop-
2 erty.

3 “(c) SCORPIONS.—The Postal Service is authorized
4 and directed to permit the transmission in the mails,
5 under regulations to be prescribed by it, of live scorpions
6 which are to be used for purposes of medical research or
7 for the manufacture of antivenom. Such regulations shall
8 include such provisions with respect to the packaging of
9 such live scorpions for transmission in the mails as the
10 Postal Service deems necessary or desirable for the protec-
11 tion of Postal Service personnel and of the public generally
12 and for ease of handling by such personnel and by any
13 individual connected with such research or manufacture.
14 Nothing in this paragraph shall be construed to authorize
15 the transmission in the mails of live scorpions by means
16 of aircraft engaged in the carriage of passengers for com-
17 pensation or hire.

18 “(d) POISONOUS DRUGS AND MEDICINES.—The
19 transmission in the mails of poisonous drugs and medi-
20 cines may be limited by the Postal Service to shipments
21 of such articles from the manufacturer thereof or dealer
22 therein to licensed physicians, surgeons, dentists, phar-
23 macists, druggists, cosmetologists, barbers, and veterinar-
24 ians under such rules and regulations as it shall prescribe.

1 “(e) POISONS FOR SCIENTIFIC USE.—The trans-
2 mission in the mails of poisons for scientific use, and
3 which are not outwardly dangerous or of their own force
4 dangerous or injurious to life, health, or property, may
5 be limited by the Postal Service to shipments of such arti-
6 cles between the manufacturers thereof, dealers therein,
7 bona fide research or experimental scientific laboratories,
8 and such other persons who are employees of the Federal,
9 a State, or local government, whose official duties are
10 comprised, in whole or in part, of the use of such poisons,
11 and who are designated by the head of the agency in which
12 they are employed to receive or send such articles, under
13 such rules and regulations as the Postal Service shall pre-
14 scribe.

15 “(f) INTOXICATING LIQUORS.—All spirituous, vinous,
16 malted, fermented, or other intoxicating liquors of any
17 kind are nonmailable and shall not be deposited in or car-
18 ried through the mails.

19 “(g) KNIVES.—All knives having a blade which opens
20 automatically (1) by hand pressure applied to a button
21 or other device in the handle of the knife, or (2) by oper-
22 ation of inertia, gravity, or both, are nonmailable and shall
23 not be deposited in or carried by the mails or delivered
24 by any officer or employee of the Postal Service. Such

1 knives may be conveyed in the mails, under such regula-
2 tions as the Postal Service shall prescribe—

3 “(1) to civilian or Armed Forces supply or pro-
4 curement officers and employees of the Federal Gov-
5 ernment ordering, procuring, or purchasing such
6 knives in connection with the activities of the Fed-
7 eral Government;

8 “(2) to supply or procurement officers of the
9 National Guard, the Air National Guard, or militia
10 of a State ordering, procuring, or purchasing such
11 knives in connection with the activities of such orga-
12 nizations;

13 “(3) to supply or procurement officers or em-
14 ployees of any State, or any political subdivision of
15 a State, ordering, procuring, or purchasing such
16 knives in connection with the activities of such gov-
17 ernment; and

18 “(4) to manufacturers of such knives or bona
19 fide dealers therein in connection with any shipment
20 made pursuant to an order from any person des-
21 ignated in paragraphs (1), (2), and (3).

22 The Postal Service may require, as a condition of con-
23 veying any such knife in the mails, that any person pro-
24 posing to mail such knife explain in writing to the satisfac-

1 tion of the Postal Service that the mailing of such knife
2 will not be in violation of this section.

3 “(h) ADVERTISING, PROMOTIONAL, OR SALES MAT-
4 TER.—Any advertising, promotional, or sales matter which
5 solicits or induces the mailing of anything declared non-
6 mailable by this section is likewise nonmailable unless such
7 matter contains wrapping or packaging instructions which
8 are in accord with regulations promulgated by the Postal
9 Service.

10 “(i) BALLISTIC KNIVES.—

11 “(1) GENERALLY.—Any ballistic knife shall be
12 subject to the same restrictions and penalties pro-
13 vided under subsection (g) for knives described in
14 the first sentence of that subsection.

15 “(2) DEFINITION.—As used in this subsection,
16 the term ‘ballistic knife’ means a knife with a de-
17 tachable blade that is propelled by a spring-operated
18 mechanism.

19 “(j) OFFENSES.—

20 “(1) COMPLIANCE WITH RULES AND REGULA-
21 TIONS.—Whoever knowingly deposits for mailing or
22 delivery, or knowingly causes to be delivered by mail,
23 according to the direction thereon, or at any place
24 at which it is directed to be delivered by the person
25 to whom it is addressed, anything declared non-

1 mailable by this section, unless in accordance with
2 the rules and regulations authorized to be prescribed
3 by the Postal Service, shall be imprisoned not more
4 than one year.

5 “(2) WITH INTENT TO KILL OR INJURE AN-
6 OTHER OR TO INJURE THE MAILS OR PROPERTY.—
7 Whoever knowingly deposits for mailing or delivery,
8 or knowingly causes to be delivered by mail, accord-
9 ing to the direction thereon or at any place to which
10 it is directed to be delivered by the person to whom
11 it is addressed, anything declared nonmailable by
12 this section, whether or not transmitted in accord-
13 ance with the rules and regulations authorized to be
14 prescribed by the Postal Service, with intent to kill
15 or injure another, or injure the mails or other prop-
16 erty, shall be imprisoned not more than twenty
17 years.

18 “(3) DEATH PENALTY.—Whoever is convicted
19 of any crime prohibited by this section, which has
20 resulted in the death of any person, shall be subject
21 also to the death penalty or to imprisonment for life.

22 **“§ 951. Tobacco products as nonmailable**

23 “(a) PROHIBITION.—

24 “(1) IN GENERAL.—All cigarettes and smoke-
25 less tobacco (as those terms are defined in section

1 1 of the Act of October 19, 1949, commonly referred
2 to as the Jenkins Act) are nonmailable and shall not
3 be deposited in or carried through the mails. The
4 United States Postal Service shall not accept for de-
5 livery or transmit through the mails any package
6 that it knows or has reasonable cause to believe con-
7 tains any cigarettes or smokeless tobacco made non-
8 mailable by this paragraph.

9 “(2) REASONABLE CAUSE.—For the purposes
10 of this subsection reasonable cause includes—

11 “(A) a statement on a publicly available
12 website, or an advertisement, by any person
13 that the person will mail matter which is non-
14 mailable under this section in return for pay-
15 ment; or

16 “(B) the fact that the person is on the list
17 created under section 2A(e) of the Jenkins Act.

18 “(b) EXCEPTIONS.—

19 “(1) CIGARS.—Subsection (a) does not apply to
20 cigars (as defined in section 5702(a) of the Internal
21 Revenue Code of 1986).

22 “(2) GEOGRAPHIC EXCEPTION.—Subsection (a)
23 does not apply to mailings within the State of Alas-
24 ka or within the State of Hawaii.

25 “(3) BUSINESS PURPOSES.—

1 “(A) IN GENERAL.—Subsection (a) does
2 not apply to tobacco products mailed only—

3 “(i) for business purposes between le-
4 gally operating businesses that have all ap-
5 plicable State and Federal Government li-
6 censes or permits and are engaged in to-
7 bacco product manufacturing, distribution,
8 wholesale, export, import, testing, inves-
9 tigation, or research; or

10 “(ii) for regulatory purposes between
11 any business described in clause (i) and an
12 agency of the Federal Government or a
13 State government.

14 “(B) RULES.—

15 “(i) IN GENERAL.—The Postmaster
16 General shall by rule establish the stand-
17 ards and requirements that apply to all
18 mailings described in subparagraph (A).

19 “(ii) CONTENTS.—The rules issued
20 under clause (i) shall require—

21 “(I) the United States Postal
22 Service to verify that any person sub-
23 mitting an otherwise nonmailable to-
24 bacco product into the mails as au-
25 thorized under this paragraph is a

1 business or government agency per-
2 mitted to make a mailing under this
3 paragraph;

4 “(II) the United States Postal
5 Service to ensure that any recipient of
6 an otherwise nonmailable tobacco
7 product sent through the mails under
8 this paragraph is a business or gov-
9 ernment agency that may lawfully re-
10 ceive the product;

11 “(III) that any mailing described
12 in subparagraph (A) shall be sent
13 through the systems of the United
14 States Postal Service that provide for
15 the tracking and confirmation of the
16 delivery;

17 “(IV) that the identity of the
18 business or government entity submit-
19 ting the mailing containing otherwise
20 nonmailable tobacco products for de-
21 livery and the identity of the business
22 or government entity receiving the
23 mailing are clearly set forth on the
24 package;

1 “(V) the United States Postal
2 Service to maintain identifying infor-
3 mation described in subclause (IV)
4 during the 3-year period beginning on
5 the date of the mailing and make the
6 information available to the Postal
7 Service, the Attorney General of the
8 United States, and to persons eligible
9 to bring enforcement actions under
10 section 4(d) of the Jenkins Act;

11 “(VI) that any mailing described
12 in subparagraph (A) be marked with
13 a United States Postal Service label
14 or marking that makes it clear to em-
15 ployees of the United States Postal
16 Service that it is a permitted mailing
17 of otherwise nonmailable tobacco
18 products that may be delivered only to
19 a permitted government agency or
20 business and may not be delivered to
21 any residence or individual person;
22 and

23 “(VII) that any mailing described
24 in subparagraph (A) be delivered only
25 to a verified employee of the recipient

1 business or government agency, who is
2 not a minor and who shall be required
3 to sign for the mailing.

4 “(C) DEFINITION.—In this paragraph, the
5 term ‘minor’ means an individual who is less
6 than the minimum age required for the legal
7 sale or purchase of tobacco products as deter-
8 mined by applicable law at the place the indi-
9 vidual is located.

10 “(4) CERTAIN INDIVIDUALS.—

11 “(A) IN GENERAL.—Subsection (a) does
12 not apply to tobacco products mailed by individ-
13 uals who are not minors for noncommercial
14 purposes, including the return of a damaged or
15 unacceptable tobacco product to the manufac-
16 turer.

17 “(B) RULES.—

18 “(i) IN GENERAL.—The Postmaster
19 General shall by rule establish the stand-
20 ards and requirements that apply to all
21 mailings described in subparagraph (A).

22 “(ii) CONTENTS.—The rules issued
23 under clause (i) shall require—

24 “(I) the United States Postal
25 Service to verify that any person sub-

1 mitting an otherwise nonmailable to-
2 bacco product into the mails as au-
3 thorized under this paragraph is the
4 individual identified on the return ad-
5 dress label of the package and is not
6 a minor;

7 “(II) for a mailing to an indi-
8 vidual, the United States Postal Serv-
9 ice to require the person submitting
10 the otherwise nonmailable tobacco
11 product into the mails as authorized
12 by this paragraph to affirm that the
13 recipient is not a minor;

14 “(III) that any package mailed
15 under this paragraph shall weigh not
16 more than 10 ounces;

17 “(IV) that any mailing described
18 in subparagraph (A) shall be sent
19 through the systems of the United
20 States Postal Service that provide for
21 the tracking and confirmation of the
22 delivery;

23 “(V) that a mailing described in
24 subparagraph (A) shall not be deliv-
25 ered or placed in the possession of any

1 individual who has not been verified
2 as not being a minor;

3 “(VI) for a mailing described in
4 subparagraph (A) to an individual,
5 that the United States Postal Service
6 shall deliver the package only to a re-
7 cipient who is verified not to be a
8 minor at the recipient address or
9 transfer it for delivery to an Air/Army
10 Postal Office or Fleet Postal Office
11 number designated in the recipient
12 address; and

13 “(VII) that no person may ini-
14 tiate more than 10 mailings described
15 in subparagraph (A) during any 30-
16 day period.

17 “(C) DEFINITION.—In this paragraph, the
18 term ‘minor’ means an individual who is less
19 than the minimum age required for the legal
20 sale or purchase of tobacco products as deter-
21 mined by applicable law at the place the indi-
22 vidual is located.

23 “(5) EXCEPTION FOR MAILINGS FOR CONSUMER
24 TESTING BY MANUFACTURERS.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), subsection (a) does not preclude a
3 legally operating cigarette manufacturer or a le-
4 gally authorized agent of a legally operating
5 cigarette manufacturer from using the United
6 States Postal Service to mail cigarettes to
7 verified adult smoker solely for consumer test-
8 ing purposes, if—

9 “(i) the cigarette manufacturer has a
10 permit, in good standing, issued under sec-
11 tion 5713 of the Internal Revenue Code of
12 1986;

13 “(ii) the package of cigarettes mailed
14 under this paragraph contains not more
15 than 12 packs of cigarettes (240 ciga-
16 rettes);

17 “(iii) the recipient does not receive
18 more than 1 package of cigarettes from
19 any 1 cigarette manufacturer under this
20 paragraph during any 30-day period;

21 “(iv) all taxes on the cigarettes mailed
22 under this paragraph levied by the State
23 and locality of delivery are paid to the
24 State and locality before delivery, and tax
25 stamps or other tax-payment indicia are

1 affixed to the cigarettes as required by law;
2 and

3 “(v)(I) the recipient has not made any
4 payments of any kind in exchange for re-
5 ceiving the cigarettes;

6 “(II) the recipient is paid a fee
7 by the manufacturer or agent of the
8 manufacturer for participation in con-
9 sumer product tests; and

10 “(III) the recipient, in connection
11 with the tests, evaluates the cigarettes
12 and provides feedback to the manufac-
13 turer or agent.

14 “(B) LIMITATION.—Subparagraph (A)
15 does not permit a manufacturer, directly or
16 through a legally authorized agent, to mail ciga-
17 rettes in any calendar year in a total amount
18 greater than 1 percent of the total cigarette
19 sales of the manufacturer in the United States
20 during the calendar year before the date of the
21 mailing.

22 “(C) RULES.—

23 “(i) IN GENERAL.—The Postmaster
24 General shall by rule establish the stand-

1 ards and requirements that apply to all
2 mailings described in subparagraph (A).

3 “(ii) CONTENTS.—The rules issued
4 under clause (i) shall require—

5 “(I) the United States Postal
6 Service to verify that any person sub-
7 mitting a tobacco product into the
8 mails under this paragraph is a le-
9 gally operating cigarette manufacturer
10 permitted to make a mailing under
11 this paragraph, or an agent legally
12 authorized by the legally operating
13 cigarette manufacturer to submit the
14 tobacco product into the mails on be-
15 half of the manufacturer;

16 “(II) the legally operating ciga-
17 rette manufacturer submitting the
18 cigarettes into the mails under this
19 paragraph to affirm that—

20 “(aa) the manufacturer or
21 the legally authorized agent of
22 the manufacturer has verified
23 that the recipient is an adult es-
24 tablished smoker;

1 “(bb) the recipient has not
2 made any payment for the ciga-
3 rettes;

4 “(cc) the recipient has
5 signed a written statement that
6 is in effect indicating that the re-
7 cipient wishes to receive the mail-
8 ings; and

9 “(dd) the manufacturer or
10 the legally authorized agent of
11 the manufacturer has offered the
12 opportunity for the recipient to
13 withdraw the written statement
14 described in item (cc) not less
15 frequently than once in every 3-
16 month period;

17 “(III) the legally operating ciga-
18 rette manufacturer or the legally au-
19 thorized agent of the manufacturer
20 submitting the cigarettes into the
21 mails under this paragraph to affirm
22 that any package mailed under this
23 paragraph contains not more than 12
24 packs of cigarettes (240 cigarettes) on
25 which all taxes levied on the cigarettes

1 by the State and locality of delivery
2 have been paid and all related State
3 tax stamps or other tax-payment indi-
4 cia have been applied;

5 “(IV) that any mailing described
6 in subparagraph (A) shall be sent
7 through the systems of the United
8 States Postal Service that provide for
9 the tracking and confirmation of the
10 delivery;

11 “(V) the United States Postal
12 Service to maintain records relating to
13 a mailing described in subparagraph
14 (A) during the 3-year period begin-
15 ning on the date of the mailing and
16 make the information available to per-
17 sons enforcing this section;

18 “(VI) that any mailing described
19 in subparagraph (A) be marked with
20 a United States Postal Service label
21 or marking that makes it clear to em-
22 ployees of the United States Postal
23 Service that it is a permitted mailing
24 of otherwise nonmailable tobacco
25 products that may be delivered only to

1 the named recipient after verifying
2 that the recipient is an adult; and

3 “(VII) the United States Postal
4 Service shall deliver a mailing de-
5 scribed in subparagraph (A) only to
6 the named recipient and only after
7 verifying that the recipient is an
8 adult.

9 “(D) DEFINITIONS.—In this paragraph—

10 “(i) the term ‘adult’ means an indi-
11 vidual who is not less than 21 years of age;
12 and

13 “(ii) the term ‘consumer testing’
14 means testing limited to formal data collec-
15 tion and analysis for the specific purpose
16 of evaluating the product for quality assur-
17 ance and benchmarking purposes of ciga-
18 rette brands or sub-brands among existing
19 adult smokers.

20 “(6) FEDERAL GOVERNMENT AGENCIES.—An
21 agency of the Federal Government involved in the
22 consumer testing of tobacco products solely for pub-
23 lic health purposes may mail cigarettes under the
24 same requirements, restrictions, and rules and pro-
25 cedures that apply to consumer testing mailings of

1 cigarettes by manufacturers under paragraph (5),
2 except that the agency shall not be required to pay
3 the recipients for participating in the consumer test-
4 ing.

5 “(c) ADDITIONAL PENALTIES.—In addition to any
6 other fines and penalties under this title for violations of
7 this section, any person violating this section shall be sub-
8 ject to an additional civil penalty in the amount equal to
9 10 times the retail value of the nonmailable cigarettes or
10 smokeless tobacco, including all Federal, State, and local
11 taxes.

12 “(d) CRIMINAL PENALTY.—Whoever knowingly de-
13 posits for mailing or delivery, or knowingly causes to be
14 delivered by mail, according to the direction thereon, or
15 at any place at which it is directed to be delivered by the
16 person to whom it is addressed, anything that is non-
17 mailable matter under this section shall be fined under
18 this title, imprisoned not more than 1 year, or both.

19 “(e) ACTIONS BY STATE, LOCAL, OR TRIBAL GOV-
20 ERNMENTS RELATING TO CERTAIN TOBACCO PROD-
21 UCTS.—

22 “(1) IN GENERAL.—A State, through its attor-
23 ney general, or a local government or Indian tribe
24 that levies an excise tax on tobacco products,
25 through its chief law enforcement officer, may in a

1 civil action in a United States district court obtain
2 appropriate relief with respect to a violation of this
3 section. Appropriate relief includes injunctive and
4 equitable relief and damages equal to the amount of
5 unpaid taxes on tobacco products mailed in violation
6 of this section to addressees in that State, locality,
7 or tribal land.

8 “(2) SOVEREIGN IMMUNITY.—Nothing in this
9 subsection abrogates or constitutes a waiver of any
10 sovereign immunity of a State or local government
11 or Indian tribe against any unconsented lawsuit
12 under paragraph (1), or otherwise to restrict, ex-
13 pand, or modify any sovereign immunity of a State
14 or local government or Indian tribe.

15 “(3) ATTORNEY GENERAL REFERRAL.—A
16 State, through its attorney general, or a local gov-
17 ernment or Indian tribe that levies an excise tax on
18 tobacco products, through its chief law enforcement
19 officer, may provide evidence of a violation of this
20 section for commercial purposes by any person not
21 subject to State, local, or tribal government enforce-
22 ment actions for violations of this section to the At-
23 torney General of the United States, who shall take
24 appropriate actions to enforce this section.

1 “(4) NONEXCLUSIVITY OF REMEDIES.—The
2 remedies available under this subsection are in addi-
3 tion to any other remedies available under Federal,
4 State, local, tribal, or other law. Nothing in this sub-
5 section shall be construed to expand, restrict, or oth-
6 erwise modify any right of an authorized State,
7 local, or tribal government official to proceed in a
8 State, tribal, or other appropriate court, or take
9 other enforcement actions, on the basis of an alleged
10 violation of State, local, tribal, or other law.

11 “(5) OTHER ENFORCEMENT ACTIONS.—Noth-
12 ing in this subsection shall be construed to prohibit
13 an authorized State official from proceeding in State
14 court on the basis of an alleged violation of any gen-
15 eral civil or criminal statute of the State.

16 **“§ 952. Franking privilege**

17 “Whoever makes use of any official envelope, label,
18 or indorsement authorized by law, to avoid the payment
19 of postage or registry fee on his private letter, packet,
20 package, or other matter in the mail, shall be fined under
21 this title.

22 “SUBCHAPTER H—SPECIAL MARITIME AND
23 TERRITORIAL JURISDICTION OF THE
24 UNITED STATES

“Sec.

“961. Laws of States adopted for areas within Federal jurisdiction.

1 **“§ 961. Laws of States adopted for areas within Fed-**
2 **eral jurisdiction**

3 “(a) OFFENSE.—Whoever, within the reserved or ac-
4 quired special maritime or territorial jurisdiction of the
5 United States, or on, above, or below any portion of the
6 territorial sea of the United States not within the jurisdic-
7 tion of any State, is guilty of any act or omission which,
8 although not made punishable by any enactment of Con-
9 gress, would be punishable if committed or omitted within
10 the jurisdiction of the State in which such place is situ-
11 ated, by the laws thereof in force at the time of such act
12 or omission, shall be guilty of a like offense and subject
13 to a like punishment.

14 “(b) OPERATING A MOTOR VEHICLE UNDER THE IN-
15 FLUENCE OF ALCOHOL.—

16 “(1) LIMITATION ON RIGHT OR PRIVILEGE TO
17 OPERATE A MOTOR VEHICLE.—Subject to para-
18 graph (2) and for purposes of subsection (a) of this
19 section, that which may or shall be imposed through
20 judicial or administrative action under the law of a
21 State for a conviction for operating a motor vehicle
22 under the influence of a drug or alcohol, shall be
23 considered to be a punishment provided by that law.
24 Any limitation on the right or privilege to operate a
25 motor vehicle imposed under this subsection shall

1 apply only to the special maritime and territorial ju-
2 risdiction of the United States.

3 “(2) ADDITIONAL PUNISHMENT.—In addition to any
4 term of imprisonment provided for operating a motor vehi-
5 cle under the influence of a drug or alcohol imposed under
6 the law of a State, the punishment for such an offense
7 under this section shall include an additional term of im-
8 prisonment of not more than 1 year, or if serious bodily
9 injury of a minor is caused, not more than 5 years, or
10 if death of a minor is caused, not more than 10 years,
11 and an additional fine under this title, or both, if—

12 “(A) a minor (other than the offender) was
13 present in the motor vehicle when the offense was
14 committed; and

15 “(B) the law of the State in which the offense
16 occurred does not provide an additional term of im-
17 prisonment under the circumstances described in
18 subparagraph (A).

19 “(c) TERRITORIAL SEA.—Whenever any waters of
20 the territorial sea of the United States lie outside the terri-
21 tory of any State, such waters (including the airspace
22 above and the seabed and subsoil below, and artificial is-
23 lands and fixed structures erected thereon) shall be
24 deemed, for purposes of subsection (a), to lie within the
25 area of the State that it would lie within if the boundaries

1 of such State were extended seaward to the outer limit
 2 of the territorial sea of the United States.

3 **“CHAPTER 29—CRIMES RELATED TO PRO-**
 4 **TECTION OF GOVERNMENT FUNC-**
 5 **TIONS AND INTEGRITY**

“Subchapter

“A. Bribery, graft, and conflicts of interest

“B. Claims and services in matters affecting government

“C. Contempts

“D. Elections and political activities

“E. Emblems, insignia, and names

“F. Escape and rescue

“G. False personation

“H. Fugitives from justice

“I. Obstruction of justice

“J. Prisons

“K. Public officers and employees

“L. Records and reports

“M. Searches and seizures

“N. Malicious mischief

“O. Public lands

“P. Restricted building or grounds

6 **“SUBCHAPTER A—BRIBERY, GRAFT, AND**
 7 **CONFLICTS OF INTEREST**

“Sec.

“991. Bribery of public officials and witnesses.

“992. Definitions for certain sections.

“993. Compensation to Members of Congress, officers, and others in matters af-
 fecting the Government.

“994. Practice in United States Court of Federal Claims or the United States
 Court of Appeals for the Federal circuit by Members of Con-
 gress.

“995. Activities of officers and employees in claims against and other matters
 affecting the Government.

“996. Exemption of retired officers of the uniformed services.

“997. Restrictions on former officers, employees, and elected officials of the Ex-
 ecutive and legislative branches.

“998. Acts affecting a personal financial interest.

“999. Salary of Government officials and employees payable only by United
 States.

“1000. Offer to procure appointive public office.

“1001. Acceptance or solicitation to obtain appointive public office.

“1002. Offer or acceptance of loan or gratuity.

“1003. Receipt of commissions or gifts for procuring loans.

“1004. Penalties and injunctions.

“1005. Voiding transactions in violation of subchapter; recovery by the United States.

“1006. Officers and employees acting as agents of foreign principals.

“1007. Bribery in sporting contests.

“1008. Continuing financial crimes enterprise.

1 **“§ 991. Bribery of public officials and witnesses**

2 “(a) DEFINITIONS.—As used in this section—

3 “(1) the term ‘public official’ means Member of
4 Congress, Delegate, or Resident Commissioner, ei-
5 ther before or after such official has qualified, or an
6 officer or employee or person acting for or on behalf
7 of the United States, or any department, agency or
8 branch of Government thereof, including the District
9 of Columbia, in any official function, under or by
10 authority of any such department, agency, or branch
11 of Government, or a juror;

12 “(2) the term ‘person who has been selected to
13 be a public official’ means any person who has been
14 nominated or appointed to be a public official, or
15 has been officially informed that such person will be
16 so nominated or appointed; and

17 “(3) the term ‘official act’ means any decision
18 or action on any question, matter, cause, suit, pro-
19 ceeding or controversy, which may at any time be
20 pending, or which may by law be brought before any
21 public official, in such official’s official capacity, or
22 in such official’s place of trust or profit.

23 “(b) BRIBERY.—Whoever—

1 “(1) corruptly gives, offers or promises any-
2 thing of value to any public official or person who
3 has been selected to be a public official, or offers or
4 promises any public official or any person who has
5 been selected to be a public official to give anything
6 of value to any other person or entity, with intent—

7 “(A) to influence any official act; or

8 “(B) to influence such public official or
9 person who has been selected to be a public of-
10 ficial to commit or aid in committing, or collude
11 in, or allow, any fraud, or make opportunity for
12 the commission of any fraud, on the United
13 States; or

14 “(C) to induce such public official or such
15 person who has been selected to be a public of-
16 ficial to do or omit to do any act in violation
17 of the lawful duty of such official or person;

18 “(2) being a public official or person selected to
19 be a public official, corruptly demands, seeks, re-
20 ceives, accepts, or agrees to receive or accept any-
21 thing of value personally or for any other person or
22 entity, in return for—

23 “(A) being influenced in the performance
24 of any official act;

1 “(B) being influenced to commit or aid in
2 committing, or to collude in, or allow, any
3 fraud, or make opportunity for the commission
4 of any fraud on the United States; or

5 “(C) being induced to do or omit to do any
6 act in violation of the official duty of such offi-
7 cial or person;

8 “(3) corruptly gives, offers, or promises any-
9 thing of value to any person, or offers or promises
10 such person to give anything of value to any other
11 person or entity, with intent to influence the testi-
12 mony under oath or affirmation of such first-men-
13 tioned person as a witness upon a trial, hearing, or
14 other proceeding, before any court, any committee of
15 either House or both Houses of Congress, or any
16 agency, commission, or officer authorized by the
17 laws of the United States to hear evidence or take
18 testimony, or with intent to influence such person to
19 absent himself therefrom; or

20 “(4) corruptly demands, seeks, receives, ac-
21 cepts, or agrees to receive or accept anything of
22 value personally or for any other person or entity in
23 return for being influenced in testimony under oath
24 or affirmation as a witness upon any such trial,

1 hearing, or other proceeding, or in return for absent-
2 ing himself therefrom;
3 shall be imprisoned for not more than fifteen years and
4 may be disqualified from holding any office of honor,
5 trust, or profit under the United States.

6 “(c) UNLAWFUL REWARDS.—Whoever—

7 “(1) otherwise than as provided by law for the
8 proper discharge of official duty—

9 “(A) gives, offers, or promises anything of
10 value to any public official, former public offi-
11 cial, or person selected to be a public official,
12 for or because of any official act performed or
13 to be performed by such public official, former
14 public official, or person selected to be a public
15 official; or

16 “(B) being a public official, former public
17 official, or person selected to be a public offi-
18 cial, otherwise than as provided by law for the
19 proper discharge of official duty, demands,
20 seeks, receives, accepts, or agrees to receive or
21 accept anything of value personally for or be-
22 cause of any official act performed or to be per-
23 formed by such official or person;

24 “(2) gives, offers, or promises anything of value
25 to any person, for or because of the testimony under

1 oath or affirmation given or to be given by such per-
2 son as a witness upon a trial, hearing, or other pro-
3 ceeding, before any court, any committee of either
4 House or both Houses of Congress, or any agency,
5 commission, or officer authorized by the laws of the
6 United States to hear evidence or take testimony, or
7 for or because of such person's absence therefrom;

8 “(3) demands, seeks, receives, accepts, or
9 agrees to receive or accept anything of value person-
10 ally for or because of the testimony under oath or
11 affirmation given or to be given by such person as
12 a witness upon any such trial, hearing, or other pro-
13 ceeding, or for or because of such person's absence
14 therefrom;

15 shall be imprisoned for not more than two years.

16 “(d) EXCLUSION.—Paragraphs (3) and (4) of sub-
17 section (b) and paragraphs (2) and (3) of subsection (c)
18 shall not be construed to prohibit the payment or receipt
19 of witness fees provided by law, or the payment, by the
20 party upon whose behalf a witness is called and receipt
21 by a witness, of the reasonable cost of travel and subsist-
22 ence incurred and the reasonable value of time lost in at-
23 tendance at any such trial, hearing, or proceeding, or in
24 the case of expert witnesses, a reasonable fee for time

1 spent in the preparation of such opinion, and in appearing
2 and testifying.

3 **“§ 992. Definitions for certain sections**

4 “(a) SECTIONS 993, 995, 997, 998, AND 999.—For
5 the purpose of sections 993, 995, 997, 998, and 999 the
6 term ‘special Government employee’ means—

7 “(1) an officer or employee of the executive or
8 legislative branch of the United States Government,
9 of any independent agency of the United States or
10 of the District of Columbia, who is retained, des-
11 ignated, appointed, or employed to perform, with or
12 without compensation, for not to exceed one 130
13 during any period of 365 consecutive days, tem-
14 porary duties either on a full-time or intermittent
15 basis, a part-time United States commissioner, a
16 part-time United States magistrate judge, or, re-
17 gardless of the number of days of appointment, an
18 independent counsel appointed under chapter 40 of
19 title 28 and any person appointed by that inde-
20 pendent counsel under section 594(c) of title 28;

21 “(2) every person serving as a part-time local
22 representative of a Member of Congress in the Mem-
23 ber’s home district or State; and

24 “(3) notwithstanding sections 502, 2105(d),
25 and 5534 of title 5, a Reserve officer of the Armed

1 Forces, or an officer of the National Guard of the
2 United States, unless otherwise an officer or em-
3 ployee of the United States, while on active duty
4 solely for training;

5 except that a Reserve officer of the Armed Forces or an
6 officer of the National Guard of the United States who
7 is voluntarily serving a period of extended active duty in
8 excess of 130 days shall be classified as an officer of the
9 United States within the meaning of section 993 and sec-
10 tions 995 through 999 and 1005, and a Reserve officer
11 of the Armed Forces or an officer of the National Guard
12 of the United States who is serving involuntarily shall be
13 classified as a special Government employee. The terms
14 ‘officer or employee’ and ‘special Government employee’
15 as used in sections 993, 995, 997 through 999, and 1005,
16 does not include enlisted members of the Armed Forces.

17 “(b) SECTIONS 995 AND 997.—For the purposes of
18 sections 995 and 997, the term ‘official responsibility’
19 means the direct administrative or operating authority,
20 whether intermediate or final, and either exercisable alone
21 or with others, and either personally or through subordi-
22 nates, to approve, disapprove, or otherwise direct Govern-
23 ment action.

24 “(c) EXCLUSION FROM ‘OFFICER’ AND ‘EM-
25 PLOYEE’.—Except as otherwise provided in such sections,

1 the terms ‘officer’ and ‘employee’ in sections 993, 995,
2 997 through 999, and 1005 does not include the Presi-
3 dent, the Vice President, a Member of Congress, or a Fed-
4 eral judge.

5 “(d) ‘MEMBER OF CONGRESS’.—The term ‘Member
6 of Congress’ in sections 994 and 997 means—

7 “(1) a United States Senator; and

8 “(2) a Representative in, or a Delegate or Resi-
9 dent Commissioner to, the House of Representatives.

10 “(e) ADDITIONAL DEFINITIONS.—As used in this
11 subchapter—

12 “(1) the term ‘executive branch’ includes each
13 executive agency as defined in title 5, and any other
14 entity or administrative unit in the executive branch;

15 “(2) the term ‘judicial branch’ means the Su-
16 preme Court of the United States; the United States
17 courts of appeals; the United States district courts;
18 the Court of International Trade; the United States
19 bankruptcy courts; any court created pursuant to ar-
20 ticle I of the United States Constitution, including
21 the Court of Appeals for the Armed Forces, the
22 United States Court of Federal Claims, and the
23 United States Tax Court, but not including a court
24 of a territory or possession of the United States; the

1 Federal Judicial Center; and any other agency, of-
2 fice, or entity in the judicial branch; and

3 “(3) the term ‘legislative branch’ means—

4 “(A) the Congress; and

5 “(B) the Office of the Architect of the
6 Capitol, the United States Botanic Garden, the
7 Government Accountability Office, the Govern-
8 ment Printing Office, the Library of Congress,
9 the Office of Technology Assessment, the Con-
10 gressional Budget Office, the United States
11 Capitol Police, and any other agency, entity, of-
12 fice, or commission established in the legislative
13 branch.

14 **“§ 993. Compensation to Members of Congress, offi-
15 cers, and others in matters affecting the
16 Government**

17 “(a) FEDERAL MATTERS.—Whoever, otherwise than
18 as provided by law for the proper discharge of official du-
19 ties—

20 “(1) demands, seeks, receives, accepts, or
21 agrees to receive or accept any compensation for any
22 representational services, as agent or attorney or
23 otherwise, rendered or to be rendered either person-
24 ally or by another—

1 “(A) at a time when such person is a
2 Member of Congress, Member of Congress
3 Elect, Delegate, Delegate Elect, Resident Com-
4 missioner, or Resident Commissioner Elect; or

5 “(B) at a time when such person is an offi-
6 cer or employee or Federal judge of the United
7 States in the executive, legislative, or judicial
8 branch of the Government, or in any agency of
9 the United States,

10 in relation to any proceeding, application, request
11 for a ruling or other determination, contract, claim,
12 controversy, charge, accusation, arrest, or other par-
13 ticular matter in which the United States is a party
14 or has a direct and substantial interest, before any
15 department, agency, court, court-martial, officer, or
16 any civil, military, or naval commission; or

17 “(2) knowingly gives, promises, or offers any
18 compensation for any such representational services
19 rendered or to be rendered at a time when the per-
20 son to whom the compensation is given, promised, or
21 offered, is or was such a Member, Member Elect,
22 Delegate, Delegate Elect, Commissioner, Commis-
23 sioner Elect, Federal judge, officer, or employee;
24 shall be subject to the penalties set forth in section 1004.

1 “(b) DISTRICT OF COLUMBIA.—Whoever, otherwise
2 than as provided by law for the proper discharge of official
3 duties—

4 “(1) demands, seeks, receives, accepts, or
5 agrees to receive or accept any compensation for any
6 representational services, as agent or attorney or
7 otherwise, rendered or to be rendered either person-
8 ally or by another, at a time when such person is an
9 officer or employee of the District of Columbia, in
10 relation to any proceeding, application, request for a
11 ruling or other determination, contract, claim, con-
12 troversy, charge, accusation, arrest, or other par-
13 ticular matter in which the District of Columbia is
14 a party or has a direct and substantial interest, be-
15 fore any department, agency, court, officer, or com-
16 mission; or

17 “(2) knowingly gives, promises, or offers any
18 compensation for any such representational services
19 rendered or to be rendered at a time when the per-
20 son to whom the compensation is given, promised, or
21 offered, is or was an officer or employee of the Dis-
22 trict of Columbia;

23 shall be subject to the penalties set forth in section 1004.

24 “(c) SPECIAL GOVERNMENT EMPLOYEES.—A special
25 Government employee shall be subject to subsections (a)

1 and (b) only in relation to a particular matter involving
2 a specific party or parties—

3 “(1) in which such employee has at any time
4 participated personally and substantially as a Gov-
5 ernment employee or as a special Government em-
6 ployee through decision, approval, disapproval, rec-
7 ommendation, the rendering of advice, investigation
8 or otherwise; or

9 “(2) which is pending in the department or
10 agency of the Government in which such employee is
11 serving except that paragraph (2) of this subsection
12 does not apply in the case of a special Government
13 employee who has served in such department or
14 agency no more than sixty days during the imme-
15 diately preceding period of three hundred and sixty-
16 five consecutive days.

17 “(d) EXCLUSION.—Nothing in this section prevents
18 an officer or employee, including a special Government
19 employee, from acting, with or without compensation, as
20 agent or attorney for or otherwise representing his par-
21 ents, spouse, child, or any person for whom, or for any
22 estate for which, he is serving as guardian, executor, ad-
23 ministrator, trustee, or other personal fiduciary except—

24 “(1) in those matters in which he has partici-
25 pated personally and substantially as a Government

1 employee or as a special Government employee
2 through decision, approval, disapproval, rec-
3 ommendation, the rendering of advice, investigation,
4 or otherwise; or

5 “(2) in those matters that are the subject of his
6 official responsibility,
7 subject to approval by the Government official responsible
8 for appointment to his position.

9 “(e) CERTIFICATION OF NATIONAL INTEREST.—
10 Nothing in this section prevents a special Government em-
11 ployee from acting as agent or attorney for another person
12 in the performance of work under a grant by, or a contract
13 with or for the benefit of, the United States if the head
14 of the department or agency concerned with the grant or
15 contract certifies in writing that the national interest so
16 requires and publishes such certification in the Federal
17 Register.

18 “(f) TESTIMONY AND STATEMENTS.—Nothing in this
19 section prevents an individual from giving testimony under
20 oath or from making statements required to be made
21 under penalty of perjury.

1 **“§ 994. Practice in United States Court of Federal**
2 **Claims or the United States Court of Ap-**
3 **peals for the Federal circuit by Members**
4 **of Congress**

5 “Whoever, being a Member of Congress or Member
6 of Congress Elect, practices in the United States Court
7 of Federal Claims or the United States Court of Appeals
8 for the Federal Circuit shall be subject to the penalties
9 set forth in section 1004.

10 **“§ 995. Activities of officers and employees in claims**
11 **against and other matters affecting the**
12 **Government**

13 “(a) FEDERAL MATTERS.—Whoever, being an officer
14 or employee of the United States in the executive, legisla-
15 tive, or judicial branch of the Government or in any agen-
16 cy of the United States, other than in the proper discharge
17 of his official duties—

18 “(1) acts as agent or attorney for prosecuting
19 any claim against the United States, or receives any
20 gratuity, or any share of or interest in any such
21 claim, in consideration of assistance in the prosecu-
22 tion of such claim; or

23 “(2) acts as agent or attorney for anyone before
24 any department, agency, court, court-martial, offi-
25 cer, or civil, military, or naval commission in connec-
26 tion with any covered matter in which the United

1 States is a party or has a direct and substantial in-
2 terest;

3 shall be subject to the penalties set forth in section 1004.

4 “(b) DISTRICT OF COLUMBIA.—Whoever, being an
5 officer or employee of the District of Columbia or an offi-
6 cer or employee of the Office of the United States Attor-
7 ney for the District of Columbia, otherwise than in the
8 proper discharge of official duties—

9 “(1) acts as agent or attorney for prosecuting
10 any claim against the District of Columbia, or re-
11 ceives any gratuity, or any share of or interest in
12 any such claim in consideration of assistance in the
13 prosecution of such claim; or

14 “(2) acts as agent or attorney for anyone before
15 any department, agency, court, officer, or commis-
16 sion in connection with any covered matter in which
17 the District of Columbia is a party or has a direct
18 and substantial interest;

19 shall be subject to the penalties set forth in section 1004.

20 “(c) SPECIAL GOVERNMENT EMPLOYEES.—A special
21 Government employee shall be subject to subsections (a)
22 and (b) only in relation to a covered matter involving a
23 specific party or parties—

24 “(1) in which he has at any time participated
25 personally and substantially as a Government em-

1 ployee or special Government employee through deci-
2 sion, approval, disapproval, recommendation, the
3 rendering of advice, investigation, or otherwise; or

4 “(2) which is pending in the department or
5 agency of the Government in which he is serving.

6 Paragraph (2) does not apply in the case of a special Gov-
7 ernment employee who has served in such department or
8 agency no more than sixty days during the immediately
9 preceding period of three hundred and sixty-five consecu-
10 tive days.

11 “(d) EXCLUSION WITH RESPECT TO CERTAIN PER-
12 SONS.—

13 “(1) GENERALLY.—Nothing in subsection (a)
14 or (b) prevents an officer or employee, if not incon-
15 sistent with the faithful performance of that officer’s
16 or employee’s duties, from acting without compensa-
17 tion as agent or attorney for, or otherwise rep-
18 resenting—

19 “(A) any person who is the subject of dis-
20 ciplinary, loyalty, or other personnel adminis-
21 tration proceedings in connection with those
22 proceedings; or

23 “(B) except as provided in paragraph (2),
24 any cooperative, voluntary, professional, rec-
25 reational, or similar organization or group not

1 established or operated for profit, if a majority
2 of the organization's or group's members are
3 current officers or employees of the United
4 States or of the District of Columbia, or their
5 spouses or dependent children.

6 “(2) EXCEPTION.—Paragraph (1)(B) does not
7 apply with respect to a covered matter that—

8 “(A) is a claim under subsection (a)(1) or
9 (b)(1);

10 “(B) is a judicial or administrative pro-
11 ceeding where the organization or group is a
12 party; or

13 “(C) involves a grant, contract, or other
14 agreement (including a request for any such
15 grant, contract, or agreement) providing for the
16 disbursement of Federal funds to the organiza-
17 tion or group.

18 “(e) EXCLUSION WITH RESPECT FAMILY MEM-
19 BERS.—Nothing in subsection (a) or (b) prevents an offi-
20 cer or employee, including a special Government employee,
21 from acting, with or without compensation, as agent or
22 attorney for, or otherwise representing, his parents,
23 spouse, child, or any person for whom, or for any estate
24 for which, he is serving as guardian, executor, adminis-
25 trator, trustee, or other personal fiduciary except—

1 “(1) in those matters in which he has partici-
2 pated personally and substantially as a Government
3 employee or special Government employee through
4 decision, approval, disapproval, recommendation, the
5 rendering of advice, investigation, or otherwise, or

6 “(2) in those matters which are the subject of
7 his official responsibility,
8 subject to approval by the Government official responsible
9 for appointment to his position.

10 “(f) CERTIFICATION OF NATIONAL INTEREST.—
11 Nothing in subsection (a) or (b) prevents a special Govern-
12 ment employee from acting as agent or attorney for an-
13 other person in the performance of work under a grant
14 by, or a contract with or for the benefit of, the United
15 States if the head of the department or agency concerned
16 with the grant or contract certifies in writing that the na-
17 tional interest so requires and publishes such certification
18 in the Federal Register.

19 “(g) TESTIMONY AND STATEMENTS.—Nothing in
20 this section prevents an officer or employee from giving
21 testimony under oath or from making statements required
22 to be made under penalty for perjury or contempt.

23 “(h) DEFINITION.—For the purpose of this section,
24 the term ‘covered matter’ means any judicial or other pro-
25 ceeding, application, request for a ruling or other deter-

1 mination, contract, claim, controversy, investigation,
2 charge, accusation, arrest, or other particular matter.

3 “(i) **ADDITIONAL EXCLUSIONS.**—Nothing in this sec-
4 tion prevents an employee from acting pursuant to—

5 “(1) chapter 71 of title 5;

6 “(2) section 1004 or chapter 12 of title 39;

7 “(3) section 3 of the Tennessee Valley Author-
8 ity Act of 1933;

9 “(4) chapter 10 of title I of the Foreign Service
10 Act of 1980; or

11 “(5) any provision of any other Federal or Dis-
12 trict of Columbia law that authorizes labor-manage-
13 ment relations between an agency or instrumentality
14 of the United States or the District of Columbia and
15 any labor organization that represents its employees.

16 **“§ 996. Exemption of retired officers of the uniformed**
17 **services**

18 “Sections 993 and 995 do not apply to a retired offi-
19 cer of the uniformed services of the United States while
20 not on active duty and not otherwise an officer or em-
21 ployee of the United States, or to any person specially ex-
22 cepted by Act of Congress.

1 **“§ 997. Restrictions on former officers, employees,**
2 **and elected officials of the Executive and**
3 **legislative branches**

4 “(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOY-
5 EES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER
6 AGENCIES.—

7 “(1) PERMANENT RESTRICTIONS ON REP-
8 RESENTATION ON PARTICULAR MATTERS.—Whoever
9 is an officer or employee (including any special Gov-
10 ernment employee) of the executive branch of the
11 United States (including any independent agency of
12 the United States), or of the District of Columbia,
13 and who, after the termination of his or her service
14 or employment with the United States or the Dis-
15 trict of Columbia, knowingly makes, with the intent
16 to influence, any communication to or appearance
17 before any officer or employee of any department,
18 agency, court, or court-martial of the United States
19 or the District of Columbia, on behalf of any other
20 person (except the United States or the District of
21 Columbia) in connection with a particular matter—

22 “(A) in which the United States or the
23 District of Columbia is a party or has a direct
24 and substantial interest,

1 “(B) in which the person participated per-
2 sonally and substantially as such officer or em-
3 ployee, and

4 “(C) which involved a specific party or spe-
5 cific parties at the time of such participation,
6 shall be punished as provided in section 1004.

7 “(2) TWO-YEAR RESTRICTIONS CONCERNING
8 PARTICULAR MATTERS UNDER OFFICIAL RESPONSI-
9 BILITY.—Any person subject to the restrictions con-
10 tained in paragraph (1) who, within 2 years after
11 the termination of his or her service or employment
12 with the United States or the District of Columbia,
13 knowingly makes, with the intent to influence, any
14 communication to or appearance before any officer
15 or employee of any department, agency, court, or
16 court-martial of the United States or the District of
17 Columbia, on behalf of any other person (except the
18 United States or the District of Columbia), in con-
19 nection with a particular matter—

20 “(A) in which the United States or the
21 District of Columbia is a party or has a direct
22 and substantial interest,

23 “(B) which such person knows or reason-
24 ably should know was actually pending under
25 his or her official responsibility as such officer

1 or employee within a period of 1 year before the
2 termination of his or her service or employment
3 with the United States or the District of Co-
4 lumbia, and

5 “(C) which involved a specific party or spe-
6 cific parties at the time it was so pending,
7 shall be punished as provided in section 1004.

8 “(3) CLARIFICATION OF RESTRICTIONS.—The
9 restrictions contained in paragraphs (1) and (2)
10 apply—

11 “(A) in the case of an officer or employee
12 of the executive branch of the United States
13 (including any independent agency), only with
14 respect to communications to or appearances
15 before any officer or employee of any depart-
16 ment, agency, court, or court-martial of the
17 United States on behalf of any other person
18 (except the United States), and only with re-
19 spect to a matter in which the United States is
20 a party or has a direct and substantial interest;
21 and

22 “(B) in the case of an officer or employee
23 of the District of Columbia, only with respect to
24 communications to or appearances before any
25 officer or employee of any department, agency,

1 or court of the District of Columbia on behalf
2 of any other person (except the District of Co-
3 lumbia), and only with respect to a matter in
4 which the District of Columbia is a party or has
5 a direct and substantial interest.

6 “(b) ONE-YEAR RESTRICTIONS ON AIDING OR AD-
7 VISING.—

8 “(1) IN GENERAL.—Any person who is a
9 former officer or employee of the executive branch of
10 the United States (including any independent agen-
11 cy) and is subject to the restrictions contained in
12 subsection (a)(1), or any person who is a former of-
13 ficer or employee of the legislative branch or a
14 former Member of Congress, who personally and
15 substantially participated in any ongoing trade or
16 treaty negotiation on behalf of the United States
17 within the 1-year period preceding the date on which
18 his or her service or employment with the United
19 States terminated, and who had access to informa-
20 tion concerning such trade or treaty negotiation
21 which is exempt from disclosure under section 552
22 of title 5, which is so designated by the appropriate
23 department or agency, and which the person knew
24 or should have known was so designated, shall not,
25 on the basis of that information, knowingly rep-

1 resent, aid, or advise any other person (except the
2 United States) concerning such ongoing trade or
3 treaty negotiation for a period of 1 year after his or
4 her service or employment with the United States
5 terminates. Whoever violates this subsection shall be
6 punished as provided in section 1004.

7 “(2) DEFINITION.—For purposes of this para-
8 graph—

9 “(A) the term ‘trade negotiation’ means
10 negotiations which the President determines to
11 undertake to enter into a trade agreement pur-
12 suant to section 1102 of the Omnibus Trade
13 and Competitiveness Act of 1988, and does not
14 include any action taken before that determina-
15 tion is made; and

16 “(B) the term ‘treaty’ means an inter-
17 national agreement made by the President that
18 requires the advice and consent of the Senate.

19 “(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR
20 PERSONNEL OF THE EXECUTIVE BRANCH AND INDE-
21 PENDENT AGENCIES.—

22 “(1) RESTRICTIONS.—In addition to the restric-
23 tions set forth in subsections (a) and (b), any person
24 who is an officer or employee (including any special
25 Government employee) of the executive branch of the

1 United States (including an independent agency),
2 who is referred to in paragraph (2), and who, within
3 1 year after the termination of his or her service or
4 employment as such officer or employee, knowingly
5 makes, with the intent to influence, any communica-
6 tion to or appearance before any officer or employee
7 of the department or agency in which such person
8 served within 1 year before such termination, on be-
9 half of any other person (except the United States),
10 in connection with any matter on which such person
11 seeks official action by any officer or employee of
12 such department or agency, shall be punished as
13 provided in section 1004.

14 “(2) PERSONS TO WHOM RESTRICTIONS
15 APPLY.—(A) Paragraph (1) applies to a person
16 (other than a person subject to the restrictions of
17 subsection (d))—

18 “(i) employed at a rate of pay specified in
19 or fixed according to subchapter II of chapter
20 53 of title 5,

21 “(ii) employed in a position which is not
22 referred to in clause (i) and for which that per-
23 son is paid at a rate of basic pay which is equal
24 to or greater than 86.5 percent of the rate of
25 basic pay for level II of the Executive Schedule,

1 or, for a period of 2 years following the enact-
2 ment of the National Defense Authorization Act
3 for Fiscal Year 2004, a person who, on the day
4 prior to the enactment of that Act, was em-
5 ployed in a position which is not referred to in
6 clause (i) and for which the rate of basic pay,
7 exclusive of any locality-based pay adjustment
8 under section 5304 or section 5304a of title 5,
9 was equal to or greater than the rate of basic
10 pay payable for level 5 of the Senior Executive
11 Service on the day prior to the enactment of
12 that Act,

13 “(iii) appointed by the President to a posi-
14 tion under section 105(a)(2)(B) of title 3 or by
15 the Vice President to a position under section
16 106(a)(1)(B) of title 3,

17 “(iv) employed in a position which is held
18 by an active duty commissioned officer of the
19 uniformed services who is serving in a grade or
20 rank for which the pay grade (as specified in
21 section 201 of title 37) is pay grade O-7 or
22 above, or

23 “(v) assigned from a private sector organi-
24 zation to an agency under chapter 37 of title 5.

1 “(B) Paragraph (1) does not apply to a special
2 Government employee who serves less than 60 days
3 in the 1-year period before his or her service or em-
4 ployment as such employee terminates.

5 “(C) At the request of a department or agency,
6 the Director of the Office of Government Ethics may
7 waive the restrictions contained in paragraph (1)
8 with respect to any position, or category of positions,
9 referred to in clause (ii) or (iv) of subparagraph (A),
10 in such department or agency if the Director deter-
11 mines that—

12 “(i) the imposition of the restrictions with
13 respect to such position or positions would cre-
14 ate an undue hardship on the department or
15 agency in obtaining qualified personnel to fill
16 such position or positions, and

17 “(ii) granting the waiver would not create
18 the potential for use of undue influence or un-
19 fair advantage.

20 “(3) MEMBERS OF THE INDEPENDENT MEDI-
21 CARE ADVISORY BOARD.—

22 “(A) IN GENERAL.—Paragraph (1) applies
23 to a member of the Independent Medicare Advi-
24 sory Board under section 1899A of the Social
25 Security Act.

1 “(B) AGENCIES AND CONGRESS.—For pur-
2 poses of paragraph (1), the agency in which the
3 individual described in subparagraph (A) served
4 shall be considered to be the Independent Medi-
5 care Advisory Board, the Department of Health
6 and Human Services, and the relevant commit-
7 tees of jurisdiction of Congress, including the
8 Committee on Ways and Means and the Com-
9 mittee on Energy and Commerce of the House
10 of Representatives and the Committee on Fi-
11 nance of the Senate.”.

12 “(d) RESTRICTIONS ON VERY SENIOR PERSONNEL
13 OF THE EXECUTIVE BRANCH AND INDEPENDENT AGEN-
14 CIES.—

15 “(1) RESTRICTIONS.—In addition to the restric-
16 tions set forth in subsections (a) and (b), any person
17 who—

18 “(A) serves in the position of Vice Presi-
19 dent of the United States,

20 “(B) is employed in a position in the exec-
21 utive branch of the United States (including
22 any independent agency) at a rate of pay pay-
23 able for level I of the Executive Schedule or em-
24 ployed in a position in the Executive Office of

1 the President at a rate of pay payable for level
2 II of the Executive Schedule, or

3 “(C) is appointed by the President to a po-
4 sition under section 105(a)(2)(A) of title 3 or
5 by the Vice President to a position under sec-
6 tion 106(a)(1)(A) of title 3,

7 and who, within 2 years after the termination of
8 that person’s service in that position, knowingly
9 makes, with the intent to influence, any communica-
10 tion to or appearance before any person described in
11 paragraph (2), on behalf of any other person (except
12 the United States), in connection with any matter on
13 which such person seeks official action by any officer
14 or employee of the executive branch of the United
15 States, shall be punished as provided in section
16 1004.

17 “(2) PERSONS WHO MAY NOT BE CON-
18 TACTED.—The persons referred to in paragraph (1)
19 with respect to appearances or communications by a
20 person in a position described in subparagraph (A),
21 (B), or (C) of paragraph (1) are—

22 “(A) any officer or employee of any de-
23 partment or agency in which such person served
24 in such position within a period of 1 year before

1 such person's service or employment with the
2 United States Government terminated, and

3 “(B) any person appointed to a position in
4 the executive branch which is listed in section
5 5312, 5313, 5314, 5315, or 5316 of title 5.

6 “(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND
7 OFFICERS AND EMPLOYEES OF THE LEGISLATIVE
8 BRANCH.—

9 “(1) MEMBERS OF CONGRESS AND ELECTED
10 OFFICERS OF THE HOUSE.—

11 “(A) SENATORS.—Any person who is a
12 Senator and who, within 2 years after that per-
13 son leaves office, knowingly makes, with the in-
14 tent to influence, any communication to or ap-
15 pearance before any Member, officer, or em-
16 ployee of either House of Congress or any em-
17 ployee of any other legislative office of the Con-
18 gress, on behalf of any other person (except the
19 United States) in connection with any matter
20 on which such former Senator seeks action by
21 a Member, officer, or employee of either House
22 of Congress, in his or her official capacity, shall
23 be punished as provided in section 1004.

24 “(B) MEMBERS AND OFFICERS OF THE
25 HOUSE OF REPRESENTATIVES.—(i) Any person

1 who is a Member of the House of Representa-
2 tives or an elected officer of the House of Rep-
3 resentatives and who, within 1 year after that
4 person leaves office, knowingly makes, with the
5 intent to influence, any communication to or
6 appearance before any of the persons described
7 in clause (ii) or (iii), on behalf of any other per-
8 son (except the United States) in connection
9 with any matter on which such former Member
10 of Congress or elected officer seeks action by a
11 Member, officer, or employee of either House of
12 Congress, in his or her official capacity, shall be
13 punished as provided in section 1004.

14 “(ii) The persons referred to in clause (i)
15 with respect to appearances or communications
16 by a former Member of the House of Rep-
17 resentatives are any Member, officer, or em-
18 ployee of either House of Congress and any em-
19 ployee of any other legislative office of the Con-
20 gress.

21 “(iii) The persons referred to in clause (i)
22 with respect to appearances or communications
23 by a former elected officer are any Member, of-
24 ficer, or employee of the House of Representa-
25 tives.

1 “(2) OFFICERS AND STAFF OF THE SENATE.—
2 Any person who is an elected officer of the Senate,
3 or an employee of the Senate to whom paragraph
4 (7)(A) applies, and who, within 1 year after that
5 person leaves office or employment, knowingly
6 makes, with the intent to influence, any communica-
7 tion to or appearance before any Senator or any offi-
8 cer or employee of the Senate, on behalf of any other
9 person (except the United States) in connection with
10 any matter on which such former elected officer or
11 former employee seeks action by a Senator or an of-
12 ficer or employee of the Senate, in his or her official
13 capacity, shall be punished as provided in section
14 1004.

15 “(3) PERSONAL STAFF.—(A) Any person who
16 is an employee of a Member of the House of Rep-
17 resentatives to whom paragraph (7)(A) applies and
18 who, within 1 year after the termination of that em-
19 ployment, knowingly makes, with the intent to influ-
20 ence, any communication to or appearance before
21 any of the persons described in subparagraph (B),
22 on behalf of any other person (except the United
23 States) in connection with any matter on which such
24 former employee seeks action by a Member, officer,
25 or employee of either House of Congress, in his or

1 her official capacity, shall be punished as provided in
2 section 1004.

3 “(B) The persons referred to in subparagraph
4 (A) with respect to appearances or communications
5 by a person who is a former employee are the fol-
6 lowing:

7 “(i) The Member of the House of Rep-
8 resentatives for whom that person was an em-
9 ployee.

10 “(ii) Any employee of that Member of the
11 House of Representatives.

12 “(4) COMMITTEE STAFF.—Any person who is
13 an employee of a committee of the House of Rep-
14 resentatives, or an employee of a joint committee of
15 the Congress whose pay is disbursed by the Clerk of
16 the House of Representatives, to whom paragraph
17 (7)(A) applies and who, within 1 year after the ter-
18 mination of that person’s employment on such com-
19 mittee or joint committee (as the case may be),
20 knowingly makes, with the intent to influence, any
21 communication to or appearance before any person
22 who is a Member or an employee of that committee
23 or joint committee (as the case may be) or who was
24 a Member of the committee or joint committee (as
25 the case may be) in the year immediately prior to

1 the termination of such person's employment by the
2 committee or joint committee (as the case may be),
3 on behalf of any other person (except the United
4 States) in connection with any matter on which such
5 former employee seeks action by a Member, officer,
6 or employee of either House of Congress, in his or
7 her official capacity, shall be punished as provided in
8 section 1004.

9 “(5) LEADERSHIP STAFF.—(A) Any person
10 who is an employee on the leadership staff of the
11 House of Representatives to whom paragraph (7)(A)
12 applies and who, within 1 year after the termination
13 of that person's employment on such staff, know-
14 ingly makes, with the intent to influence, any com-
15 munication to or appearance before any of the per-
16 sons described in subparagraph (B), on behalf of
17 any other person (except the United States) in con-
18 nection with any matter on which such former em-
19 ployee seeks action by a Member, officer, or em-
20 ployee of either House of Congress, in his or her of-
21 ficial capacity, shall be punished as provided in sec-
22 tion 1004.

23 “(B) The persons referred to in subparagraph
24 (A) with respect to appearances or communications
25 by a former employee are any Member of the leader-

1 ship of the House of Representatives and any em-
2 ployee on the leadership staff of the House of Rep-
3 resentatives.

4 “(6) OTHER LEGISLATIVE OFFICES.—(A) Any
5 person who is an employee of any other legislative
6 office of the Congress to whom paragraph (7)(B) ap-
7 plies and who, within 1 year after the termination
8 of that person’s employment in such office, know-
9 ingly makes, with the intent to influence, any com-
10 munication to or appearance before any of the per-
11 sons described in subparagraph (B), on behalf of
12 any other person (except the United States) in con-
13 nection with any matter on which such former em-
14 ployee seeks action by any officer or employee of
15 such office, in his or her official capacity, shall be
16 punished as provided in section 1004.

17 “(B) The persons referred to in subparagraph
18 (A) with respect to appearances or communications
19 by a former employee are the employees and officers
20 of the former legislative office of the Congress of the
21 former employee.

22 “(7) LIMITATION ON RESTRICTIONS.—(A) The
23 restrictions contained in paragraphs (2), (3), (4),
24 and (5) apply only to acts by a former employee
25 who, for at least 60 days, in the aggregate, during

1 the 1-year period before that former employee's serv-
2 ice as such employee terminated, was paid a rate of
3 basic pay equal to or greater than an amount which
4 is 75 percent of the basic rate of pay payable for a
5 Member of the House of Congress in which such em-
6 ployee was employed.

7 “(B) The restrictions contained in paragraph
8 (6) apply only to acts by a former employee who, for
9 at least 60 days, in the aggregate, during the 1-year
10 period before that former employee's service as such
11 employee terminated, was employed in a position for
12 which the rate of basic pay, exclusive of any locality-
13 based pay adjustment under section 5302 of title 5,
14 is equal to or greater than the basic rate of pay pay-
15 able for level IV of the Executive Schedule.

16 “(8) EXCEPTION.—This subsection does not apply to
17 contacts with the staff of the Secretary of the Senate or
18 the Clerk of the House of Representatives regarding com-
19 pliance with lobbying disclosure requirements under the
20 Lobbying Disclosure Act of 1995.

21 “(9) DEFINITIONS.—As used in this sub-
22 section—

23 “(A) the term ‘committee of Congress’ in-
24 cludes standing committees, joint committees,
25 and select committees;

1 “(B) a person is an employee of a House
2 of Congress if that person is an employee of the
3 Senate or an employee of the House of Rep-
4 resentatives;

5 “(C) the term ‘employee of the House of
6 Representatives’ means an employee of a Mem-
7 ber of the House of Representatives, an em-
8 ployee of a committee of the House of Rep-
9 resentatives, an employee of a joint committee
10 of the Congress whose pay is disbursed by the
11 Clerk of the House of Representatives, and an
12 employee on the leadership staff of the House
13 of Representatives;

14 “(D) the term ‘employee of the Senate’
15 means an employee of a Senator, an employee
16 of a committee of the Senate, an employee of a
17 joint committee of the Congress whose pay is
18 disbursed by the Secretary of the Senate, and
19 an employee on the leadership staff of the Sen-
20 ate;

21 “(E) a person is an employee of a Member
22 of the House of Representatives if that person
23 is an employee of a Member of the House of
24 Representatives under the clerk hire allowance;

1 “(F) a person is an employee of a Senator
2 if that person is an employee in a position in
3 the office of a Senator;

4 “(G) the term ‘employee of any other legis-
5 lative office of the Congress’ means an officer
6 or employee of the Architect of the Capitol, the
7 United States Botanic Garden, the Government
8 Accountability Office, the Government Printing
9 Office, the Library of Congress, the Office of
10 Technology Assessment, the Congressional
11 Budget Office, the United States Capitol Police,
12 and any other agency, entity, or office in the
13 legislative branch not covered by paragraph (1),
14 (2), (3), (4), or (5) of this subsection;

15 “(H) the term ‘employee on the leadership
16 staff of the House of Representatives’ means an
17 employee of the office of a Member of the lead-
18 ership of the House of Representatives de-
19 scribed in subparagraph (L), and any elected
20 minority employee of the House of Representa-
21 tives;

22 “(I) the term ‘employee on the leadership
23 staff of the Senate’ means an employee of the
24 office of a Member of the leadership of the Sen-
25 ate described in subparagraph (M);

1 “(J) the term ‘Member of Congress’ means
2 a Senator or a Member of the House of Rep-
3 resentatives;

4 “(K) the term ‘Member of the House of
5 Representatives’ means a Representative in, or
6 a Delegate or Resident Commissioner to, the
7 Congress;

8 “(L) the term ‘Member of the leadership of
9 the House of Representatives’ means the
10 Speaker, majority leader, minority leader, ma-
11 jority whip, minority whip, chief deputy major-
12 ity whip, chief deputy minority whip, chairman
13 of the Democratic Steering Committee, chair-
14 man and vice chairman of the Democratic Cau-
15 cus, chairman, vice chairman, and secretary of
16 the Republican Conference, chairman of the Re-
17 publican Research Committee, and chairman of
18 the Republican Policy Committee, of the House
19 of Representatives (or any similar position cre-
20 ated on or after the effective date set forth in
21 section 102(a) of the Ethics Reform Act of
22 1989); and

23 “(M) the term ‘Member of the leadership
24 of the Senate’ means the Vice President, and
25 the President pro tempore, Deputy President

1 pro tempore, majority leader, minority leader,
2 majority whip, minority whip, chairman and
3 secretary of the Conference of the Majority,
4 chairman and secretary of the Conference of
5 the Minority, chairman and co-chairman of the
6 Majority Policy Committee, and chairman of
7 the Minority Policy Committee, of the Senate
8 (or any similar position created on or after the
9 effective date set forth in section 102(a) of the
10 Ethics Reform Act of 1989).

11 “(f) RESTRICTIONS RELATING TO FOREIGN ENTI-
12 TIES.—

13 “(1) RESTRICTIONS.—Any person who is sub-
14 ject to the restrictions contained in subsection (c),
15 (d), or (e) and who knowingly, within 1 year after
16 leaving the position, office, or employment referred
17 to in such subsection—

18 “(A) represents a foreign entity before any
19 officer or employee of any department or agen-
20 cy of the United States with the intent to influ-
21 ence a decision of such officer or employee in
22 carrying out his or her official duties, or

23 “(B) aids or advises a foreign entity with
24 the intent to influence a decision of any officer
25 or employee of any department or agency of the

1 United States, in carrying out his or her official
2 duties,

3 shall be punished as provided in section 1004.

4 “(2) SPECIAL RULE FOR TRADE REPRESENTA-
5 TIVE.—With respect to a person who is the United
6 States Trade Representative or Deputy United
7 States Trade Representative, the restrictions de-
8 scribed in paragraph (1) apply to representing, aid-
9 ing, or advising foreign entities at any time after the
10 termination of that person’s service as the United
11 States Trade Representative.

12 “(3) DEFINITION.—For purposes of this sub-
13 section, the term ‘foreign entity’ means the govern-
14 ment of a foreign country as defined in section 1(e)
15 of the Foreign Agents Registration Act of 1938, as
16 amended, or a foreign political party as defined in
17 section 1(f) of that Act.

18 “(g) SPECIAL RULES FOR DETAILEES.—For pur-
19 poses of this section, a person who is detailed from one
20 department, agency, or other entity to another depart-
21 ment, agency, or other entity shall, during the period such
22 person is detailed, be deemed to be an officer or employee
23 of both departments, agencies, or such entities.

24 “(h) DESIGNATIONS OF SEPARATE STATUTORY
25 AGENCIES AND BUREAUS.—

1 “(1) DESIGNATIONS.—For purposes of sub-
2 section (c) and except as provided in paragraph (2),
3 whenever the Director of the Office of Government
4 Ethics determines that an agency or bureau within
5 a department or agency in the executive branch ex-
6 ercises functions which are distinct and separate
7 from the remaining functions of the department or
8 agency and that there exists no potential for use of
9 undue influence or unfair advantage based on past
10 Government service, the Director shall by rule des-
11 ignate such agency or bureau as a separate depart-
12 ment or agency. On an annual basis the Director of
13 the Office of Government Ethics shall review the
14 designations and determinations made under this
15 subparagraph and, in consultation with the depart-
16 ment or agency concerned, make such additions and
17 deletions as are necessary. Departments and agen-
18 cies shall cooperate to the fullest extent with the Di-
19 rector of the Office of Government Ethics in the ex-
20 ercise of his or her responsibilities under this para-
21 graph.

22 “(2) INAPPLICABILITY OF DESIGNATIONS.—No
23 agency or bureau within the Executive Office of the
24 President may be designated under paragraph (1) as
25 a separate department or agency. No designation

1 under paragraph (1) shall apply to persons referred
2 to in subsection (e)(2)(A)(i) or (iii).

3 “(i) DEFINITIONS.—For purposes of this section—

4 “(1) the term ‘officer or employee’, when used
5 to describe the person to whom a communication is
6 made or before whom an appearance is made, with
7 the intent to influence, shall include—

8 “(A) in subsections (a), (c), and (d), the
9 President and the Vice President; and

10 “(B) in subsection (f), the President, the
11 Vice President, and Members of Congress;

12 “(2) the term ‘participated’ means an action
13 taken as an officer or employee through decision, ap-
14 proval, disapproval, recommendation, the rendering
15 of advice, investigation, or other such action; and

16 “(3) the term ‘particular matter’ includes any
17 investigation, application, request for a ruling or de-
18 termination, rulemaking, contract, controversy,
19 claim, charge, accusation, arrest, or judicial or other
20 proceeding.

21 “(j) EXCEPTIONS.—

22 “(1) OFFICIAL GOVERNMENT DUTIES.—

23 “(A) IN GENERAL.—The restrictions con-
24 tained in this section do not apply to acts done
25 in carrying out official duties on behalf of the

1 United States or the District of Columbia or as
2 an elected official of a State or local govern-
3 ment.

4 “(B) TRIBAL ORGANIZATIONS AND INTER-
5 TRIBAL CONSORTIUMS.—The restrictions con-
6 tained in this section do not apply to acts au-
7 thorized by section 104(j) of the Indian Self-
8 Determination and Education Assistance Act.

9 “(2) STATE AND LOCAL GOVERNMENTS AND IN-
10 STITUTIONS, HOSPITALS, AND ORGANIZATIONS.—
11 The restrictions contained in subsections (c), (d),
12 and (e) do not apply to acts done in carrying out of-
13 ficial duties as an employee of—

14 “(A) an agency or instrumentality of a
15 State or local government if the appearance,
16 communication, or representation is on behalf
17 of such government, or

18 “(B) an accredited, degree-granting insti-
19 tution of higher education, as defined in section
20 101 of the Higher Education Act of 1965, or
21 a hospital or medical research organization, ex-
22 empted and defined under section 501(c)(3) of
23 the Internal Revenue Code of 1986, if the ap-
24 pearance, communication, or representation is

1 on behalf of such institution, hospital, or orga-
2 nization.

3 “(3) INTERNATIONAL ORGANIZATIONS.—The
4 restrictions contained in this section do not apply to
5 an appearance or communication on behalf of, or ad-
6 vice or aid to, an international organization in which
7 the United States participates, if the Secretary of
8 State certifies in advance that such activity is in the
9 interests of the United States.

10 “(4) SPECIAL KNOWLEDGE.—The restrictions
11 contained in subsections (c), (d), and (e) do not pre-
12 vent an individual from making or providing a state-
13 ment, which is based on the individual’s own special
14 knowledge in the particular area that is the subject
15 of the statement, if no compensation is thereby re-
16 ceived.

17 “(5) EXCEPTION FOR SCIENTIFIC OR TECHNO-
18 LOGICAL INFORMATION.—The restrictions contained
19 in subsections (a), (c), and (d) do not apply with re-
20 spect to the making of communications solely for the
21 purpose of furnishing scientific or technological in-
22 formation, if such communications are made under
23 procedures acceptable to the department or agency
24 concerned or if the head of the department or agen-
25 cy concerned with the particular matter, in consulta-

1 tion with the Director of the Office of Government
2 Ethics, makes a certification, published in the Fed-
3 eral Register, that the former officer or employee
4 has outstanding qualifications in a scientific, techno-
5 logical, or other technical discipline, and is acting
6 with respect to a particular matter which requires
7 such qualifications, and that the national interest
8 would be served by the participation of the former
9 officer or employee. For purposes of this paragraph,
10 the term ‘officer or employee’ includes the Vice
11 President.

12 “(6) EXCEPTION FOR TESTIMONY.—Nothing in
13 this section prevents an individual from giving testi-
14 mony under oath, or from making statements re-
15 quired to be made under penalty of perjury. Not-
16 withstanding the preceding sentence—

17 “(A) a former officer or employee of the
18 executive branch of the United States (includ-
19 ing any independent agency) who is subject to
20 the restrictions contained in subsection (a)(1)
21 with respect to a particular matter may not, ex-
22 cept pursuant to court order, serve as an expert
23 witness for any other person (except the United
24 States) in that matter; and

1 “(B) a former officer or employee of the
2 District of Columbia who is subject to the re-
3 strictions contained in subsection (a)(1) with
4 respect to a particular matter may not, except
5 pursuant to court order, serve as an expert wit-
6 ness for any other person (except the District
7 of Columbia) in that matter.

8 “(7) POLITICAL PARTIES AND CAMPAIGN COM-
9 MITTEES.—(A) Except as provided in subparagraph
10 (B), the restrictions contained in subsections (c),
11 (d), and (e) do not apply to a communication or ap-
12 pearance made solely on behalf of a candidate in his
13 or her capacity as a candidate, an authorized com-
14 mittee, a national committee, a national Federal
15 campaign committee, a State committee, or a polit-
16 ical party.

17 “(B) Subparagraph (A) does not apply to—

18 “(i) any communication to, or appearance
19 before, the Federal Election Commission by a
20 former officer or employee of the Federal Elec-
21 tion Commission; or

22 “(ii) a communication or appearance made
23 by a person who is subject to the restrictions
24 contained in subsection (c), (d), or (e) if, at the
25 time of the communication or appearance, the

1 person is employed by a person or entity other
2 than—

3 “(I) a candidate, an authorized com-
4 mittee, a national committee, a national
5 Federal campaign committee, a State com-
6 mittee, or a political party; or

7 “(II) a person or entity who rep-
8 resents, aids, or advises only persons or en-
9 tities described in subclause (I).

10 “(C) For purposes of this paragraph—

11 “(i) the term ‘candidate’ means any person
12 who seeks nomination for election, or election,
13 to Federal or State office or who has authorized
14 others to explore on his or her behalf the possi-
15 bility of seeking nomination for election, or elec-
16 tion, to Federal or State office;

17 “(ii) the term ‘authorized committee’
18 means any political committee designated in
19 writing by a candidate as authorized to receive
20 contributions or make expenditures to promote
21 the nomination for election, or the election, of
22 such candidate, or to explore the possibility of
23 seeking nomination for election, or the election,
24 of such candidate, except that a political com-
25 mittee that receives contributions or makes ex-

1 penditures to promote more than 1 candidate
2 may not be designated as an authorized com-
3 mittee for purposes of subparagraph (A);

4 “(iii) the term ‘national committee’ means
5 the organization which, by virtue of the bylaws
6 of a political party, is responsible for the day-
7 to-day operation of such political party at the
8 national level;

9 “(iv) the term ‘national Federal campaign
10 committee’ means an organization that, by vir-
11 tue of the bylaws of a political party, is estab-
12 lished primarily for the purpose of providing as-
13 sistance, at the national level, to candidates
14 nominated by that party for election to the of-
15 fice of Senator or Representative in, or Dele-
16 gate or Resident Commissioner to, the Con-
17 gress;

18 “(v) the term ‘State committee’ means the
19 organization which, by virtue of the bylaws of
20 a political party, is responsible for the day-to-
21 day operation of such political party at the
22 State level; and

23 “(vi) the term ‘political party’ means an
24 association, committee, or organization that
25 nominates a candidate for election to any Fed-

1 eral or State elected office whose name appears
2 on the election ballot as the candidate of such
3 association, committee, or organization.

4 “(k) WAIVER.—(1)(A) The President may grant a
5 waiver of a restriction imposed by this section to any offi-
6 cer or employee described in paragraph (2) if the Presi-
7 dent determines and certifies in writing that it is in the
8 public interest to grant the waiver and that the services
9 of the officer or employee are critically needed for the ben-
10 efit of the Federal Government. Not more than 25 officers
11 and employees currently employed by the Federal Govern-
12 ment at any one time may have been granted waivers
13 under this paragraph.

14 “(B)(i) A waiver granted under this paragraph to any
15 person shall apply only with respect to activities engaged
16 in by that person after that person’s Federal Government
17 employment is terminated and only to that person’s em-
18 ployment at a Government-owned, contractor operated en-
19 tity with which the person served as an officer or employee
20 immediately before the person’s Federal Government em-
21 ployment began.

22 “(ii) Notwithstanding clause (i), a waiver granted
23 under this paragraph to any person who was an officer
24 or employee of Lawrence Livermore National Laboratory,
25 Los Alamos National Laboratory, or Sandia National

1 Laboratory immediately before the person's Federal Gov-
2 ernment employment began shall apply to that person's
3 employment by any such national laboratory after the per-
4 son's employment by the Federal Government is termi-
5 nated.

6 “(2) Waivers under paragraph (1) may be granted
7 only to civilian officers and employees of the executive
8 branch, other than officers and employees in the Executive
9 Office of the President.

10 “(3) A certification under paragraph (1) shall take
11 effect upon its publication in the Federal Register and
12 shall identify—

13 “(A) the officer or employee covered by the waiver
14 by name and by position, and

15 “(B) the reasons for granting the waiver.

16 A copy of the certification shall also be provided to the
17 Director of the Office of Government Ethics.

18 “(4) The President may not delegate the authority
19 provided by this subsection.

20 “(5)(A) Each person granted a waiver under this sub-
21 section shall prepare reports, in accordance with subpara-
22 graph (B), stating whether the person has engaged in ac-
23 tivities otherwise prohibited by this section for each six-
24 month period described in subparagraph (B), and if so,
25 what those activities were.

1 “(B) A report under subparagraph (A) shall cover
2 each six-month period beginning on the date of the termi-
3 nation of the person’s Federal Government employment
4 (with respect to which the waiver under this subsection
5 was granted) and ending two years after that date. Such
6 report shall be filed with the President and the Director
7 of the Office of Government Ethics not later than 60 days
8 after the end of the six-month period covered by the re-
9 port. All reports filed with the Director under this para-
10 graph shall be made available for public inspection and
11 copying.

12 “(C) If a person fails to file any report in accordance
13 with subparagraphs (A) and (B), the President shall re-
14 voke the waiver and shall notify the person of the revoca-
15 tion. The revocation shall take effect upon the person’s
16 receipt of the notification and shall remain in effect until
17 the report is filed.

18 “(D) Any person who is granted a waiver under this
19 subsection shall be ineligible for appointment in the civil
20 service unless all reports required of such person by sub-
21 paragraphs (A) and (B) have been filed.

22 “(E) As used in this subsection, the term ‘civil serv-
23 ice’ has the meaning given that term in section 2101 of
24 title 5.

1 “(I) CONTRACT ADVICE BY FORMER DE-
2 TAILS.—Whoever, being an employee of a private
3 sector organization assigned to an agency under
4 chapter 37 of title 5, within one year after the end
5 of that assignment, knowingly represents or aids,
6 counsels, or assists in representing any other person
7 (except the United States) in connection with any
8 contract with that agency shall be punished as pro-
9 vided in section 1004.

10 **“§ 998. Acts affecting a personal financial interest**

11 “(a) OFFENSE.—Except as permitted by subsection
12 (b), whoever, being an officer or employee of the executive
13 branch of the United States Government, or of any inde-
14 pendent agency of the United States, a Federal Reserve
15 bank director, officer, or employee, or an officer or em-
16 ployee of the District of Columbia, including a special Gov-
17 ernment employee, participates personally and substan-
18 tially as a Government officer or employee, through deci-
19 sion, approval, disapproval, recommendation, the ren-
20 dering of advice, investigation, or otherwise, in a judicial
21 or other proceeding, application, request for a ruling or
22 other determination, contract, claim, controversy, charge,
23 accusation, arrest, or other particular matter in which, to
24 his knowledge, he, his spouse, minor child, general part-
25 ner, organization in which he is serving as officer, director,

1 trustee, general partner or employee, or any person or or-
2 ganization with whom he is negotiating or has any ar-
3 rangement concerning prospective employment, has a fi-
4 nancial interest shall be subject to the penalties set forth
5 in section 1004.

6 “(b) EXCLUSIONS.—Subsection (a) does not apply—

7 “(1) if the officer or employee first advises the
8 Government official responsible for appointment to
9 his or her position of the nature and circumstances
10 of the judicial or other proceeding, application, re-
11 quest for a ruling or other determination, contract,
12 claim, controversy, charge, accusation, arrest, or
13 other particular matter and makes full disclosure of
14 the financial interest and receives in advance a writ-
15 ten determination made by such official that the in-
16 terest is not so substantial as to be deemed likely to
17 affect the integrity of the services which the Govern-
18 ment may expect from such officer or employee;

19 “(2) if, by regulation issued by the Director of
20 the Office of Government Ethics, applicable to all or
21 a portion of all officers and employees covered by
22 this section, and published in the Federal Register,
23 the financial interest has been exempted from the re-
24 quirements of subsection (a) as being too remote or
25 too inconsequential to affect the integrity of the

1 services of the Government officers or employees to
2 which such regulation applies;

3 “(3) in the case of a special Government em-
4 ployee serving on an advisory committee within the
5 meaning of the Federal Advisory Committee Act (in-
6 cluding an individual being considered for an ap-
7 pointment to such a position), the official responsible
8 for the employee’s appointment, after review of the
9 financial disclosure report filed by the individual
10 pursuant to the Ethics in Government Act of 1978,
11 certifies in writing that the need for the individual’s
12 services outweighs the potential for a conflict of in-
13 terest created by the financial interest involved; or

14 “(4) if the financial interest that would be af-
15 fected by the particular matter involved is that re-
16 sulting solely from the interest of the officer or em-
17 ployee, or his or her spouse or minor child, in birth-
18 rights—

19 “(A) in an Indian tribe, band, nation, or
20 other organized group or community, including
21 any Alaska Native village corporation as de-
22 fined in or established pursuant to the Alaska
23 Native Claims Settlement Act, which is recog-
24 nized as eligible for the special programs and

1 services provided by the United States to Indi-
2 ans because of their status as Indians,

3 “(B) in an Indian allotment the title to
4 which is held in trust by the United States or
5 which is inalienable by the allottee without the
6 consent of the United States, or

7 “(C) in an Indian claims fund held in trust
8 or administered by the United States,
9 if the particular matter does not involve the Indian
10 allotment or claims fund or the Indian tribe, band,
11 nation, organized group or community, or Alaska
12 Native village corporation as a specific party or par-
13 ties.

14 “(c) DEEMING PROVISION.—(1) For the purpose of
15 paragraph (1) of subsection (b), in the case of class A
16 and B directors of Federal Reserve banks, the Board of
17 Governors of the Federal Reserve System shall be deemed
18 to be the Government official responsible for appointment.

19 “(2) The potential availability of an exemption under
20 any particular paragraph of subsection (b) does not pre-
21 clude an exemption being granted pursuant to another
22 paragraph of subsection (b).

23 “(d) PUBLIC AVAILABILITY.—

24 “(1) GENERALLY.—Upon request, a copy of
25 any determination granting an exemption under sub-

1 section (b)(1) or (b)(3) shall be made available to
2 the public by the agency granting the exemption
3 pursuant to the procedures set forth in section 105
4 of the Ethics in Government Act of 1978. In making
5 such determination available, the agency may with-
6 hold from disclosure any information contained in
7 the determination that would be exempt from disclo-
8 sure under section 552 of title 5. For purposes of
9 determinations under subsection (b)(3), the informa-
10 tion describing each financial interest shall be no
11 more extensive than that required of the individual
12 in his or her financial disclosure report under the
13 Ethics in Government Act of 1978.

14 “(2) UNIFORM REGULATIONS.—The Office of
15 Government Ethics, after consultation with the At-
16 torney General, shall issue uniform regulations for
17 the issuance of waivers and exemptions under sub-
18 section (b) which shall—

19 “(A) list and describe exemptions; and

20 “(B) provide guidance with respect to the types
21 of interests that are not so substantial as to be
22 deemed likely to affect the integrity of the services
23 the Government may expect from the employee.

1 **“§ 999. Salary of Government officials and employees**
2 **payable only by United States**

3 “(a) OFFENSE.—Whoever—

4 “(1) receives any salary, or any contribution to
5 or supplementation of salary, as compensation for
6 his services as an officer or employee of the execu-
7 tive branch of the United States Government, of any
8 independent agency of the United States, or of the
9 District of Columbia, from any source other than the
10 Government of the United States, except as may be
11 contributed out of the treasury of any State, county,
12 or municipality; or

13 “(2) whoever, whether an individual, partner-
14 ship, association, corporation, or other organization
15 pays, makes any contribution to, or in any way sup-
16 plements, the salary of any such officer or employee
17 under circumstances which would make its receipt a
18 violation of this subsection;

19 shall be subject to the penalties set forth in section 1004.

20 “(b) EXCLUSION.—Nothing in this section prevents
21 an officer or employee of the executive branch of the
22 United States Government, or of any independent agency
23 of the United States, or of the District of Columbia, from
24 continuing to participate in a bona fide pension, retire-
25 ment, group life, health or accident insurance, profit-shar-

1 ing, stock bonus, or other employee welfare or benefit plan
2 maintained by a former employer.

3 “(c) SPECIAL GOVERNMENT EMPLOYEE.—This sec-
4 tion does not apply to a special Government employee or
5 to an officer or employee of the Government serving with-
6 out compensation, whether or not he is a special Govern-
7 ment employee, or to any person paying, contributing to,
8 or supplementing his salary as such.

9 “(d) PAYMENTS UNDER CHAPTER 41 OF TITLE 5.—
10 This section does not prohibit payment or acceptance of
11 contributions, awards, or other expenses under the terms
12 of chapter 41 of title 5.

13 “(e) RELOCATION EXPENSES.—This section does not
14 prohibit the payment of actual relocation expenses inci-
15 dent to participation, or the acceptance of same by a par-
16 ticipant in an executive exchange or fellowship program
17 in an executive agency, if such program has been estab-
18 lished by statute or Executive order of the President, of-
19 fers appointments not to exceed three hundred and sixty-
20 five days, and permits no extensions in excess of ninety
21 additional days or, in the case of participants in overseas
22 assignments, in excess of 365 days.

23 “(f) INJURIES DURING CERTAIN OFFENSE.—This
24 section does not prohibit acceptance or receipt, by any offi-
25 cer or employee injured during the commission of an of-

1 fense described in section 102(6) or 102(7), of contribu-
2 tions or payments from an organization which is described
3 in section 501(c)(3) of the Internal Revenue Code of 1986
4 and which is exempt from taxation under section 501(a)
5 of such Code.

6 “(g) PRIVATE SECTOR ORGANIZATION.—

7 “(1) GENERALLY.—This section does not pro-
8 hibit an employee of a private sector organization,
9 while assigned to an agency under chapter 37 of title
10 5, from continuing to receive pay and benefits from
11 such organization in accordance with such chapter.

12 “(2) DEFINITION.—As used in this subsection,
13 the term ‘agency’ means an agency (as defined by
14 section 3701 of title 5) and the Office of the Chief
15 Technology Officer of the District of Columbia.

16 “(h) RESERVE COMPONENTS OF ARMED FORCES.—
17 This section does not prohibit a member of the reserve
18 components of the armed forces on active duty pursuant
19 to a call or order to active duty under a provision of law
20 referred to in section 101(a)(13) of title 10 from receiving
21 from any person that employed such member before the
22 call or order to active duty any payment of any part of
23 the salary or wages that such person would have paid the
24 member if the member’s employment had not been inter-
25 rupted by such call or order to active duty.

1 **“§ 1000. Offer to procure appointive public office**

2 “Whoever pays or offers or promises any money or
3 thing of value, to any person, firm, or corporation in con-
4 sideration of the use or promise to use any influence to
5 procure any appointive office or place under the United
6 States for any person, shall be imprisoned not more than
7 one year.

8 **“§ 1001. Acceptance or solicitation to obtain appoint-**
9 **ive public office**

10 “(a) PROMISE OF OFFICE.—Whoever solicits or re-
11 ceives, either as a political contribution, or for personal
12 emolument, any money or thing of value, in consideration
13 of the promise of support or use of influence in obtaining
14 for any person any appointive office or place under the
15 United States, shall be imprisoned not more than one
16 year.

17 “(b) ADDING PERSON TO OBTAIN EMPLOYMENT.—
18 Whoever solicits or receives any thing of value in consider-
19 ation of aiding a person to obtain employment under the
20 United States either by referring his name to an executive
21 department or agency of the United States or by requiring
22 the payment of a fee because such person has secured such
23 employment shall be imprisoned not more than one year.

24 “(c) EXCLUSION.—This section does not apply to
25 such services rendered by an employment agency pursuant

1 to the written request of an executive department or agen-
2 cy of the United States.

3 **“§ 1002. Offer or acceptance of loan or gratuity**

4 “(a) OFFER TO FINANCIAL INSTITUTION EXAM-
5 INER.—Whoever, being an officer, director, or employee
6 of a financial institution, makes or grants any loan or gra-
7 tuity, to any examiner or assistant examiner who examines
8 or has authority to examine such bank, branch, agency,
9 organization, corporation, association, or institution—

10 “(1) shall imprisoned not more than 1 year;

11 and

12 “(2) may be fined, in addition to any fine other-
13 wise imposed under this title, a sum equal to the
14 money so loaned or gratuity given.

15 “(b) ACCEPTANCE BY FINANCIAL INSTITUTION EX-
16 AMINER.—Whoever, being an examiner or assistant exam-
17 iner, accepts a loan or gratuity from any bank, branch,
18 agency, organization, corporation, association, or institu-
19 tion examined by the examiner or from any person con-
20 nected with it, shall—

21 “(1) be imprisoned not more than 1 year; and

22 “(2) shall be disqualified from holding office as
23 an examiner.

24 “(c) DEFINITIONS.—In this section:

1 “(1) EXAMINER.—The term ‘examiner’ means
2 any person—

3 “(A) appointed by a Federal financial in-
4 stitution regulatory agency or pursuant to the
5 laws of any State to examine a financial institu-
6 tion; or

7 “(B) elected under the law of any State to
8 conduct examinations of any financial institu-
9 tions.

10 “(2) FEDERAL FINANCIAL INSTITUTION REGU-
11 LATORY AGENCY.—The term ‘Federal financial insti-
12 tution regulatory agency’ means—

13 “(A) the Office of the Comptroller of the
14 Currency;

15 “(B) the Board of Governors of the Fed-
16 eral Reserve System;

17 “(C) the Office of Thrift Supervision;

18 “(D) the Federal Deposit Insurance Cor-
19 poration;

20 “(E) the Federal Housing Finance Agency;

21 “(F) the Farm Credit Administration;

22 “(G) the Farm Credit System Insurance
23 Corporation; and

24 “(H) the Small Business Administration.

1 “(3) FINANCIAL INSTITUTION.—The term ‘fi-
2 nancial institution’ does not include a credit union,
3 a Federal Reserve Bank, a Federal home loan bank,
4 or a depository institution holding company.

5 “(4) LOAN.—The term ‘loan’ does not include
6 any credit card account established under an open
7 end consumer credit plan or a loan secured by resi-
8 dential real property that is the principal residence
9 of the examiner, if—

10 “(A) the applicant satisfies any financial
11 requirements for the credit card account or res-
12 idential real property loan that are generally
13 applicable to all applicants for the same type of
14 credit card account or residential real property
15 loan;

16 “(B) the terms and conditions applicable
17 with respect to such account or residential real
18 property loan, and any credit extended to the
19 examiner under such account or residential real
20 property loan, are no more favorable generally
21 to the examiner than the terms and conditions
22 that are generally applicable to credit card ac-
23 counts or residential real property loans offered
24 by the same financial institution to other bor-
25 rowers or cardholders in comparable cir-

1 cumstances under open end consumer credit
2 plans or for residential real property loans; and

3 “(C) with respect to residential real prop-
4 erty loans, the loan is with respect to the pri-
5 mary residence of the applicant.

6 **“§ 1003. Receipt of commissions or gifts for procuring**
7 **loans**

8 “(a) OFFENSE.—Whoever—

9 “(1) corruptly gives, offers, or promises any-
10 thing of value to any person, with intent to influence
11 or reward an officer, director, employee, agent, or
12 attorney of a financial institution in connection with
13 any business or transaction of such institution; or

14 “(2) as an officer, director, employee, agent, or
15 attorney of a financial institution, corruptly solicits
16 or demands for the benefit of any person, or cor-
17 ruptly accepts or agrees to accept, anything of value
18 from any person, intending to be influenced or re-
19 warded in connection with any business or trans-
20 action of such institution;

21 shall be imprisoned not more than 30 years, but if the
22 value of the thing given, offered, promised, solicited, de-
23 manded, accepted, or agreed to be accepted does not ex-
24 ceed \$1,000, shall be imprisoned not more than one year.

1 “(b) EXCLUSION.—This section does not apply to
2 bona fide salary, wages, fees, or other compensation paid,
3 or expenses paid or reimbursed, in the usual course of
4 business.

5 “(c) GUIDELINES.—Federal agencies with responsi-
6 bility for regulating a financial institution shall jointly es-
7 tablish such guidelines as are appropriate to assist an offi-
8 cer, director, employee, agent, or attorney of a financial
9 institution to comply with this section. Such agencies shall
10 make such guidelines available to the public.

11 **“§ 1004. Penalties and injunctions**

12 “(a) CRIMINAL PENALTIES.—The punishment for an
13 offense under section 993, 994, 995, 997, 998, or 999 is
14 the following:

15 “(1) Whoever engages in the conduct consti-
16 tuting the offense shall be imprisoned for not more
17 than one year.

18 “(2) Whoever knowingly engages in the conduct
19 constituting the offense shall be imprisoned for not
20 more than five years.

21 “(b) CIVIL ACTION.—The Attorney General may
22 bring a civil action in the appropriate United States dis-
23 trict court against any person who engages in conduct con-
24 stituting an offense under section 993, 994, 995, 997,
25 998, or 999 and, upon proof of such conduct by a prepon-

1 derance of the evidence, such person shall be subject to
2 a civil penalty of not more than \$50,000 for each violation
3 or the amount of compensation which the person received
4 or offered for the prohibited conduct, whichever amount
5 is greater. The imposition of a civil penalty under this sub-
6 section does not preclude any other criminal or civil statu-
7 tory, common law, or administrative remedy, which is
8 available by law to the United States or any other person.

9 “(c) COURT ORDER.—If the Attorney General has
10 reason to believe that a person is engaging in conduct con-
11 stituting an offense under section 993, 994, 995, 997,
12 998, or 999, the Attorney General may petition an appro-
13 priate United States district court for an order prohibiting
14 that person from engaging in such conduct. The court may
15 issue an order prohibiting that person from engaging in
16 such conduct if the court finds that the conduct con-
17 stitutes such an offense. The filing of a petition under this
18 section does not preclude any other remedy which is avail-
19 able by law to the United States or any other person.

20 **“§ 1005. Voiding transactions in violation of sub-**
21 **chapter; recovery by the United States**

22 “In addition to any other remedies provided by law
23 the President or, under regulations prescribed by him, the
24 head of any department or agency involved, may declare
25 void and rescind any contract, loan, grant, subsidy, li-

1 cense, right, permit, franchise, use, authority, privilege,
2 benefit, certificate, ruling, decision, opinion, or rate sched-
3 ule awarded, granted, paid, furnished, or published, or the
4 performance of any service or transfer or delivery of any
5 thing to, by or for any agency of the United States or
6 officer or employee of the United States or person acting
7 on behalf thereof, in relation to which there has been a
8 final conviction for any violation of this subchapter, and
9 the United States shall be entitled to recover in addition
10 to any penalty prescribed by law or in a contract the
11 amount expended or the thing transferred or delivered on
12 its behalf, or the reasonable value thereof.

13 **“§ 1006. Officers and employees acting as agents of**
14 **foreign principals**

15 “(a) OFFENSE.—Whoever, being a public official, is
16 or acts as an agent of a foreign principal required to reg-
17 ister under the Foreign Agents Registration Act of 1938
18 or a lobbyist required to register under the Lobbying Dis-
19 closure Act of 1995 in connection with the representation
20 of a foreign entity, as defined in section 3(6) of that Act
21 shall be imprisoned for not more than two years.

22 “(b) EXCLUSION.—Nothing in this section applies to
23 the employment of any agent of a foreign principal as a
24 special Government employee in any case in which the
25 head of the employing agency certifies that such employ-

1 ment is required in the national interest. A copy of any
2 certification under this paragraph shall be forwarded by
3 the head of such agency to the Attorney General who shall
4 cause the same to be filed with the registration statement
5 and other documents filed by such agent, and made avail-
6 able for public inspection in accordance with section 6 of
7 the Foreign Agents Registration Act of 1938, as amended.

8 “(c) DEFINITION.—As used in this section ‘public of-
9 ficial’ means Member of Congress, Delegate, or Resident
10 Commissioner, either before or after he has qualified, or
11 an officer or employee or person acting for or on behalf
12 of the United States, or any department, agency, or
13 branch of Government thereof, including the District of
14 Columbia, in any official function, under or by authority
15 of any such department, agency, or branch of Government.

16 **“§ 1007. Bribery in sporting contests**

17 “(a) OFFENSE.—Whoever knowingly engages in any
18 scheme in or affecting interstate or foreign commerce to
19 influence any sporting contest in any way by bribery, shall
20 be imprisoned not more than 5 years.

21 “(b) DEFINITION.—As used in this section, the term
22 ‘sporting contest’ means any contest in any sport, between
23 individual contestants or teams of contestants (without re-
24 gard to the amateur or professional status of the contest-

ants therein), the occurrence of which is publicly announced before its occurrence.

“§ 1008. Continuing financial crimes enterprise

“(a) OFFENSE.—Whoever—

“(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

“(2) receives \$5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be imprisoned for a term of not less than 10 years, or for life.

“(b) DEFINITION.—As used in subsection (a), the term ‘continuing financial crimes enterprise’ means a series of violations under section 1003, 644, 645, 773, 774, 775, 779, 789, or 804, or section 801 or 803 affecting a financial institution, committed by at least 4 persons acting in concert.

“SUBCHAPTER B—CLAIMS AND SERVICES IN

MATTERS AFFECTING GOVERNMENT

“Sec.

“1017. False, fictitious, or fraudulent claims.

“§ 1017. False, fictitious, or fraudulent claims

“Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency

1 thereof, knowing such claim to be false, fictitious, or
2 fraudulent, shall be imprisoned not more than five years.

3 “SUBCHAPTER C—CONTEMPTS

“Sec.

“1021. Power of court.

“1022. Contempts constituting crimes.

4 **“§ 1021. Power of Court**

5 “A court of the United States shall have power to
6 punish by fine or imprisonment, or both, at its discretion,
7 such contempt of its authority, and none other, as—

8 “(1) misbehavior of any person in its presence
9 or so near thereto as to obstruct the administration
10 of justice;

11 “(2) misbehavior of any of its officers in their
12 official transactions; or

13 “(3) disobedience or resistance to its lawful
14 writ, process, order, rule, decree, or command.

15 **“§ 1022. Contempts constituting crimes**

16 “(a) OFFENSE.—Whoever disobeys any lawful writ,
17 process, order, rule, decree, or command of any district
18 court of the United States or any court of the District
19 of Columbia, by doing any act or thing therein, or thereby
20 forbidden, if the act or thing so done be of such character
21 as to constitute also a criminal offense under any statute
22 of the United States or under the laws of any State in
23 which the act was committed, shall be prosecuted for such

“1034. Coercion of political activity.

“1035. Voting by aliens.

1 **“§ 1031. Intimidation of voters**

2 “Whoever intimidates, threatens, coerces, or attempts
3 to intimidate, threaten, or coerce, any other person for the
4 purpose of interfering with the right of such other person
5 to vote or to vote as he may choose, or of causing such
6 other person to vote for, or not to vote for, any candidate
7 for the office of President, Vice President, Presidential
8 elector, Member of the Senate, Member of the House of
9 Representatives, Delegate from the District of Columbia,
10 or Resident Commissioner, at any election held solely or
11 in part for the purpose of electing such candidate, shall
12 be imprisoned not more than one year.

13 **“§ 1032. Deprivation of employment or other benefit**
14 **for political contribution**

15 “(a) OFFENSE.—Whoever knowingly causes or at-
16 tempts to cause any person to make a contribution of a
17 thing of value (including services) for the benefit of any
18 candidate or any political party, by means of the denial
19 or deprivation, or the threat of the denial or deprivation,
20 of—

21 “(1) any employment, position, or work in or
22 for any agency or other entity of the Government of
23 the United States, a State, or a political subdivision

1 of a State, or any compensation or benefit of such
2 employment, position, or work; or

3 “(2) any payment or benefit of a program of
4 the United States, a State, or a political subdivision
5 of a State;

6 if such employment, position, work, compensation, pay-
7 ment, or benefit is provided for or made possible in whole
8 or in part by an Act of Congress, shall be imprisoned not
9 more than one year.

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

11 “(1) the term ‘candidate’ means an individual
12 who seeks nomination for election, or election, to
13 Federal, State, or local office, whether or not such
14 individual is elected, and, for purposes of this para-
15 graph, an individual shall be deemed to seek nomi-
16 nation for election, or election, to Federal, State, or
17 local office, if he has (A) taken the action necessary
18 under the law of a State to qualify himself for nomi-
19 nation for election, or election, or (B) received con-
20 tributions or made expenditures, or has given his
21 consent for any other person to receive contributions
22 or make expenditures, with a view to bringing about
23 his nomination for election, or election, to such of-
24 fice; and

1 “(2) the term ‘election’ means (A) a general,
2 special primary, or runoff election, (B) a convention
3 or caucus of a political party held to nominate a
4 candidate, (C) a primary election held for the selec-
5 tion of delegates to a nominating convention of a po-
6 litical party, (D) a primary election held for the ex-
7 pression of a preference for the nomination of per-
8 sons for election to the office of President, and (E)
9 the election of delegates to a constitutional conven-
10 tion for proposing amendments to the Constitution
11 of the United States or of any State.

12 **“§ 1033. Solicitation of political contributions**

13 “(a) OFFENSE.—It shall be unlawful for—

14 “(1) a candidate for the Congress;

15 “(2) an individual elected to or serving in the
16 office of Senator or Representative in, or Delegate
17 or Resident Commissioner to, the Congress;

18 “(3) an officer or employee of the United States
19 or any department or agency thereof; or

20 “(4) a person receiving any salary or compensa-
21 tion for services from money derived from the Treas-
22 ury of the United States; to knowingly solicit any
23 contribution within the meaning of section 301(8) of
24 the Federal Election Campaign Act of 1971 from
25 any other such officer, employee, or person. Whoever

1 violates this section shall be imprisoned not more
2 than 3 years.

3 “(b) EXCLUSION.—The prohibition in subsection (a)
4 do not apply to any activity of an employee (as defined
5 in section 7322(1) of title 5) or any individual employed
6 in or under the United States Postal Service or the Postal
7 Rate Commission, unless that activity is prohibited by sec-
8 tion 7323 or 7324 of such title.

9 **“§ 1034. Coercion of political activity**

10 “It shall be unlawful for any person to intimidate,
11 threaten, command, or coerce, or attempt to intimidate,
12 threaten, command, or coerce, any employee of the Fed-
13 eral Government as defined in section 7322(1) of title 5,
14 to engage in, or not to engage in, any political activity,
15 including, voting or refusing to vote for any candidate or
16 measure in any election, making or refusing to make any
17 political contribution, or working or refusing to work on
18 behalf of any candidate. Whoever violates this section shall
19 be imprisoned not more than three years.

20 **“§ 1035. Voting by aliens**

21 “(a) ELEMENTS OF OFFENSE.—It shall be unlawful
22 for any alien to vote in any election held solely or in part
23 for the purpose of electing a candidate for the office of
24 President, Vice President, Presidential elector, Member of
25 the Senate, Member of the House of Representatives, Del-

1 egate from the District of Columbia, or Resident Commis-
2 sioner, unless—

3 “(1) the election is held partly for some other
4 purpose;

5 “(2) aliens are authorized to vote for such other
6 purpose under a State constitution or statute or a
7 local ordinance; and

8 “(3) voting for such other purpose is conducted
9 independently of voting for a candidate for such
10 Federal offices, in such a manner that an alien has
11 the opportunity to vote for such other purpose, but
12 not an opportunity to vote for a candidate for any
13 one or more of such Federal offices.

14 “(b) PUNISHMENT.—Whoever violates this section
15 shall be imprisoned not more than one year.

16 “(c) EXCLUSION.—Subsection (a) does not apply to
17 an alien if—

18 “(1) each natural parent of the alien (or, in the
19 case of an adopted alien, each adoptive parent of the
20 alien) is or was a citizen (whether by birth or natu-
21 ralization);

22 “(2) the alien permanently resided in the
23 United States prior to attaining the age of 16; and

1 “(1) NATURE OF CLAIM.—An appeal may be
2 taken directly to the Supreme Court of the United
3 States from any interlocutory or final judgment, de-
4 cree, or order issued by a United States district
5 court ruling upon the constitutionality of subsection
6 (a).

7 “(2) PROCEDURAL EXPEDITION.—The Supreme
8 Court shall, if it has not previously ruled on the question,
9 accept jurisdiction over the appeal and advance on the
10 docket and expedite to the greatest extent possible.

11 **“§ 1052. Official badges, identification cards, other in-**
12 **signia**

13 “Whoever manufactures, sells, or possesses any
14 badge, identification card, or other insignia, of the design
15 prescribed by the head of any department or agency of
16 the United States for use by any officer or employee there-
17 of, or any colorable imitation thereof, or photographs,
18 prints, or in any other manner makes or executes any en-
19 graving, photograph, print, or impression in the likeness
20 of any such badge, identification card, or other insignia,
21 or any colorable imitation thereof, except as authorized
22 under regulations made pursuant to law, shall be impris-
23 oned not more than six months.

1 **“§ 1053. Uniform of Armed Forces and public health**
2 **Service**

3 “Whoever, in any place within the jurisdiction of the
4 United States or in the Canal Zone, without authority,
5 wears the uniform or a distinctive part thereof or anything
6 similar to a distinctive part of the uniform of any of the
7 armed forces of the United States, Public Health Service
8 or any auxiliary of such, shall be imprisoned not more
9 than six months.

10 **“§ 1054. Military medals or decorations**

11 “(a) IN GENERAL.—Whoever knowingly wears, pur-
12 chases, attempts to purchase, solicits for purchase, mails,
13 ships, imports, exports, produces blank certificates of re-
14 ceipt for, manufactures, sells, attempts to sell, advertises
15 for sale, trades, barter, or exchanges for anything of
16 value any decoration or medal authorized by Congress for
17 the armed forces of the United States, or any of the serv-
18 ice medals or badges awarded to the members of such
19 forces, or the ribbon, button, or rosette of any such badge,
20 decoration or medal, or any colorable imitation thereof, ex-
21 cept when authorized under regulations made pursuant to
22 law, shall be imprisoned not more than six months.

23 “(b) FALSE CLAIM ABOUT RECEIPT OF MILITARY
24 DECORATIONS OR MEDALS.—Whoever falsely represents
25 himself or herself, verbally or in writing, to have been
26 awarded any decoration or medal authorized by Congress

1 for the Armed Forces of the United States, any of the
2 service medals or badges awarded to the members of such
3 forces, the ribbon, button, or rosette of any such badge,
4 decoration, or medal, or any colorable imitation of such
5 item shall be imprisoned not more than six months.

6 “(c) ENHANCED PENALTY FOR OFFENSES INVOLV-
7 ING CONGRESSIONAL MEDAL OF HONOR.—

8 “(1) IN GENERAL.—If a decoration or medal in-
9 volved in an offense under subsection (a) or (b) is
10 a Congressional Medal of Honor, in lieu of the pun-
11 ishment provided in that subsection, the offender
12 shall be imprisoned not more than 1 year.

13 “(2) CONGRESSIONAL MEDAL OF HONOR DE-
14 FINED.—In this subsection, the term ‘Congressional
15 Medal of Honor’ means—

16 “(A) a medal of honor awarded under sec-
17 tion 3741, 6241, or 8741 of title 10 or section
18 491 of title 14;

19 “(B) a duplicate medal of honor issued
20 under section 3754, 6256, or 8754 of title 10
21 or section 504 of title 14; or

22 “(C) a replacement of a medal of honor
23 provided under section 3747, 6253, or 8747 of
24 title 10 or section 501 of title 14.

1 “(d) ENHANCED PENALTY FOR OFFENSES INVOLV-
2 ING CERTAIN OTHER MEDALS.—If a decoration or medal
3 involved in an offense described in subsection (a) or (b)
4 is a distinguished-service cross awarded under section
5 3742 of title 10, a Navy cross awarded under section 6242
6 of title 10, an Air Force cross awarded under section 8742
7 of section 10, a silver star awarded under section 3746,
8 6244, or 8746 of title 10, a Purple Heart awarded under
9 section 1129 of title 10, or any replacement or duplicate
10 medal for such medal as authorized by law, in lieu of the
11 punishment provided in the applicable subsection, the of-
12 fender shall be imprisoned not more than 1 year.

13 **“§ 1055. False advertising or misuse of names to indi-
14 cate Federal agency**

15 “(a) OFFENSE.—Whoever—

16 “(1) except as permitted by the laws of the
17 United States, uses the words ‘national’, ‘Federal’,
18 ‘United States’, ‘reserve’, or ‘Deposit Insurance’ as
19 part of the business or firm name of a person, cor-
20 poration, partnership, business trust, association or
21 other business entity engaged in the banking, loan,
22 building and loan, brokerage, factorage, insurance,
23 indemnity, savings or trust business;

24 “(2) falsely advertises or represents, or pub-
25 lishes or displays any sign, symbol or advertisement

1 reasonably calculated to convey the impression that
2 a nonmember bank, banking association, firm or
3 partnership is a member of the Federal reserve sys-
4 tem;

5 “(3) except as expressly authorized by Federal
6 law, uses the words ‘Federal Deposit’, ‘Federal De-
7 posit Insurance’, or ‘Federal Deposit Insurance Cor-
8 poration’ or a combination of any three of these
9 words, as the name or a part thereof under which
10 he or it does business, or advertises or otherwise
11 represents falsely by any device whatsoever that his
12 or its deposit liabilities, obligations, certificates, or
13 shares are insured or guaranteed by the Federal De-
14 posit Insurance Corporation, or by the United States
15 or by any instrumentality thereof, or whoever adver-
16 tises that his or its deposits, shares, or accounts are
17 federally insured, or falsely advertises or otherwise
18 represents by any device whatsoever the extent to
19 which or the manner in which the deposit liabilities
20 of an insured bank or banks are insured by the Fed-
21 eral Deposit Insurance Corporation;

22 “(4) other than a bona fide organization or as-
23 sociation of Federal or State credit unions or except
24 as permitted by the laws of the United States, uses
25 as a firm or business name or transacts business

1 using the words ‘National Credit Union’, ‘National
2 Credit Union Administration’, ‘National Credit
3 Union Board’, ‘National Credit Union Share Insur-
4 ance Fund’, ‘Share Insurance’, or ‘Central Liquidity
5 Facility’, or the letters ‘NCUA’, ‘NCUSIF’, or
6 ‘CLF’, or any other combination or variation of
7 those words or letters alone or with other words or
8 letters, or any device or symbol or other means, rea-
9 sonably calculated to convey the false impression
10 that such name or business has some connection
11 with, or authorization from, the National Credit
12 Union Administration, the Government of the
13 United States, or any agency thereof, which does not
14 in fact exist, or falsely advertises or otherwise rep-
15 resents by any device whatsoever that his or its busi-
16 ness, product, or service has been in any way en-
17 dorsed, authorized, or approved by the National
18 Credit Union Administration, the Government of the
19 United States, or any agency thereof, or falsely ad-
20 vertises or otherwise represents by any device what-
21 soever that his or its deposit liabilities, obligations,
22 certificates, shares, or accounts are insured under
23 the Federal Credit Union Act or by the United
24 States or any instrumentality thereof, or being an
25 insured credit union as defined in that Act falsely

1 advertises or otherwise represents by any device
2 whatsoever the extent to which or the manner in
3 which share holdings in such credit union are in-
4 sured under such Act;

5 “(5) not being organized under the Farm Cred-
6 it Act of 1971, advertises or represents that it
7 makes Federal Farm loans or advertises or offers
8 for sale as Federal Farm loan bonds any bond not
9 issued under the Farm Credit Act of 1971, or uses
10 the word ‘Federal’ or the words ‘United States’ or
11 any other words implying Government ownership,
12 obligation or supervision in advertising or offering
13 for sale any bond, note, mortgage or other security
14 not issued by the Government of the United States
15 under the Farm Credit Act of 1971;

16 “(6) uses the words ‘Federal Home Loan Bank’
17 or any combination or variation of these words alone
18 or with other words as a business name or part of
19 a business name, or falsely publishes, advertises or
20 represents by any device or symbol or other means
21 reasonably calculated to convey the impression that
22 he or it is a Federal Home Loan Bank or member
23 of or subscriber for the stock of a Federal Home
24 Loan Bank;

1 “(7) uses the words ‘Federal intermediate cred-
2 it bank’ as part of the business or firm name for any
3 person, corporation, partnership, business trust, as-
4 sociation or other business entity not organized as
5 an intermediate credit bank under the laws of the
6 United States;

7 “(8) uses as a firm or business name the words
8 ‘Department of Housing and Urban Development’,
9 ‘Housing and Home Finance Agency’, ‘Federal
10 Housing Administration’, ‘Government National
11 Mortgage Association’, ‘United States Housing Au-
12 thority’, or ‘Public Housing Administration’ or the
13 letters ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’, or any
14 combination or variation of those words or the let-
15 ters ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’ alone or with
16 other words or letters reasonably calculated to con-
17 vey the false impression that such name or business
18 has some connection with, or authorization from, the
19 Department of Housing and Urban Development,
20 the Housing and Home Finance Agency, the Federal
21 Housing Administration, the Government National
22 Mortgage Association, the United States Housing
23 Authority, the Public Housing Administration, the
24 Government of the United States, or any agency
25 thereof, which does not in fact exist, or falsely

1 claims that any repair, improvement, or alteration of
2 any existing structure is required or recommended
3 by the Department of Housing and Urban Develop-
4 ment, the Housing and Home Finance Agency, the
5 Federal Housing Administration, the Government
6 National Mortgage Association, the United States
7 Housing Authority, the Public Housing Administra-
8 tion, the Government of the United States, or any
9 agency thereof, for the purpose of inducing any per-
10 son to enter into a contract for the making of such
11 repairs, alterations, or improvements, or falsely ad-
12 vertises or falsely represents by any device whatso-
13 ever that any housing unit, project, business, or
14 product has been in any way endorsed, authorized,
15 inspected, appraised, or approved by the Department
16 of Housing and Urban Development, the Housing
17 and Home Finance Agency, the Federal Housing
18 Administration, the Government National Mortgage
19 Association, the United States Housing Authority,
20 the Public Housing Administration, the Government
21 of the United States, or any agency thereof;

22 “(9) except with the written permission of the
23 Director of the Federal Bureau of Investigation,
24 knowingly uses the words ‘Federal Bureau of Inves-
25 tigation’ or the initials ‘F.B.I.’, or any colorable imi-

1 tation of such words or initials, in connection with
2 any advertisement, circular, book, pamphlet or other
3 publication, play, motion picture, broadcast, telecast,
4 or other production, in a manner reasonably cal-
5 culated to convey the impression that such advertise-
6 ment, circular, book, pamphlet or other publication,
7 play, motion picture, broadcast, telecast, or other
8 production, is approved, endorsed, or authorized by
9 the Federal Bureau of Investigation;

10 “(10) except with written permission of the Di-
11 rector of the United States Secret Service, know-
12 ingly uses the words ‘Secret Service’, ‘Secret Service
13 Uniformed Division’, the initials ‘U.S.S.S.’, ‘U.D.’,
14 or any colorable imitation of such words or initials,
15 in connection with, or as a part of any advertise-
16 ment, circular, book, pamphlet or other publication,
17 play, motion picture, broadcast, telecast, other pro-
18 duction, product, or item, in a manner reasonably
19 calculated to convey the impression that such adver-
20 tisement, circular, book, pamphlet or other publica-
21 tion, product, or item, is approved, endorsed, or au-
22 thorized by or associated in any manner with, the
23 United States Secret Service, or the United States
24 Secret Service Uniformed Division;

1 “(11) except with the written permission of the
2 Director of the United States Mint, knowingly uses
3 the words ‘United States Mint’ or ‘U.S. Mint’ or any
4 colorable imitation of such words, in connection with
5 any advertisement, circular, book, pamphlet, or other
6 publication, play, motion picture, broadcast, telecast,
7 or other production, in a manner reasonably cal-
8 culated to convey the impression that such advertise-
9 ment, circular, book, pamphlet, or other publication,
10 play, motion picture, broadcast, telecast, or other
11 production, is approved, endorsed, or authorized by
12 or associated in any manner with, the United States
13 Mint;

14 “(12) uses the words ‘Overseas Private Invest-
15 ment’, ‘Overseas Private Investment Corporation’, or
16 ‘OPIC’, as part of the business or firm name of a
17 person, corporation, partnership, business trust, as-
18 sociation, or business entity;

19 “(13) except with the written permission of the
20 Administrator of the Drug Enforcement Administra-
21 tion, knowingly uses the words ‘Drug Enforcement
22 Administration’ or the initials ‘DEA’ or any
23 colorable imitation of such words or initials, in con-
24 nection with any advertisement, circular, book, pam-
25 phlet, software or other publication, play, motion

1 picture, broadcast, telecast, or other production, in
2 a manner reasonably calculated to convey the im-
3 pression that such advertisement, circular, book,
4 pamphlet, software or other publication, play, motion
5 picture, broadcast, telecast, or other production is
6 approved, endorsed, or authorized by the Drug En-
7 forcement Administration; or

8 “(14) except with the written permission of the
9 Director of the United States Marshals Service,
10 knowingly uses the words ‘United States Marshals
11 Service’, ‘U.S. Marshals Service’, ‘United States
12 Marshal’, ‘U.S. Marshal’, ‘U.S.M.S.’, or any
13 colorable imitation of any such words, or the likeness
14 of a United States Marshals Service badge, logo, or
15 insignia on any item of apparel, in connection with
16 any advertisement, circular, book, pamphlet, soft-
17 ware, or other publication, or any play, motion pic-
18 ture, broadcast, telecast, or other production, in a
19 manner that is reasonably calculated to convey the
20 impression that the wearer of the item of apparel is
21 acting pursuant to the legal authority of the United
22 States Marshals Service, or to convey the impression
23 that such advertisement, circular, book, pamphlet,
24 software, or other publication, or such play, motion
25 picture, broadcast, telecast, or other production, is

1 approved, endorsed, or authorized by the United
2 States Marshals Service;
3 shall be imprisoned not more than one year.

4 “(b) EXCLUSIONS.—

5 “(1) LAWFUL BEFORE ENACTMENT.—This sec-
6 tion does not make unlawful the use of any name or
7 title which was lawful on June 25, 1948.

8 “(2) INSURANCE.—This section does not make
9 unlawful the use of the word ‘national’ as part of the
10 name of any business or firm engaged in the insur-
11 ance or indemnity business, whether such firm was
12 engaged in the insurance or indemnity business prior
13 or subsequent to the date of enactment of this para-
14 graph.

15 “(c) ENJOINING OF VIOLATION.—A violation of this
16 section may be enjoined at the suit of the United States
17 Attorney, upon complaint by any duly authorized rep-
18 resentative of any department or agency of the United
19 States.

20 **“§ 1056. Misuse of names, words, emblems, or insignia**

21 “Whoever, in the course of collecting or aiding in the
22 collection of private debts or obligations, or being engaged
23 in furnishing private police, investigation, or other private
24 detective services, uses or employs in any communication,
25 correspondence, notice, advertisement, or circular the

1 words ‘national’, ‘Federal’, or ‘United States’, the initials
2 ‘U.S.’, or any emblem, insignia, or name, for the purpose
3 of conveying and in a manner reasonably calculated to
4 convey the false impression that such communication is
5 from a department, agency, bureau, or instrumentality of
6 the United States or in any manner represents the United
7 States, shall be imprisoned not more than one year.

8 **“§ 1057. Use of likenesses of the great seal of the**
9 **United States, the seals of the President**
10 **and Vice President, the seal of the United**
11 **States Senate, the seal of the United**
12 **States House of Representatives, and the**
13 **seal of the United States Congress**

14 “(a) DISPLAY.—Whoever knowingly displays any
15 printed or other likeness of the great seal of the United
16 States, or of the seals of the President or the Vice Presi-
17 dent of the United States, or the seal of the United States
18 Senate, or the seal of the United States House of Rep-
19 resentatives, or the seal of the United States Congress,
20 or any facsimile thereof, in, or in connection with, any ad-
21 vertisement, poster, circular, book, pamphlet, or other
22 publication, public meeting, play, motion picture, telecast,
23 or other production, or on any building, monument, or sta-
24 tionery, for the purpose of conveying, or in a manner rea-
25 sonably calculated to convey, a false impression of spon-

1 sorship or approval by the Government of the United
2 States or by any department, agency, or instrumentality
3 thereof, shall be imprisoned not more than six months.

4 “(b) LIKENESS ON ARTICLES.—Whoever, except as
5 authorized under regulations promulgated by the Presi-
6 dent and published in the Federal Register, knowingly
7 manufactures, reproduces, sells, or purchases for resale,
8 either separately or appended to any article manufactured
9 or sold, any likeness of the seals of the President or Vice
10 President, or any substantial part thereof, except for man-
11 ufacture or sale of the article for the official use of the
12 Government of the United States, shall be imprisoned not
13 more than six months.

14 “(c) SEAL OF THE UNITED STATES.—Whoever, ex-
15 cept as directed by the United States Senate, or the Sec-
16 retary of the Senate on its behalf, knowingly uses, manu-
17 factures, reproduces, sells or purchases for resale, either
18 separately or appended to any article manufactured or
19 sold, any likeness of the seal of the United States Senate,
20 or any substantial part thereof, except for manufacture
21 or sale of the article for the official use of the Government
22 of the United States, shall be imprisoned not more than
23 six months.

24 “(d) SEAL OF UNITED STATES HOUSE OF REP-
25 RESENTATIVES.—Whoever, except as directed by the

1 United States House of Representatives, or the Clerk of
2 the House of Representatives on its behalf, knowingly
3 uses, manufactures, reproduces, sells or purchases for re-
4 sale, either separately or appended to any article manufac-
5 tured or sold, any likeness of the seal of the United States
6 House of Representatives, or any substantial part thereof,
7 except for manufacture or sale of the article for the official
8 use of the Government of the United States, shall be im-
9 prisoned not more than six months.

10 “(e) SEAL OF CONGRESS.—Whoever, except as di-
11 rected by the United States Congress, or the Secretary
12 of the Senate and the Clerk of the House of Representa-
13 tives, acting jointly on its behalf, knowingly uses, manu-
14 factures, reproduces, sells or purchases for resale, either
15 separately or appended to any article manufactured or
16 sold, any likeness of the seal of the United States Con-
17 gress, or any substantial part thereof, except for manufac-
18 ture or sale of the article for the official use of the Govern-
19 ment of the United States, shall be imprisoned not more
20 than six months.

21 “(f) VIOLATION MAY BE ENJOINED.—A violation of
22 this section may be enjoined at the suit of the Attorney
23 General—

24 “(1) in the case of the great seal of the United
25 States and the seals of the President and Vice Presi-

1 dent, upon complaint by any authorized representa-
2 tive of any department or agency of the United
3 States;

4 “(2) in the case of the seal of the United States
5 Senate, upon complaint by the Secretary of the Sen-
6 ate;

7 “(3) in the case of the seal of the United States
8 House of Representatives, upon complaint by the
9 Clerk of the House of Representatives; and

10 “(4) in the case of the seal of the United States
11 Congress, upon complaint by the Secretary of the
12 Senate and the Clerk of the House of Representa-
13 tives, acting jointly.

14 **“§ 1058. Public employee insignia and uniform**

15 “(a) OFFENSE.—Whoever—

16 “(1) knowingly transfers, transports, or re-
17 ceives, in interstate or foreign commerce, a counter-
18 feit official insignia or uniform;

19 “(2) knowingly transfers, in interstate or for-
20 eign commerce, a genuine official insignia or uni-
21 form to an individual, knowing that such individual
22 is not authorized to possess it under the law of the
23 place in which the badge is the official insignia or
24 uniform;

1 “(3) knowingly receives a genuine official insignia or uniform in a transfer prohibited by paragraph
2 (2); or
3

4 “(4) being a person not authorized to possess a
5 genuine official insignia or uniform under the law of
6 the place in which the badge is the official insignia
7 or uniform, knowingly transports that badge in
8 interstate or foreign commerce,
9 shall be imprisoned not more than 6 months.

10 “(b) DEFENSE FOR CERTAIN USES.—It is a defense
11 to a prosecution under this section that the insignia or
12 uniform is other than a counterfeit insignia or uniform
13 and is not used to mislead or deceive, or is used or is
14 intended to be used exclusively—

15 “(1) as a memento, or in a collection or exhibit;

16 “(2) for decorative purposes;

17 “(3) for a dramatic presentation, such as a theatrical, film, or television production; or
18

19 “(4) for any other recreational purpose.

20 “(c) DEFENSE FOR CERTAIN OTHER USES.—It is a
21 defense to a prosecution under this section that the official
22 insignia or uniform is not used or intended to be used to
23 mislead or deceive, or is a counterfeit insignia or uniform
24 and is used or is intended to be used exclusively—

1 “(1) for a dramatic presentation, such as a the-
2 atrical, film, or television production; or

3 “(2) for legitimate law enforcement purposes.

4 “(d) DEFINITIONS.—As used in this section—

5 “(1) the term ‘genuine police badge’ means an
6 official badge issued by public authority to identify
7 an individual as a law enforcement officer having po-
8 lice powers;

9 “(2) the term ‘counterfeit police badge’ means
10 an item that so resembles a police badge that it
11 would deceive an ordinary individual into believing it
12 was a genuine police badge; and

13 “(3) the term ‘official insignia or uniform’
14 means an article of distinctive clothing or insignia,
15 including a badge, emblem or identification card,
16 that is an indicium of the authority of a public em-
17 ployee;

18 “(4) the term ‘public employee’ means any offi-
19 cer or employee of the Federal Government or of a
20 State or local government; and

21 “(5) the term ‘uniform’ means distinctive cloth-
22 ing or other items of dress, whether real or counter-
23 feit, worn during the performance of official duties
24 and which identifies the wearer as a public agency
25 employee.

1 “SUBCHAPTER F—ESCAPE AND RESCUE

“Sec.

“1071. Prisoners in custody of institution or officer.

“1072. Instigating or assisting escape.

“1073. Officer permitting escape.

“1074. High speed flight from immigration checkpoint.

“1075. Escape from hospitalization.

2 **“§ 1071. Prisoners in custody of institution or officer**

3 “(a) ADULTS.—Whoever escapes or attempts to es-
4 cape from the custody of the Attorney General or his au-
5 thorized representative, or from any institution or facility
6 in which he is confined by direction of the Attorney Gen-
7 eral, or from any custody under or by virtue of any process
8 issued under the laws of the United States by any court,
9 judge, or magistrate judge, or from the custody of an offi-
10 cer or employee of the United States pursuant to lawful
11 arrest, shall, if the custody or confinement is by virtue
12 of an arrest on a charge of felony, or conviction of any
13 offense, be imprisoned not more than five years; or if the
14 custody or confinement is for extradition, or for exclusion
15 or expulsion proceedings under the immigration laws, or
16 by virtue of an arrest or charge of or for a misdemeanor,
17 and prior to conviction, be imprisoned not more than one
18 year.

19 “(b) JUVENILES.—Whoever escapes or attempts to
20 escape from the custody of the Attorney General or his
21 authorized representative, or from any institution or facil-
22 ity in which he is confined by direction of the Attorney

1 General, or from any custody under or by virtue of any
2 process issued under the laws of the United States by any
3 court, judge, or magistrate judge, or from the custody of
4 an officer or employee of the United States pursuant to
5 lawful arrest, shall, if the custody or confinement is by
6 virtue of a lawful arrest for a violation of any law of the
7 United States not punishable by death or life imprison-
8 ment and committed before such person's eighteenth
9 birthday, and as to whom the Attorney General has not
10 specifically directed the institution of criminal pro-
11 ceedings, or by virtue of a commitment as a juvenile delin-
12 quent under section 5034, be imprisoned not more than
13 one year. Nothing in this section affects the discretionary
14 authority vested in the Attorney General pursuant to sec-
15 tion 5032.

16 **“§ 1072. Instigating or assisting escape**

17 “(a) ADULTS.—Whoever rescues or attempts to res-
18 cue or instigates, aids or assists the escape, or attempt
19 to escape, of any person arrested upon a warrant or other
20 process issued under any law of the United States, or com-
21 mitted to the custody of the Attorney General or to any
22 institution or facility by his direction, shall, if the custody
23 or confinement is by virtue of an arrest on a charge of
24 felony, or conviction of any offense, be imprisoned not
25 more than five years; or, if the custody or confinement

1 is for extradition, or for exclusion or expulsion proceedings
2 under the immigration laws, or by virtue of an arrest or
3 charge of or for a misdemeanor, and prior to conviction,
4 be imprisoned not more than one year.

5 “(b) JUVENILES.—Whoever rescues or attempts to
6 rescue or instigates, aids, or assists the escape or at-
7 tempted escape of any person in the custody of the Attor-
8 ney General or his authorized representative, or of any
9 person arrested upon a warrant or other process issued
10 under any law of the United States or from any institution
11 or facility in which he is confined by direction of the Attor-
12 ney General, shall, if the custody or confinement is by vir-
13 tue of a lawful arrest for a violation of any law of the
14 United States not punishable by death or life imprison-
15 ment and committed before such person’s eighteenth
16 birthday, and as to whom the Attorney General has not
17 specifically directed the institution of criminal pro-
18 ceedings, or by virtue of a commitment as a juvenile delin-
19 quent under section 5034, be imprisoned not more than
20 one year.

21 **“§ 1073. Officer permitting escape**

22 “Whoever, having in his custody any prisoner by vir-
23 tue of process issued under the laws of the United States
24 by any court, judge, or magistrate judge, voluntarily suf-
25 fers such prisoner to escape, shall be imprisoned not more

1 than 5 years; or if he negligently suffers such person to
2 escape, he shall be imprisoned not more than one year.

3 **“§ 1074. High speed flight from immigration check-**
4 **point**

5 “Whoever flees or evades a checkpoint operated by
6 the Immigration and Naturalization Service, or any other
7 Federal law enforcement agency, in a motor vehicle and
8 flees Federal, State, or local law enforcement agents in
9 excess of the legal speed limit shall be imprisoned not
10 more than five years.

11 **“§ 1075. Escape from hospitalization**

12 “Whoever escapes or attempts to escape from the
13 custody of any facility or from any place in which or to
14 which he is confined pursuant to this section 1826 of title
15 28 or section 4243 of this title, or whoever rescues or at-
16 tempts to rescue or instigates, aids, or assists the escape
17 or attempt to escape of such a person, shall be imprisoned
18 not more than three years.

19 **“SUBCHAPTER G—FALSE PERSONATION**

“Sec.

“1091. Citizen of the United States.

“1092. Officer or employee of the United States.

“1093. Impersonator making arrest or search.

20 **“§ 1091. Citizen of the United States**

21 “Whoever falsely represents oneself to be a citizen of
22 the United States shall be imprisoned not more than three
23 years.

1 **“§ 1092. Officer or employee of the United States**

2 “Whoever falsely assumes or pretends to be an officer
3 or employee acting under the authority of the United
4 States or any department, agency or officer thereof, and
5 acts as such, or in such pretended character demands or
6 obtains any money, paper, document, or thing of value,
7 shall be imprisoned not more than three years.

8 **“§ 1093. Impersonator making arrest or search**

9 “Whoever falsely represents oneself to be an officer,
10 agent, or employee of the United States, and in such as-
11 sumed character arrests or detains any person or in any
12 manner searches the person, buildings, or other property
13 of any person, shall be imprisoned not more than three
14 years.

15 **“SUBCHAPTER H—FUGITIVES FROM JUSTICE**

“Sec.

“1101. Concealing person from arrest.

“1102. Concealing escaped prisoner.

“1103. Flight to avoid prosecution or giving testimony.

“1104. Flight to avoid prosecution for damaging or destroying any building or
other real or personal property.

16 **“§ 1101. Concealing person from arrest**

17 “Whoever harbors or conceals any person for whose
18 arrest a warrant or process has been issued under any
19 law of the United States, so as to prevent his discovery
20 and arrest, after notice or knowledge of the fact that a
21 warrant or process has been issued for the apprehension
22 of such person, shall be imprisoned not more than one

1 year; except that if the warrant or process issued on a
2 charge of felony, or after conviction of such person of any
3 offense, the punishment shall be a fine under this title,
4 or imprisonment for not more than five years, or both.

5 **“§ 1102. Concealing escaped prisoner**

6 “Whoever harbors or conceals any prisoner after that
7 prisoner’s escape from the custody of the Attorney General
8 or from a Federal penal or correctional institution, shall
9 be imprisoned not more than three years.

10 **“§ 1103. Flight to avoid prosecution or giving testi-**
11 **mony**

12 “(a) OFFENSE.—Whoever moves or travels in inter-
13 state or foreign commerce with intent—

14 “(1) to avoid prosecution, or custody or confine-
15 ment after conviction, under the laws of the place
16 from which he flees, for a crime, or an attempt to
17 commit a crime, punishable by death or which is a
18 felony under the laws of the place from which the
19 fugitive flees;

20 “(2) to avoid giving testimony in any criminal
21 proceedings in such place in which the commission
22 of an offense punishable by death or which is a fel-
23 ony under the laws of such place, is charged; or

24 “(3) to avoid service of, or contempt pro-
25 ceedings for alleged disobedience of, lawful process

1 requiring attendance and the giving of testimony or
2 the production of documentary evidence before an
3 agency of a State empowered by the law of such
4 State to conduct investigations of alleged criminal
5 activities;

6 shall be imprisoned not more than five years.

7 “(b) SPECIAL VENUE AND APPROVAL REQUIRED.—
8 Violations of this section may be prosecuted only in the
9 Federal judicial district in which the original crime was
10 alleged to have been committed, or in which the person
11 was held in custody or confinement, or in which an avoid-
12 ance of service of process or a contempt referred to in
13 subsection (a)(3) is alleged to have been committed, and
14 only upon formal approval in writing by the Attorney Gen-
15 eral, the Deputy Attorney General, the Associate Attorney
16 General, or an Assistant Attorney General of the United
17 States, which function of approving prosecutions may not
18 be delegated.

19 **“§ 1104. Flight to avoid prosecution for damaging or**
20 **destroying any building or other real or**
21 **personal property**

22 “(a) OFFENSE.—Whoever moves or travels in inter-
23 state or foreign commerce with intent—

24 “(1) to avoid prosecution, or custody, or con-
25 finement after conviction, under the laws of the

1 place from which he flees, for attempting to or dam-
 2 aging or destroying by fire or explosive any building,
 3 structure, facility, vehicle, dwelling house, syna-
 4 gogue, church, religious center or educational insti-
 5 tution, public or private; or

6 “(2) to avoid giving testimony in any criminal
 7 proceeding relating to any such offense;
 8 shall be imprisoned not more than five years.

9 “(b) VENUE.—Violations of this section may be pros-
 10 ecuted in the Federal judicial district in which the original
 11 crime was alleged to have been committed or in which the
 12 person was held in custody or confinement.

13 “(c) RULE OF CONSTRUCTION.—This section shall
 14 not be construed as indicating an intent on the part of
 15 Congress to prevent the exercise by a State of any jurisdic-
 16 tion over any offense over which that State would have
 17 jurisdiction in the absence of such section.

18 “SUBCHAPTER I—OBSTRUCTION OF JUSTICE

“Sec.

“1131. Assault on process server.

“1132. Influencing or injuring officer or juror generally.

“1133. Obstruction of proceedings before departments, agencies, and commit-
 tees.

“1134. Obstruction of Court orders.

“1135. Obstruction of criminal investigations.

“1136. Obstruction of State or local law enforcement with regard to illegal gam-
 bling business.

“1137. Tampering with a witness, victim, or an informant.

“1138. Retaliating against a witness, victim, or an informant.

“1139. Civil action to restrain harassment of a victim or witness.

“1140. Civil action to protect against retaliation in fraud cases.

“1141. Definitions for certain provisions; general provision.

“1142. Destruction of corporate audit records.

1 **“§ 1131. Assault on process server**

2 “Whoever—

3 “(1) knowingly obstructs, resists, or opposes
4 any officer of the United States, or other person
5 duly authorized, in serving, or attempting to serve or
6 execute, any legal or judicial writ or process of any
7 court of the United States, or United States mag-
8 istrate judge; or

9 “(2) assaults, beats, or wounds any officer or
10 other person duly authorized, knowing him to be
11 such officer, or other person so duly authorized, in
12 serving or executing any such writ, rule, order, proc-
13 ess, warrant, or other legal or judicial writ or proc-
14 ess;

15 shall, except as otherwise provided by law, be imprisoned
16 not more than one year.

17 **“§ 1132. Influencing or injuring officer or juror gen-
18 erally**

19 “(a) ELEMENTS OF THE OFFENSE.—Whoever cor-
20 ruptly, or by threats or force, or by any threatening letter
21 or communication, endeavors to influence, intimidate, or
22 impede any grand or petit juror, or officer in or of any
23 court of the United States, or officer who may be serving
24 at any examination or other proceeding before any United
25 States magistrate judge or other committing magistrate,
26 in the discharge of duty, or injures any such grand or petit

1 juror in his or her person or property on account of any
2 verdict or indictment assented to by him or her, or on ac-
3 count of being or having been such juror, or injures any
4 such officer, magistrate judge, or other committing mag-
5 istrate in his or her person or property on account of the
6 performance of his official duties, or corruptly or by
7 threats or force, or by any threatening letter or commu-
8 nication, influences, obstructs, or impedes, or endeavors
9 to influence, obstruct, or impede, the due administration
10 of justice, shall be punished as provided in subsection (b).
11 If the offense under this section occurs in connection with
12 a trial of a criminal case, and the act in violation of this
13 section involves the threat of physical force or physical
14 force, the maximum term of imprisonment which may be
15 imposed for the offense shall be the higher of that other-
16 wise provided by law or the maximum term that could
17 have been imposed for any offense charged in such case.

18 “(b) PUNISHMENT.—The punishment for an offense
19 under this section is—

20 “(1) in the case of a killing, the punishment
21 provided in sections 103 and 104;

22 “(2) in the case of an attempted killing, or a
23 case in which the offense was committed against a
24 petit juror and, imprisonment for not more than 20
25 years; and

1 “(3) in any other case, imprisonment for not
2 more than 10 years.

3 **“§ 1133. Obstruction of proceedings before depart-**
4 **ments, agencies, and committees**

5 “Whoever—

6 “(1) with intent to avoid, evade, prevent, or ob-
7 struct compliance, in whole or in part, with any civil
8 investigative demand duly and properly made under
9 the Antitrust Civil Process Act, knowingly withholds,
10 misrepresents, removes from any place, conceals,
11 covers up, destroys, mutilates, alters, or by other
12 means falsifies any documentary material, answers
13 to written interrogatories, or oral testimony, which is
14 the subject of such demand; or attempts to do so or
15 solicits another to do so; or

16 “(2) corruptly, or by threats or force, or by any
17 threatening letter or communication influences, ob-
18 structs, or impedes the due and proper administra-
19 tion of the law under which any pending proceeding
20 is being had before any department or agency of the
21 United States, or the due and proper exercise of the
22 power of inquiry under which any inquiry or inves-
23 tigation is being had by either House, or any com-
24 mittee of either House or any joint committee of the
25 Congress;

1 shall be imprisoned not more than 5 years or, if the of-
2 fense involves international or domestic terrorism (as de-
3 fined in section 283), imprisoned not more than 8 years.

4 **“§ 1134. Obstruction of Court orders**

5 “(a) OFFENSE.—Whoever, by threats or force, know-
6 ingly prevents, obstructs, impedes, or interferes with the
7 due exercise of rights or the performance of duties under
8 any order, judgment, or decree of a court of the United
9 States, shall be imprisoned not more than one year.

10 “(b) INJUNCTIVE AND OTHER RELIEF AVAILABLE.—
11 No injunctive or other civil relief against the conduct made
12 criminal by this section shall be denied on the ground that
13 such conduct is a crime.

14 **“§ 1135. Obstruction of criminal investigations**

15 “(a) IN GENERAL.—Whoever knowingly attempts by
16 means of bribery to obstruct, delay, or prevent the commu-
17 nication of information relating to a violation of any crimi-
18 nal statute of the United States by any person to a crimi-
19 nal investigator shall be imprisoned not more than five
20 years.

21 “(b) FINANCIAL INSTITUTIONS.—(1) Whoever, being
22 an officer of a financial institution, with the intent to ob-
23 struct a judicial proceeding, notifies any other person
24 about the existence or contents of a subpoena for records
25 of that financial institution, or information that has been

1 furnished in response to that subpoena, shall be impris-
2 oned not more than 5 years.

3 “(2) Whoever, being an officer of a financial institu-
4 tion notifies—

5 “(A) a customer of that financial institution
6 whose records are sought by a subpoena for records;
7 or

8 “(B) any other person named in that subpoena;
9 about the existence or contents of that subpoena or infor-
10 mation that has been furnished in response to that sub-
11 poena, shall be imprisoned not more than one year.

12 “(3) As used in this subsection—

13 “(A) the term ‘an officer of a financial institu-
14 tion’ means an officer, director, partner, employee,
15 agent, or attorney of or for a financial institution;
16 and

17 “(B) the term ‘subpoena for records’ means a
18 Federal grand jury subpoena or a Department of
19 Justice subpoena (issued under section 3486 of title
20 18), for customer records that has been served relat-
21 ing to a violation of, or a conspiracy to violate—

22 “(i) section 1003, 644, 645, 773, 774,
23 775, 779, 804, 1451, 1452, or chapter 53 of
24 title 31; or

1 “(ii) section 801 or 803 affecting a finan-
2 cial institution.

3 “(c) DEFINITION.—As used in this section, the term
4 ‘criminal investigator’ means any individual duly author-
5 ized by a department, agency, or armed force of the
6 United States to conduct or engage in investigations of
7 or prosecutions for violations of the criminal laws of the
8 United States.

9 “(d) INSURANCE.—(1) Whoever—

10 “(A) acting as, or being, an officer, director,
11 agent or employee of a person engaged in the busi-
12 ness of insurance whose activities affect interstate
13 commerce, or

14 “(B) is engaged in the business of insurance
15 whose activities affect interstate commerce or is in-
16 volved (other than as an insured or beneficiary
17 under a policy of insurance) in a transaction relating
18 to the conduct of affairs of such a business,

19 with intent to obstruct a judicial proceeding, notifies any
20 other person about the existence or contents of a subpoena
21 for records of that person engaged in such business or in-
22 formation that has been furnished to a Federal grand jury
23 in response to that subpoena, shall be imprisoned not more
24 than 5 years.

1 “(2) As used in paragraph (1), the term ‘subpoena
2 for records’ means a Federal grand jury subpoena for
3 records that has been served relating to a violation of, or
4 a conspiracy to violate, section 790.

5 “(e) Whoever, having been notified of the applicable
6 disclosure prohibitions or confidentiality requirements of
7 section 3120G(e)(1) of this title, section 626(d)(1) or
8 627(e)(1) of the Fair Credit Reporting Act, section
9 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Finan-
10 cial Privacy Act of 1978, or section 802(b)(1) of the Na-
11 tional Security Act of 1947, knowingly and with the intent
12 to obstruct an investigation or judicial proceeding violates
13 such prohibitions or requirements applicable by law to
14 such person shall be imprisoned for not more than five
15 years.

16 **“§ 1136. Obstruction of State or local law enforce-**
17 **ment with regard to illegal gambling**
18 **business**

19 “(a) ELEMENTS OF THE OFFENSE.—It shall be un-
20 lawful for two or more persons to conspire to obstruct the
21 enforcement of the criminal laws of a State or political
22 subdivision thereof, with the intent to facilitate an illegal
23 gambling business if—

24 “(1) one or more of such persons does any act
25 to effect the object of such a conspiracy;

1 “(2) one or more of such persons is an official
2 or employee, elected, appointed, or otherwise, of such
3 State or political subdivision; and

4 “(3) one or more of such persons conducts fi-
5 nances, manages, supervises, directs, or owns all or
6 part of an illegal gambling business.

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

8 “(1) the term ‘illegal gambling business’ means
9 a gambling business which—

10 “(A) is a violation of the law of a State or
11 political subdivision in which it is conducted;

12 “(B) involves five or more persons who
13 conduct, finance, manage, supervise, direct, or
14 own all or part of such business; and

15 “(C) has been or remains in substantially
16 continuous operation for a period in excess of
17 thirty days or has a gross revenue of \$2,000 in
18 any single day; and

19 “(2) the term ‘gambling’ includes pool-selling,
20 bookmaking, maintaining slot machines, roulette
21 wheels, or dice tables, and conducting lotteries, pol-
22 icy, bolita or numbers games, or selling chances
23 therein.

24 “(c) EXCLUSION.—This section does not apply to any
25 bingo game, lottery, or similar game of chance conducted

1 by an organization exempt from tax under paragraph (3)
2 of subsection (c) of section 501 of the Internal Revenue
3 Code of 1986, if no part of the gross receipts derived from
4 such activity inures to the benefit of any private share-
5 holder, member, or employee of such organization, except
6 as reimbursement for actual expenses incurred in the con-
7 duct of such activity.

8 “(d) PUNISHMENT.—Whoever violates this section
9 shall be imprisoned not more than five years.

10 **“§ 1137. Tampering with a witness, victim, or an in-**
11 **formant**

12 “(a) VIOLENT OFFENSE.—

13 “(1) KILLING.—Whoever kills or attempts to
14 kill another person, with intent to—

15 “(A) prevent the attendance or testimony
16 of any person in an official proceeding;

17 “(B) prevent the production of a record,
18 document, or other object, in an official pro-
19 ceeding; or

20 “(C) prevent the communication by any
21 person to a law enforcement officer or judge of
22 the United States of information relating to the
23 commission or possible commission of a Federal
24 offense or a violation of conditions of probation,
25 parole, or release pending judicial proceedings;

1 shall be punished as provided in paragraph (3).

2 “(2) USE OR THREAT OF PHYSICAL FORCE.—

3 Whoever uses physical force or the threat of physical
4 force against any person, or attempts to do so, with
5 intent to—

6 “(A) influence, delay, or prevent the testi-
7 mony of any person in an official proceeding;

8 “(B) cause or induce any person to—

9 “(i) withhold testimony, or withhold a
10 record, document, or other object, from an
11 official proceeding;

12 “(ii) alter, destroy, mutilate, or con-
13 ceal an object with intent to impair the in-
14 tegrity or availability of the object for use
15 in an official proceeding;

16 “(iii) evade legal process summoning
17 that person to appear as a witness, or to
18 produce a record, document, or other ob-
19 ject, in an official proceeding; or

20 “(iv) be absent from an official pro-
21 ceeding to which that person has been
22 summoned by legal process; or

23 “(C) hinder, delay, or prevent the commu-
24 nication to a law enforcement officer or judge
25 of the United States of information relating to

1 the commission or possible commission of a
2 Federal offense or a violation of conditions of
3 probation, supervised release, parole, or release
4 pending judicial proceedings;
5 shall be punished as provided in paragraph (3).

6 “(3) PUNISHMENT.—The punishment for an of-
7 fense under this subsection is—

8 “(A) in the case of a murder, the same as
9 provided for a like offense in chapter 10;

10 “(B) in the case of an attempt to murder
11 or the use or attempted use of physical force
12 against any person, imprisonment for not more
13 than 30 years; and

14 “(C) in the case of the threat of use of
15 physical force against any person, imprisonment
16 for not more than 20 years.

17 “(b) NONVIOLENT OFFENSES INVOLVING OTHER
18 PERSONS.—Whoever knowingly uses intimidation, threat-
19 ens, or corruptly persuades another person, or attempts
20 to do so, or engages in misleading conduct toward another
21 person, with intent to—

22 “(1) influence, delay, or prevent the testimony
23 of any person in an official proceeding;

24 “(2) cause or induce any person to—

1 “(A) withhold testimony, or withhold a
2 record, document, or other object, from an offi-
3 cial proceeding;

4 “(B) alter, destroy, mutilate, or conceal an
5 object with intent to impair the object’s integ-
6 rity or availability for use in an official pro-
7 ceeding;

8 “(C) evade legal process summoning that
9 person to appear as a witness, or to produce a
10 record, document, or other object, in an official
11 proceeding; or

12 “(D) be absent from an official proceeding
13 to which such person has been summoned by
14 legal process; or

15 “(3) hinder, delay, or prevent the communica-
16 tion to a law enforcement officer or judge of the
17 United States of information relating to the commis-
18 sion or possible commission of a Federal offense or
19 a violation of conditions of probation, supervised re-
20 lease, parole, or release pending judicial proceedings.

21 “(c) NONVIOLENT OFFENSES NOT INVOLVING
22 OTHER PERSONS.—Whoever corruptly—

23 “(1) alters, destroys, mutilates, or conceals a
24 record, document, or other object, or attempts to do

1 so, with the intent to impair the object's integrity or
2 availability for use in an official proceeding; or

3 “(2) otherwise obstructs, influences, or impedes
4 any official proceeding, or attempts to do so,
5 shall be imprisoned not more than 20 years.

6 “(d) HARASSMENT.—Whoever intentionally harasses
7 another person and thereby hinders, delays, prevents, or
8 dissuades any person from—

9 “(1) attending or testifying in an official pro-
10 ceeding;

11 “(2) reporting to a law enforcement officer or
12 judge of the United States the commission or pos-
13 sible commission of a Federal offense or a violation
14 of conditions of probation, supervised release, parole,
15 or release pending judicial proceedings;

16 “(3) arresting or seeking the arrest of another
17 person in connection with a Federal offense; or

18 “(4) causing a criminal prosecution, or a parole
19 or probation revocation proceeding, to be sought or
20 instituted, or assisting in such prosecution or pro-
21 ceeding;

22 shall be imprisoned not more than one year.

23 “(e) AFFIRMATIVE DEFENSE.—In a prosecution for
24 an offense under this section, it is an affirmative defense,
25 that the conduct consisted solely of lawful conduct and

1 that the defendant's sole intention was to encourage, in-
2 duce, or cause the other person to testify truthfully.

3 “(f) SPECIAL RULES.—For the purposes of this sec-
4 tion—

5 “(1) an official proceeding need not be pending
6 or about to be instituted at the time of the offense;
7 and

8 “(2) the testimony, or the record, document, or
9 other object need not be admissible in evidence or
10 free of a claim of privilege.

11 “(g) STATE OF MIND.—In a prosecution for an of-
12 fense under this section, no state of mind need be proved
13 with respect to the circumstance—

14 “(1) that the official proceeding before a judge,
15 court, magistrate judge, grand jury, or government
16 agency is before a judge or court of the United
17 States, a United States magistrate judge, a bank-
18 ruptcy judge, a Federal grand jury, or a Federal
19 Government agency; or

20 “(2) that the judge is a judge of the United
21 States or that the law enforcement officer is an offi-
22 cer or employee of the Federal Government or a per-
23 son authorized to act for or on behalf of the Federal
24 Government or serving the Federal Government as
25 an adviser or consultant.

1 “(B) providing to a law enforcement officer
2 any information relating to the commission or
3 possible commission of a Federal offense or a
4 violation of conditions of probation, supervised
5 release, parole, or release pending judicial pro-
6 ceedings,

7 shall be punished as provided in paragraph (2).

8 “(2) PUNISHMENT.—The punishment for an of-
9 fense under this subsection is the same as for a like
10 offense under subchapter A of chapter 10.

11 “(b) OFFENSES INVOLVING BODILY INJURY.—Who-
12 ever knowingly engages in any conduct and thereby causes
13 bodily injury to another person or damages the tangible
14 property of another person, or threatens to do so, with
15 intent to retaliate against any person for—

16 “(1) the attendance of a witness or party at an
17 official proceeding, or any testimony given or any
18 record, document, or other object produced by a wit-
19 ness in an official proceeding; or

20 “(2) any information relating to the commission
21 or possible commission of a Federal offense or a vio-
22 lation of conditions of probation, supervised release,
23 parole, or release pending judicial proceedings given
24 by a person to a law enforcement officer,

25 shall be imprisoned for not more than 20 years.

1 there are reasonable grounds to believe that harassment
2 of an identified victim or witness in a Federal criminal
3 case exists or that such order is necessary to prevent and
4 restrain an offense under section 1137, other than an of-
5 fense consisting of misleading conduct, or under section
6 1138.

7 “(2)(A) A temporary restraining order may be issued
8 under this section without written or oral notice to the
9 adverse party or such party’s attorney in a civil action
10 under this section if the court finds, upon written certifi-
11 cation of facts by the attorney for the Government, that
12 such notice should not be required and that there is a rea-
13 sonable probability that the Government will prevail on the
14 merits.

15 “(B) A temporary restraining order issued without
16 notice under this section shall be endorsed with the date
17 and hour of issuance and be filed forthwith in the office
18 of the clerk of the court issuing the order.

19 “(C) A temporary restraining order issued under this
20 section shall expire at such time, not to exceed 14 days
21 from issuance, as the court directs; the court, for good
22 cause shown before expiration of such order, may extend
23 the expiration date of the order for up to 14 days or for
24 such longer period agreed to by the adverse party.

1 “(D) When a temporary restraining order is issued
2 without notice, the motion for a protective order shall be
3 set down for hearing at the earliest possible time and takes
4 precedence over all matters except older matters of the
5 same character, and when such motion comes on for hear-
6 ing, if the attorney for the Government does not proceed
7 with the application for a protective order, the court shall
8 dissolve the temporary restraining order.

9 “(E) If on two days notice to the attorney for the
10 Government, excluding intermediate weekends and holi-
11 days, or on such shorter notice as the court may prescribe,
12 the adverse party appears and moves to dissolve or modify
13 the temporary restraining order, the court shall proceed
14 to hear and determine such motion as expeditiously as the
15 ends of justice require.

16 “(F) A temporary restraining order shall set forth the
17 reasons for the issuance of such order, be specific in
18 terms, and describe in reasonable detail (and not by ref-
19 erence to the complaint or other document) the act or acts
20 being restrained.

21 “(b) PROTECTIVE ORDER.—(1) A United States dis-
22 trict court, upon motion of the attorney for the Govern-
23 ment, shall issue a protective order prohibiting harassment
24 of a victim or witness in a Federal criminal case if the
25 court, after a hearing, finds by a preponderance of the

1 evidence that harassment of an identified victim or witness
2 in a Federal criminal case exists or that such order is nec-
3 essary to prevent and restrain an offense under section
4 1137, other than an offense consisting of misleading con-
5 duct, or under section 1138.

6 “(2) At the hearing referred to in paragraph (1) of
7 this subsection, any adverse party named in the complaint
8 shall have the right to present evidence and cross-examine
9 witnesses.

10 “(3) A protective order shall set forth the reasons for
11 the issuance of such order, be specific in terms, describe
12 in reasonable detail (and not by reference to the complaint
13 or other document) the act or acts being restrained.

14 “(4) The court shall set the duration of effect of the
15 protective order for such period as the court determines
16 necessary to prevent harassment of the victim or witness
17 but in no case for a period in excess of three years from
18 the date of such order’s issuance. The attorney for the
19 Government may, at any time within ninety days before
20 the expiration of such order, apply for a new protective
21 order under this section.

22 “(c) DEFINITIONS.—As used in this section—

23 “(1) the term ‘harassment’ means a course of
24 conduct directed at a specific person that—

1 “(A) causes substantial emotional distress
2 in such person; and

3 “(B) serves no legitimate purpose; and

4 “(2) the term ‘course of conduct’ means a se-
5 ries of acts over a period of time, however short, in-
6 dicating a continuity of purpose.

7 **“§ 1140. Civil action to protect against retaliation in**
8 **fraud cases**

9 “(a) WHISTLEBLOWER PROTECTION FOR EMPLOY-
10 EES OF PUBLICLY TRADED COMPANIES.—No company
11 with a class of securities registered under section 12 of
12 the Securities Exchange Act of 1934, or that is required
13 to file reports under section 15(d) of the Securities Ex-
14 change Act of 1934, including any subsidiary or affiliate
15 whose financial information is included in the consolidated
16 financial statements of such company, or nationally recog-
17 nized statistical rating organization (as defined in section
18 3(a) of the Securities Exchange Act of 1934, or any offi-
19 cer, employee, contractor, subcontractor, or agent of such
20 company or nationally recognized statistical rating organi-
21 zation, may discharge, demote, suspend, threaten, harass,
22 or in any other manner discriminate against an employee
23 in the terms and conditions of employment because of any
24 lawful act done by the employee—

1 “(1) to provide information, cause information
2 to be provided, or otherwise assist in an investiga-
3 tion regarding any conduct which the employee rea-
4 sonably believes constitutes a violation of section
5 801, 803, 804, or 807, any rule or regulation of the
6 Securities and Exchange Commission, or any provi-
7 sion of Federal law relating to fraud against share-
8 holders, when the information or assistance is pro-
9 vided to or the investigation is conducted by—

10 “(A) a Federal regulatory or law enforce-
11 ment agency;

12 “(B) any Member of Congress or any com-
13 mittee of Congress; or

14 “(C) a person with supervisory authority
15 over the employee (or such other person work-
16 ing for the employer who has the authority to
17 investigate, discover, or terminate misconduct);
18 or

19 “(2) to file, cause to be filed, testify, participate
20 in, or otherwise assist in a proceeding filed or about
21 to be filed (with any knowledge of the employer) re-
22 lating to an alleged violation of section 801, 803,
23 804, or 807, any rule or regulation of the Securities
24 and Exchange Commission, or any provision of Fed-
25 eral law relating to fraud against shareholders.

1 “(b) ENFORCEMENT ACTION.—

2 “(1) IN GENERAL.—A person who alleges dis-
3 charge or other discrimination by any person in vio-
4 lation of subsection (a) may seek relief under sub-
5 section (c), by—

6 “(A) filing a complaint with the Secretary
7 of Labor; or

8 “(B) if the Secretary has not issued a final
9 decision within 180 days of the filing of the
10 complaint and there is no showing that such
11 delay is due to the bad faith of the claimant,
12 bringing an action at law or equity for de novo
13 review in the appropriate district court of the
14 United States, which shall have jurisdiction
15 over such an action without regard to the
16 amount in controversy.

17 “(2) PROCEDURE.—

18 “(A) IN GENERAL.—An action under para-
19 graph (1)(A) shall be governed under the rules
20 and procedures set forth in section 42121(b) of
21 title 49.

22 “(B) EXCEPTION.—Notification made
23 under section 42121(b)(1) of title 49, shall be
24 made to the person named in the complaint and
25 to the employer.

1 “(C) BURDENS OF PROOF.—An action
2 brought under paragraph (1)(B) shall be gov-
3 erned by the legal burdens of proof set forth in
4 section 42121(b) of title 49.

5 “(D) STATUTE OF LIMITATIONS.—An ac-
6 tion under paragraph (1) shall be commenced
7 not later than 180 days after the date on which
8 the violation occurs, or after the date on which
9 the employee became aware of the violation.

10 “(E) JURY TRIAL.—A party to an action
11 brought under paragraph (1)(B) shall be enti-
12 tled to trial by jury.

13 “(c) REMEDIES.—

14 “(1) IN GENERAL.—An employee prevailing in
15 any action under subsection (b)(1) shall be entitled
16 to all relief necessary to make the employee whole.

17 “(2) COMPENSATORY DAMAGES.—Relief for any
18 action under paragraph (1) shall include—

19 “(A) reinstatement with the same seniority
20 status that the employee would have had, but
21 for the discrimination;

22 “(B) the amount of back pay, with inter-
23 est; and

24 “(C) compensation for any special damages
25 sustained as a result of the discrimination, in-

1 including litigation costs, expert witness fees, and
2 reasonable attorney fees.

3 “(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in
4 this section diminishes the rights, privileges, or remedies
5 of any employee under any Federal or State law, or under
6 any collective bargaining agreement.

7 “(e) NONENFORCEABILITY OF CERTAIN PROVISIONS
8 WAIVING RIGHTS AND REMEDIES OR REQUIRING ARBI-
9 TRATION OF DISPUTES.—

10 “(1) WAIVER OF RIGHTS AND REMEDIES.—The
11 rights and remedies provided for in this section may
12 not be waived by any agreement, policy form, or con-
13 dition of employment, including by a predispute ar-
14 bitration agreement.

15 “(2) PREDISPUTE ARBITRATION AGREE-
16 MENTS.—No predispute arbitration agreement shall
17 be valid or enforceable, if the agreement requires ar-
18 bitration of a dispute arising under this section.

19 **“§ 1141. Definitions for certain provisions; general**
20 **provision**

21 “(a) DEFINITIONS FOR SECTIONS 1137 AND 1138.—

22 As used in sections 1137 and 1138 and in this section—

23 “(1) the term ‘official proceeding’ means—

24 “(A) a proceeding before a judge or court
25 of the United States, a United States mag-

1 istrate judge, a bankruptcy judge, a judge of
2 the United States Tax Court, a special trial
3 judge of the Tax Court, a judge of the United
4 States Court of Federal Claims, or a Federal
5 grand jury;

6 “(B) a proceeding before the Congress;

7 “(C) a proceeding before a Federal Gov-
8 ernment agency which is authorized by law; or

9 “(D) a proceeding involving the business of
10 insurance whose activities affect interstate com-
11 merce before any insurance regulatory official
12 or agency or any agent or examiner appointed
13 by such official or agency to examine the affairs
14 of any person engaged in the business of insur-
15 ance whose activities affect interstate com-
16 merce;

17 “(2) the term ‘physical force’ means physical
18 action against another, and includes confinement;

19 “(3) the term ‘misleading conduct’ means—

20 “(A) knowingly making a false statement;

21 “(B) intentionally omitting information
22 from a statement and thereby causing a portion
23 of such statement to be misleading, or inten-
24 tionally concealing a material fact, and thereby
25 creating a false impression by such statement;

1 “(C) with intent to mislead, knowingly
2 submitting or inviting reliance on a writing or
3 recording that is false, forged, altered, or other-
4 wise lacking in authenticity;

5 “(D) with intent to mislead, knowingly
6 submitting or inviting reliance on a sample,
7 specimen, map, photograph, boundary mark, or
8 other object that is misleading in a material re-
9 spect; or

10 “(E) knowingly using a trick, scheme, or
11 device with intent to mislead;

12 “(4) the term ‘law enforcement officer’ means
13 an officer or employee of the Federal Government,
14 or a person authorized to act for or on behalf of the
15 Federal Government or serving the Federal Govern-
16 ment as an adviser or consultant—

17 “(A) authorized under law to engage in or
18 supervise the prevention, detection, investiga-
19 tion, or prosecution of an offense; or

20 “(B) serving as a probation or pretrial
21 services officer under this title;

22 “(5) the term ‘corruptly persuades’ does not in-
23 clude conduct which would be misleading conduct
24 but for a lack of a state of mind.

1 “(b) DEFINITION FOR SECTION 1133.—As used in
2 section 1133, the term ‘corruptly’ means acting with an
3 improper purpose, personally or by influencing another,
4 including making a false or misleading statement, or with-
5 holding, concealing, altering, or destroying a document or
6 other information.

7 “(c) EXCLUSION.—This subchapter does not prohibit
8 or punish the providing of lawful, bona fide, legal rep-
9 resentation services in connection with or anticipation of
10 an official proceeding.

11 **“§ 1142. Destruction of corporate audit records**

12 “(a) REGULATORY REQUIREMENTS.—(1) Any ac-
13 countant who conducts an audit of an issuer of securities
14 to which section 10A(a) of the Securities Exchange Act
15 of 1934 applies, shall maintain all audit or review
16 workpapers for a period of 5 years from the end of the
17 fiscal period in which the audit or review was concluded.

18 “(2) The Securities and Exchange Commission shall
19 promulgate, within 180 days, after adequate notice and
20 an opportunity for comment, such rules and regulations,
21 as are reasonably necessary, relating to the retention of
22 relevant records such as workpapers, documents that form
23 the basis of an audit or review, memoranda, correspond-
24 ence, communications, other documents, and records (in-
25 cluding electronic records) which are created, sent, or re-

1 ceived in connection with an audit or review and contain
 2 conclusions, opinions, analyses, or financial data relating
 3 to such an audit or review, which is conducted by any ac-
 4 countant who conducts an audit of an issuer of securities
 5 to which section 10A(a) of the Securities Exchange Act
 6 of 1934 applies. The Commission may, from time to time,
 7 amend or supplement the rules and regulations that it is
 8 required to promulgate under this section, after adequate
 9 notice and an opportunity for comment, in order to ensure
 10 that such rules and regulations adequately comport with
 11 the purposes of this section.

12 “(b) OFFENSE.—Whoever knowingly violates sub-
 13 section (a)(1), or any rule or regulation promulgated by
 14 the Securities and Exchange Commission under subsection
 15 (a)(2), shall be imprisoned not more than 10 years.

16 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
 17 tion diminishes or relieves any person of any other duty
 18 or obligation imposed by Federal or State law or regula-
 19 tion to maintain, or refrain from destroying, any docu-
 20 ment.

21 “SUBCHAPTER J—PRISONS

“Sec.

“1161. Providing or possessing contraband in prison.

“1162. Mutiny and riot prohibited.

“1163. Trespass on Bureau of Prisons reservations and land.

22 “§ 1161. Providing or possessing contraband in prison

23 “(a) OFFENSE.—Whoever—

1 “(1) in violation of a statute or a rule or order
2 issued under a statute, provides to an inmate of a
3 prison a prohibited object, or attempts to do so; or

4 “(2) being an inmate of a prison, makes, pos-
5 sesses, or obtains, or attempts to make or obtain, a
6 prohibited object;

7 shall be punished as provided in subsection (b) of this sec-
8 tion.

9 “(b) PUNISHMENT.—The punishment for an offense
10 under this section is a fine under this title or—

11 “(1) imprisonment for not more than 20 years,
12 or both, if the object is specified in subsection
13 (d)(1)(C) of this section;

14 “(2) imprisonment for not more than 10 years,
15 or both, if the object is specified in subsection
16 (d)(1)(A) of this section;

17 “(3) imprisonment for not more than 5 years,
18 or both, if the object is specified in subsection
19 (d)(1)(B) of this section;

20 “(4) imprisonment for not more than one year,
21 or both, if the object is specified in subsection
22 (d)(1)(D), (d)(1)(E), or (d)(1)(F) of this section;

23 and

1 “(5) imprisonment for not more than 6 months,
2 or both, if the object is specified in subsection
3 (d)(1)(G) of this section.

4 “(c) CONSECUTIVE PUNISHMENT REQUIRED IN CER-
5 TAIN CASES.—Any punishment imposed under subsection
6 (b) for a violation of this section involving a controlled
7 substance shall be consecutive to any other sentence im-
8 posed by any court for an offense involving such a con-
9 trolled substance. Any punishment imposed under sub-
10 section (b) for a violation of this section by an inmate of
11 a prison shall be consecutive to the sentence being served
12 by such inmate at the time the inmate commits such viola-
13 tion.

14 “(d) DEFINITIONS.—As used in this section—

15 “(1) the term ‘prohibited object’ means—

16 “(A) a firearm or destructive device or a
17 controlled substance in schedule I or II, other
18 than marijuana or a controlled substance re-
19 ferred to in subparagraph (C) of this sub-
20 section;

21 “(B) marijuana or a controlled substance
22 in schedule III, other than a controlled sub-
23 stance referred to in subparagraph (C) of this
24 subsection, ammunition, a weapon (other than a
25 firearm or destructive device), or an object that

1 is designed or intended to be used as a weapon
2 or to facilitate escape from a prison;

3 “(C) a narcotic drug, methamphetamine,
4 its salts, isomers, and salts of its isomers, lyser-
5 gic acid diethylamide, or phencyclidine;

6 “(D) a controlled substance (other than a
7 controlled substance referred to in subpara-
8 graph (A), (B), or (C) of this subsection) or an
9 alcoholic beverage;

10 “(E) any United States or foreign cur-
11 rency;

12 “(F) a phone or other device used by a
13 user of commercial mobile service (as defined in
14 section 332(d) of the Communications Act of
15 1934) in connection with such service; and

16 “(G) any other object that threatens the
17 order, discipline, or security of a prison, or the
18 life, health, or safety of an individual;

19 “(2) the terms ‘ammunition’, ‘firearm’, and ‘de-
20 structive device’ have, respectively, the meanings
21 given those terms in section 581;

22 “(3) the term ‘narcotic drug’ has the meaning
23 given that term in section 102 of the Controlled
24 Substances Act; and

1 agency under chapter 37 of title 5, publishes, divulges, dis-
2 closes, or makes known in any manner or to any extent
3 not authorized by law any information coming to him in
4 the course of his employment or official duties or by rea-
5 son of any examination or investigation made by, or re-
6 turn, report or record made to or filed with, such depart-
7 ment or agency or officer or employee thereof, which infor-
8 mation concerns or relates to the trade secrets, processes,
9 operations, style of work, or apparatus, or to the identity,
10 confidential statistical data, amount or source of any in-
11 come, profits, losses, or expenditures of any person, firm,
12 partnership, corporation, or association; or permits any in-
13 come return or copy thereof or any book containing any
14 abstract or particulars thereof to be seen or examined by
15 any person except as provided by law; shall be imprisoned
16 not more than one year; and shall be removed from office
17 or employment.

18 “SUBCHAPTER L—RECORDS AND REPORTS

“Sec.

“1181. Concealment, removal, or mutilation generally.

“1182. False entries and reports of moneys or securities.

19 **“§ 1181. Concealment, removal, or mutilation gen-**
20 **erally**

21 “Whoever knowingly and unlawfully conceals, re-
22 moves, mutilates, obliterates, or destroys, or attempts to
23 do so, or, with intent to do so takes and carries away any
24 record, proceeding, map, book, paper, document, or other

1 thing, filed or deposited with any clerk or officer of any
2 court of the United States, or in any public office, or with
3 any judicial or public officer of the United States, shall
4 be imprisoned not more than three years.

5 **“§ 1182. False entries and reports of moneys or secu-**
6 **rities**

7 “Whoever—

8 “(1) being an officer, clerk, agent, or other em-
9 ployee of the United States or any of its agencies,
10 charged with the duty of keeping accounts or records
11 of any kind, with intent to deceive, mislead, injure,
12 or defraud, makes in any such account or record any
13 false or fictitious entry or record of any matter re-
14 lating to or connected with his duties; or

15 “(2) being an officer, clerk, agent, or other em-
16 ployee of the United States or any of its agencies,
17 charged with the duty of receiving, holding, or pay-
18 ing over moneys or securities to, for, or on behalf of
19 the United States, or of receiving or holding in trust
20 for any person any moneys or securities, with like
21 intent, makes a false report of such moneys or secu-
22 rities;

23 shall be imprisoned not more than ten years.

24 **“SUBCHAPTER M—SEARCHES AND SEIZURES**

“Sec.

“1191. Destruction or removal of property to prevent seizure.

“1192. Rescue of seized property.

1 **“§ 1191. Destruction or removal of property to pre-**
2 **vent seizure**

3 “(a) DESTRUCTION OR REMOVAL OF PROPERTY TO
4 PREVENT SEIZURE.—Whoever, before, during, or after
5 any search for or seizure of property by any person au-
6 thorized to make such search or seizure, knowingly de-
7 stroys, damages, wastes, disposes of, transfers, or other-
8 wise takes any action, or knowingly attempts to destroy,
9 damage, waste, dispose of, transfer, or otherwise take any
10 action, for the purpose of preventing or impairing the Gov-
11 ernment’s lawful authority to take such property into its
12 custody or control or to continue holding such property
13 under its lawful custody and control, shall be imprisoned
14 not more than 5 years.

15 “(b) IMPAIRMENT OF IN REM JURISDICTION.—Who-
16 ever, knowing that property is subject to the in rem juris-
17 diction of a United States court for purposes of civil for-
18 feiture under Federal law, knowingly and without author-
19 ity from that court, destroys, damages, wastes, disposes
20 of, transfers, or otherwise takes any action, or knowingly
21 attempts to destroy, damage, waste, dispose of, transfer,
22 or otherwise take any action, for the purpose of impairing
23 or defeating the court’s continuing in rem jurisdiction over
24 the property, shall be imprisoned not more than 5 years.

25 “(c) NOTICE OF SEARCH OR EXECUTION OF SEIZURE
26 WARRANT OR WARRANT OF ARREST IN REM.—Whoever,

1 having knowledge that any person authorized to make
2 searches and seizures, or to execute a seizure warrant or
3 warrant of arrest in rem, in order to prevent the author-
4 ized seizing or securing of any person or property, gives
5 notice or attempts to give notice in advance of the search,
6 seizure, or execution of a seizure warrant or warrant of
7 arrest in rem, to any person shall be imprisoned not more
8 than 5 years.

9 “(d) NOTICE OF CERTAIN ELECTRONIC SURVEIL-
10 LANCE.—Whoever, having knowledge that a Federal inves-
11 tigative or law enforcement officer has been authorized or
12 has applied for authorization under subchapter C of chap-
13 ter 37 to intercept a wire, oral, or electronic communica-
14 tion, in order to obstruct, impede, or prevent such inter-
15 ception, gives notice or attempts to give notice of the pos-
16 sible interception to any person shall be imprisoned not
17 more than 5 years.

18 “(e) FOREIGN INTELLIGENCE SURVEILLANCE.—
19 Whoever, having knowledge that a Federal officer has
20 been authorized or has applied for authorization to con-
21 duct electronic surveillance under the Foreign Intelligence
22 Surveillance Act of 1978, in order to obstruct, impede, or
23 prevent such activity, gives notice or attempts to give no-
24 tice of the possible activity to any person shall be impris-
25 oned not more than 5 years.

1 **“§ 1192. Rescue of seized property**

2 “Whoever forcibly rescues, dispossesses, or attempts
 3 to rescue or dispossess any property, articles, or objects
 4 after the same shall have been taken, detained, or seized
 5 by any officer or other person under the authority of any
 6 revenue law of the United States, or by any person author-
 7 ized to make searches and seizures, shall be imprisoned
 8 not more than two years.

9 **“SUBCHAPTER N—MALICIOUS MISCHIEF**

“Sec.

“1201. Government property or contracts.

“1202. Communication lines, stations, or systems.

“1203. Buildings or property within special maritime and territorial jurisdic-
 tion.

“1204. Tampering with consumer products.

“1205. Destruction of an energy facility.

“1206. Harming animals used in law enforcement.

“1207. Destruction of veterans’ memorials.

10 **“§ 1201. Government property or contracts**

11 “Whoever knowingly and without authority injures or
 12 commits any depredation against any property of the
 13 United States, or of any department or agency thereof,
 14 or any property which has been or is being manufactured
 15 or constructed for the United States, or any department
 16 or agency thereof, or attempts to commit any of the fore-
 17 going offenses, shall be punished as follows:

18 “(1) If the damage or attempted damage to
 19 such property exceeds the sum of \$1,000, by impris-
 20 onment for not more than ten years.

1 “(2) If the damage or attempted damage to
2 such property does not exceed the sum of \$1,000, by
3 imprisonment for not more than one year.

4 **“§ 1202. Communication lines, stations, or systems**

5 “(a) OFFENSE.—Whoever knowingly and without au-
6 thority—

7 “(1) injures or destroys any of the works, prop-
8 erty, or material of any radio, telegraph, telephone
9 or cable, line, station, or system, or other means of
10 communication, operated or controlled by the United
11 States, or used or intended to be used for military
12 or civil defense functions of the United States,
13 whether constructed or in process of construction;

14 “(2) interferes in any way with the working or
15 use of any such line or system; or

16 “(3) obstructs, hinders, or delays the trans-
17 mission of any communication over any such line or
18 system;

19 shall be imprisoned not more than ten years.

20 “(b) EXCLUSION.—In the case of any works, prop-
21 erty, or material, not operated or controlled by the United
22 States, this section does not apply to any lawful strike ac-
23 tivity, or other lawful concerted activities for the purposes
24 of collective bargaining or other mutual aid and protection
25 which do not injure or destroy any line or system used

1 or intended to be used for the military or civil defense
2 functions of the United States.

3 **“§ 1203. Buildings or property within special mari-**
4 **time and territorial jurisdiction**

5 “Whoever, within the special maritime and territorial
6 jurisdiction of the United States, knowingly and without
7 authority destroys or injures any structure, conveyance,
8 or other real or personal property shall be imprisoned not
9 more than five years, and if the building be a dwelling,
10 or the life of any person be placed in jeopardy, shall be
11 imprisoned not more than twenty years.

12 **“§ 1204. Tampering with consumer products**

13 “(a) TAMPERING IN GENERAL.—Whoever, with reck-
14 less disregard for the risk that another person will be
15 placed in danger of death or bodily injury and under cir-
16 cumstances manifesting extreme indifference to such risk,
17 tampers with any consumer product that affects interstate
18 or foreign commerce, or the labeling of, or container for,
19 any such product, or attempts to do so, shall—

20 “(1) in the case of an attempt, be imprisoned
21 not more than ten years;

22 “(2) if death of an individual results, be impris-
23 oned for any term of years or for life;

1 “(3) if serious bodily injury to any individual
2 results, be imprisoned not more than twenty years;
3 and

4 “(4) in any other case, be imprisoned not more
5 than ten years.

6 “(b) TAINING WITH INTENT TO CAUSE SERIOUS
7 INJURY THROUGH BUSINESS.—Whoever, with intent to
8 cause serious injury to the business of any person, taints
9 any consumer product or renders materially false or mis-
10 leading the labeling of, or container for, a consumer prod-
11 uct, if such consumer product affects interstate or foreign
12 commerce, shall be imprisoned not more than three years.

13 “(c) FALSE INFORMATION.—(1) Whoever knowingly
14 communicates false information that a consumer product
15 has been tainted, if such product or the results of such
16 communication affect interstate or foreign commerce, and
17 if such tainting, had it occurred, would create a risk of
18 death or bodily injury to another person, shall be impris-
19 oned not more than five years.

20 “(2) As used in paragraph (1) of this subsection, the
21 term ‘communicates false information’ means commu-
22 nicates information that is false and that the communi-
23 cator knows is false, under circumstances in which the in-
24 formation may reasonably be expected to be believed.

1 “(d) THREATS.—Whoever knowingly threatens,
2 under circumstances in which the threat may reasonably
3 be expected to be believed, that conduct that, if it oc-
4 curred, would violate subsection (a) of this section will
5 occur, shall be imprisoned not more than five years.

6 “(e) CONSPIRACY.—Whoever is a party to a con-
7 spiracy of two or more persons to commit an offense under
8 subsection (a) of this section, if any of the parties inten-
9 tionally engages in any conduct in furtherance of such of-
10 fense, shall be imprisoned not more than ten years.

11 “(f) TAMPERING WITH WRITING.—(1) Whoever,
12 without the consent of the manufacturer, retailer, or dis-
13 tributor, intentionally tampers with a consumer product
14 that is sold in interstate or foreign commerce by knowingly
15 placing or inserting any writing in the consumer product,
16 or in the container for the consumer product, before the
17 sale of the consumer product to any consumer shall be
18 imprisoned not more than 1 year.

19 “(2) Notwithstanding paragraph (1), if any person
20 commits a violation of this subsection after a prior convic-
21 tion under this section becomes final, such person shall
22 be imprisoned for not more than 3 years.

23 “(3) In this subsection, the term ‘writing’ means any
24 form of representation or communication, including hand-

1 bills, notices, or advertising, that contain letters, words,
2 or pictorial representations.

3 “(g) AUTHORITY OF FOOD AND DRUG ADMINISTRA-
4 TION AND DEPARTMENT OF AGRICULTURE.—In addition
5 to any other agency which has authority to investigate vio-
6 lations of this section, the Food and Drug Administration
7 and the Department of Agriculture, respectively, have au-
8 thority to investigate violations of this section involving
9 a consumer product that is regulated by a provision of
10 law such Administration or Department, as the case may
11 be, administers.

12 “(h) DEFINITIONS.—As used in this section—

13 “(1) the term ‘consumer product’ means—

14 “(A) any ‘food’, ‘drug’, ‘device’, or ‘cos-
15 metic’, as those terms are respectively defined
16 in section 201 of the Federal Food, Drug, and
17 Cosmetic Act; or

18 “(B) any article, product, or commodity
19 which is customarily produced or distributed for
20 consumption by individuals, or use by individ-
21 uals for purposes of personal care or in the per-
22 formance of services ordinarily rendered within
23 the household, and which is designed to be con-
24 sumed or expended in the course of such con-
25 sumption or use; and

1 “(2) the term ‘labeling’ has the meaning given
2 such term in section 201(m) of the Federal Food,
3 Drug, and Cosmetic Act.

4 **“§ 1205. Destruction of an energy facility**

5 “(a) DAMAGE EXCEEDING \$100,000.—Whoever
6 knowingly and without authority—

7 “(1) damages the property of an energy facility
8 in an amount that exceeds \$100,000; or

9 “(2) damages the property of an energy facility
10 in any amount and thereby causes a significant
11 interruption or impairment of a function of an en-
12 ergy facility;

13 shall be imprisoned for not more than 20 years.

14 “(b) DAMAGE EXCEEDING \$5,000.—Whoever know-
15 ingly and without authority damages the property of an
16 energy facility in an amount that exceeds \$5,000 shall be
17 imprisoned for not more than five years.

18 “(c) DEFINITION.—As used in this section, the term
19 ‘energy facility’ means a facility that is involved in the
20 production, storage, transmission, or distribution of elec-
21 tricity, fuel, or another form or source of energy, or re-
22 search, development, or demonstration facilities relating
23 thereto, regardless of whether such facility is still under
24 construction or is otherwise not functioning, except a facil-
25 ity subject to the jurisdiction, administration, or in the

1 custody of the Nuclear Regulatory Commission or an
2 interstate gas pipeline facility as defined in section 60101
3 of title 49.

4 “(d) INCREASED PUNISHMENT WHERE DEATH RE-
5 SULTS.—Whoever is convicted of a violation of subsection
6 (a) or (b) that has resulted in the death of any person
7 shall be subject to imprisonment for any term of years
8 or life.

9 **“§ 1206. Harming animals used in law enforcement**

10 “(a) OFFENSE.—Whoever maliciously harms any po-
11 lice animal shall be imprisoned not more than 1 year. If
12 the offense permanently disables or disfigures the animal,
13 or causes serious bodily injury to or the death of the ani-
14 mal, the maximum term of imprisonment shall be 10
15 years.

16 “(b) DEFINITION.—In this section, the term ‘police
17 animal’ means a dog or horse employed by a Federal agen-
18 cy (whether in the executive, legislative, or judicial branch)
19 for the principal purpose of aiding in the detection of
20 criminal activity, enforcement of laws, or apprehension of
21 criminal offenders.

22 **“§ 1207. Destruction of veterans’ memorials**

23 “(a) OFFENSE.—Whoever, as made applicable by
24 subsection (b), knowingly and without authority injures or
25 destroys any structure, plaque, statue, or other monument

1 on public property commemorating the service of any per-
 2 son or persons in the armed forces of the United States
 3 shall be imprisoned not more than 10 years.

4 “(b) FEDERAL NEXUS.—Subsection (a) applies if—

5 “(1) in committing the offense, the defendant
 6 travels or causes another to travel in interstate or
 7 foreign commerce, or uses the mail or an instrumen-
 8 tality of interstate or foreign commerce; or

9 “(2) the structure, plaque, statue, or other
 10 monument is located on property owned by, or under
 11 the jurisdiction of, the Federal Government.

12 “SUBCHAPTER O—PUBLIC LANDS

“Sec.

“1211. Timber removed or transported.

“1212. Trees cut or injured.

“1213. Timber set afire.

“1214. Fires left unattended and unextinguished.

“1215. Trespass on national forest lands.

“1216. Hazardous or injurious devices on Federal lands.

13 **“§ 1211. Timber removed or transported**

14 “(a) OFFENSE.—Whoever knowingly and without au-
 15 thority—

16 “(1) cuts or destroys any timber growing on the
 17 public lands of the United States;

18 “(2) removes any timber from those public
 19 lands, with intent to export or to dispose of that
 20 timber; or

21 “(3) being the owner, master, pilot, operator, or
 22 consignee of any vessel, motor vehicle, or aircraft or

1 the owner, director, or agent of any railroad, know-
2 ingly transports any timber so cut or removed, or
3 lumber manufactured from that timber;
4 shall be imprisoned not more than one year.

5 “(b) EXCLUSION.—This section does not prevent any
6 miner or agriculturist from clearing land in the ordinary
7 working of the miner’s mining claim, or in the preparation
8 of the agriculturalist’s farm for tillage, or from taking the
9 timber necessary to support improvements, or the taking
10 of timber for the use of the United States; nor shall it
11 interfere with or take away any right or privilege under
12 any existing law of the United States to cut or remove
13 timber from any public lands.

14 **“§ 1212. Trees cut or injured**

15 “Whoever knowingly and without authority cuts, in-
16 jures, or destroys any tree growing, standing, or being
17 upon any land of the United States which, in pursuance
18 of law, has been reserved or purchased by the United
19 States for any public use, or upon any Indian reservation,
20 or lands belonging to or occupied by any tribe of Indians
21 under the authority of the United States, or any Indian
22 allotment while the title to the same shall be held in trust
23 by the Government, or while the same shall remain in-
24 alienable by the allottee without the consent of the United
25 States, shall be imprisoned not more than one year.

1 **“§ 1213. Timber set afire**

2 “(a) OFFENSE.—Whoever, knowingly and without
3 authority, sets on fire any timber, underbrush, or grass
4 or other inflammable material upon the public domain or
5 upon any lands owned or leased by or under the partial,
6 concurrent, or exclusive jurisdiction of the United States,
7 or under contract for purchase or for the acquisition of
8 which condemnation proceedings have been instituted, or
9 upon any Indian reservation or lands belonging to or occu-
10 pied by any tribe or group of Indians under authority of
11 the United States, or upon any Indian allotment while the
12 title to the same shall be held in trust by the Government,
13 or while the same shall remain inalienable by the allottee
14 without the consent of the United States, shall be impris-
15 oned not more than five years.

16 “(b) EXCLUSION.—This section does not apply in the
17 case of a fire set by an allottee in the reasonable exercise
18 of his proprietary rights in the allotment.

19 **“§ 1214. Fires left unattended and unextinguished**

20 “Whoever, having kindled or caused to be kindled, a
21 fire in or near any forest, timber, or other inflammable
22 material upon any lands owned, controlled or leased by,
23 or under the partial, concurrent, or exclusive jurisdiction
24 of the United States, including lands under contract for
25 purchase or for the acquisition of which condemnation
26 proceedings have been instituted, and including any In-

1 dian reservation or lands belonging to or occupied by any
2 tribe or group of Indians under the authority of the
3 United States, or any Indian allotment while the title to
4 the same is held in trust by the United States, or while
5 the same shall remain inalienable by the allottee without
6 the consent of the United States, leaves said fire without
7 totally extinguishing the same, or permits or suffers the
8 fire to burn or spread beyond his control, or leaves or suf-
9 fers the fire to burn unattended, shall be imprisoned not
10 more than six months.

11 **“§ 1215. Trespass on national forest lands**

12 “Whoever, without authority goes upon any national
13 forest land while it is closed to the public pursuant to law-
14 ful regulation of the Secretary of Agriculture, shall be im-
15 prisoned not more than six months.

16 **“§ 1216. Hazardous or injurious devices on Federal**
17 **lands**

18 “(a) ELEMENTS OF THE OFFENSE.—Whoever—

19 “(1) with the intent to violate the Controlled
20 Substances Act,

21 “(2) with the intent to obstruct or harass the
22 harvesting of timber, or

23 “(3) with reckless disregard to the risk that an-
24 other person will be placed in danger of death or

1 bodily injury and under circumstances manifesting
2 extreme indifference to such risk,
3 uses a hazardous or injurious device on Federal land, on
4 an Indian reservation, or on an Indian allotment while the
5 title to such allotment is held in trust by the United States
6 or while such allotment remains inalienable by the allottee
7 without the consent of the United States shall be punished
8 under subsection (b).

9 “(b) PUNISHMENT.—An individual who violates sub-
10 section (a) shall—

11 “(1) if death of an individual results, be impris-
12 oned for any term of years or for life;

13 “(2) if serious bodily injury to any individual
14 results, be imprisoned for not more than 40 years;

15 “(3) if bodily injury to any individual results,
16 be imprisoned for not more than 20 years;

17 “(4) if damage to the property of any individual
18 results or if avoidance costs have been incurred ex-
19 ceeding \$10,000, in the aggregate, be imprisoned for
20 not more than 20 years; and

21 “(5) in any other case, be imprisoned for not
22 more than one year.

23 “(c) INCREASED PUNISHMENT.—Any individual who
24 is punished under subsection (b)(5) after one or more

1 prior convictions under any such subsection shall be im-
2 prisoned for not more than 20 years.

3 “(d) DEFINITIONS.—As used in this section—

4 “(1) the term ‘hazardous or injurious device’
5 means a device, which when assembled or placed, is
6 capable of causing bodily injury, or damage to prop-
7 erty, by the action of any person making contact
8 with such device subsequent to the assembly or
9 placement. Such term includes guns attached to trip
10 wires or other triggering mechanisms, ammunition
11 attached to trip wires or other triggering mecha-
12 nisms, or explosive devices attached to trip wires or
13 other triggering mechanisms, sharpened stakes, lines
14 or wires, lines or wires with hooks attached, nails
15 placed so that the sharpened ends are positioned in
16 an upright manner, or tree spiking devices including
17 spikes, nails, or other objects hammered, driven, fas-
18 tened, or otherwise placed into or on any timber,
19 whether or not severed from the stump; and

20 “(2) the term ‘avoidance costs’ means costs in-
21 curred by any individual for the purpose of—

22 “(A) detecting a hazardous or injurious de-
23 vice; or

24 “(B) preventing death, serious bodily in-
25 jury, bodily injury, or property damage likely to

1 result from the use of a hazardous or injurious
2 device in violation of subsection (a).

3 “(e) CIVIL ACTION.—Any person injured as the re-
4 sult of a violation of subsection (a) may commence a civil
5 action on his own behalf against any person who is alleged
6 to be in violation of subsection (a). The district courts
7 shall have jurisdiction, without regard to the amount in
8 controversy or the citizenship of the parties, in such civil
9 actions. The court may award, in addition to monetary
10 damages for any injury resulting from an alleged violation
11 of subsection (a), costs of litigation, including reasonable
12 attorney and expert witness fees, to any prevailing or sub-
13 stantially prevailing party, whenever the court determines
14 such award is appropriate.

15 “SUBCHAPTER P—RESTRICTED BUILDING OR
16 GROUNDS

“Sec.

“1221. Restricted building or grounds.

17 “§ 1221. **Restricted building or grounds**

18 “(a) PROHIBITIONS.—Whoever—

19 “(1) knowingly enters or remains in any re-
20 stricted building or grounds;

21 “(2) knowingly, and with intent to impede or
22 disrupt the orderly conduct of Government business
23 or official functions, engages in disorderly or disrup-
24 tive conduct in, or within such proximity to, any re-

1 stricted building or grounds when, or so that, such
2 conduct, in fact, impedes or disrupts the orderly con-
3 duct of Government business or official functions;

4 “(3) knowingly obstructs or impedes ingress or
5 egress to or from any restricted building, grounds;
6 or

7 “(4) knowingly engages in any act of physical
8 violence against any person or property in any re-
9 stricted building or grounds;

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

11 “(b) PUNISHMENT.—Violation of this section shall be
12 punishable by—

13 “(1) imprisonment for not more than 10 years,
14 if—

15 “(A) the person, during and in relation to
16 the offense, uses or carries a deadly or dan-
17 gerous weapon or firearm; or

18 “(B) the offense results in serious bodily
19 injury or substantial bodily injury; and

20 “(2) imprisonment for not more than one year,
21 in any other case.

22 “(c) PLACE OF PROSECUTION.—Violation of this sec-
23 tion, and attempts or conspiracies to commit such viola-
24 tions, shall be prosecuted by the United States attorney

1 in the Federal district court having jurisdiction of the
2 place where the offense occurred.

3 “(d) EFFECT ON STATE LAW.—None of the laws of
4 the United States or of the several States and the District
5 of Columbia are superseded by this section.

6 “(e) DEFINITIONS.—As used in this section—

7 “(1) the term ‘other person protected by the
8 Secret Service’ means any person whom the United
9 States Secret Service is authorized to protect under
10 section 3056 when such person has not declined
11 such protection; and

12 “(2) the term ‘restricted buildings or grounds’
13 means a posted, cordoned off, or otherwise restricted
14 area of a building or grounds—

15 “(A) where the President or other person
16 protected by the Secret Service is or will be
17 temporarily visiting; or

18 “(B) so restricted in conjunction with an
19 event designated as a special event of national
20 significance.

21 **“CHAPTER 31—INTERNATIONAL LAW**

22 **CRIMES**

“Subchapter

“A. Piracy and privateering

“B. Peonage, slavery, and trafficking in persons Assault

“C. Genocide

“D. Torture

“E. War crimes

1 “SUBCHAPTER A—PIRACY AND PRIVATEERING

“Sec.

“1251. Piracy under law of nations.

2 “§ 1251. Piracy under law of nations

3 “Whoever, on the high seas, commits the crime of pi-
4 racy as defined by the law of nations, and is afterwards
5 brought into or found in the United States, shall be im-
6 prisoned for life.

7 “SUBCHAPTER B—PEONAGE, SLAVERY, AND
8 TRAFFICKING IN PERSONS

“Sec.

“1261. Peonage.

“1262. Sale into involuntary servitude.

“1263. Forced labor.

“1264. Trafficking with respect to peonage, slavery, involuntary servitude, or
forced labor.

“1265. Sex trafficking of children or by force, fraud, or coercion.

“1266. Unlawful conduct with respect to documents in furtherance of traf-
ficking, peonage, slavery, involuntary servitude, or forced labor.

“1267. Civil remedy.

9 “§ 1261. Peonage

10 “Whoever holds or returns any person to a condition
11 of peonage, or arrests any person with the intent of plac-
12 ing him in or returning him to a condition of peonage,
13 shall be imprisoned not more than 20 years. If death re-
14 sults from the violation of this section, or if the violation
15 includes kidnapping or an attempt to kidnap, aggravated
16 sexual abuse or the attempt to commit aggravated sexual
17 abuse, or an attempt to kill, the defendant shall be impris-
18 oned for any term of years or life.

1 **“§ 1262. Sale into involuntary servitude**

2 “Whoever knowingly holds to involuntary servitude or
3 sells into any condition of involuntary servitude, any other
4 person for any term, or brings within the United States
5 any person so held, shall be imprisoned not more than 20
6 years. If death results from the violation of this section,
7 or if the violation includes kidnapping or an attempt to
8 kidnap, aggravated sexual abuse or the attempt to commit
9 aggravated sexual abuse, or an attempt to kill, the defend-
10 ant shall be imprisoned for any term of years or life.

11 **“§ 1263. Forced labor**

12 “(a) Whoever knowingly provides or obtains the labor
13 or services of a person by any one of, or by any combina-
14 tion of, the following means—

15 “(1) by means of force, threats of force, phys-
16 ical restraint, or threats of physical restraint to that
17 person or another person;

18 “(2) by means of serious harm or threats of se-
19 rious harm to that person or another person;

20 “(3) by means of the abuse or threatened abuse
21 of law or legal process; or

22 “(4) by means of any scheme, plan, or pattern
23 intended to cause the person to believe that, if that
24 person did not perform such labor or services, that
25 person or another person would suffer serious harm
26 or physical restraint,

1 shall be punished as provided under subsection (d).

2 “(b) Whoever knowingly benefits, financially or by re-
3 ceiving anything of value, from participation in a venture
4 which has engaged in the providing or obtaining of labor
5 or services by any of the means described in subsection
6 (a), knowing or in reckless disregard of the fact that the
7 venture has engaged in the providing or obtaining of labor
8 or services by any of such means, shall be punished as
9 provided in subsection (d).

10 “(c) In this section:

11 “(1) The term ‘abuse or threatened abuse of
12 law or legal process’ means the use or threatened
13 use of a law or legal process, whether administrative,
14 civil, or criminal, in any manner or for any purpose
15 for which the law was not designed, in order to exert
16 pressure on another person to cause that person to
17 take some action or refrain from taking some action.

18 “(2) The term ‘serious harm’ means any harm,
19 whether physical or nonphysical, including psycho-
20 logical, financial, or reputational harm, that is suffi-
21 ciently serious, under all the surrounding cir-
22 cumstances, to compel a reasonable person of the
23 same background and in the same circumstances to
24 perform or to continue performing labor or services
25 in order to avoid incurring that harm.

1 harbors, transports, provides, obtains, or maintains
2 by any means a person; or

3 “(2) benefits, financially or by receiving any-
4 thing of value, from participation in a venture which
5 has engaged in an act described in violation of para-
6 graph (1),

7 knowing, or in reckless disregard of the fact, that means
8 of force, threats of force, fraud, coercion described in sub-
9 section (e)(2), or any combination of such means will be
10 used to cause the person to engage in a commercial sex
11 act, or that the person has not attained the age of 18
12 years and will be caused to engage in a commercial sex
13 act, shall be punished as provided in subsection (b).

14 “(b) PUNISHMENT.—The punishment for an offense
15 under subsection (a) is—

16 “(1) if the offense was effected by means of
17 force, threats of force, fraud, or coercion described
18 in subsection (e)(2), or by any combination of such
19 means, or if the person recruited, enticed, harbored,
20 transported, provided, or obtained had not attained
21 the age of 14 years at the time of such offense, by
22 a fine under this title or imprisonment for any term
23 of years or for life, or both; or

24 “(2) if the offense was not so effected, and the
25 person recruited, enticed, harbored, transported,

1 provided, or obtained had attained the age of 14
2 years but had not attained the age of 18 years at
3 the time of such offense, by a fine under this title
4 or imprisonment for not more than 40 years, or
5 both.

6 “(c) STATE OF MIND REQUIREMENT.—In a prosecu-
7 tion under subsection (a)(1) in which the defendant had
8 a reasonable opportunity to observe the person so re-
9 cruited, enticed, harbored, transported, provided, obtained
10 or maintained, the Government need not prove that the
11 defendant knew that the person had not attained the age
12 of 18 years.

13 “(d) DEFINITIONS.—As used in this section—

14 “(1) the term ‘abuse or threatened abuse of law
15 or legal process’ means the use or threatened use of
16 a law or legal process, whether administrative, civil,
17 or criminal, in any manner or for any purpose for
18 which the law was not designed, in order to exert
19 pressure on another person to cause that person to
20 take some action or refrain from taking some action;

21 “(2) the term ‘coercion’ means—

22 “(A) threats of serious harm to or physical
23 restraint against any person;

24 “(B) any scheme, plan, or pattern intended
25 to cause a person to believe that failure to per-

1 form an act would result in serious harm to or
2 physical restraint against any person; or

3 “(C) the abuse or threatened abuse of law
4 or the legal process; and

5 “(3) the term ‘commercial sex act’ means any
6 sex act, on account of which anything of value is
7 given to or received by any person;

8 “(4) the term ‘serious harm’ means any harm,
9 whether physical or nonphysical, including psycho-
10 logical, financial, or reputational harm, that is suffi-
11 ciently serious, under all the surrounding cir-
12 cumstances, to compel a reasonable person of the
13 same background and in the same circumstances to
14 perform or to continue performing commercial sex-
15 ual activity in order to avoid incurring that harm;

16 “(5) the term ‘venture’ means any group of two
17 or more individuals associated in fact, whether or
18 not a legal entity.

19 **“§ 1266. Unlawful conduct with respect to documents**
20 **in furtherance of trafficking, peonage,**
21 **slavery, involuntary servitude, or forced**
22 **labor**

23 “(a) OFFENSE.—Whoever knowingly destroys, con-
24 ceals, removes, confiscates, or possesses any actual or pur-
25 ported passport or other immigration document, or any

1 other actual or purported government identification docu-
2 ment, of another person—

3 “(1) in the course of a violation of section
4 1261, 1262, 1263, 1264, or 1265;

5 “(2) with intent to violate section 1261, 1262,
6 1263, 1264, or 1265; or

7 “(3) to prevent or restrict or to attempt to pre-
8 vent or restrict, without lawful authority, the per-
9 son’s liberty to move or travel, in order to maintain
10 the labor or services of that person, when the person
11 is or has been a victim of a severe form of traf-
12 ficking in persons, as defined in section 103 of the
13 Trafficking Victims Protection Act of 2000,
14 shall be imprisoned for not more than 5 years.

15 “(b) EXCLUSION.—Subsection (a) does not apply to
16 the conduct of a person who is or has been a victim of
17 a severe form of trafficking in persons, as defined in sec-
18 tion 103 of the Trafficking Victims Protection Act of
19 2000, if that conduct is caused by, or incident to, that
20 trafficking.

21 **“§ 1267. Civil remedy**

22 “(a) CIVIL ACTION.—An individual who is a victim
23 of a violation of this subchapter may bring a civil action
24 against the perpetrator (or whoever knowingly benefits, fi-
25 nancially or by receiving anything of value from participa-

1 tion in a venture which that person knew or should have
 2 known has engaged in an act in violation of this sub-
 3 chapter) in an appropriate district court of the United
 4 States and may recover damages and reasonable attorneys
 5 fees.

6 “(b) STAY.—(1) Any civil action filed under this sec-
 7 tion shall be stayed during the pendency of any criminal
 8 action arising out of the same occurrence in which the
 9 claimant is the victim.

10 “(2) In this subsection, a ‘criminal action’ includes
 11 investigation and prosecution and is pending until final
 12 adjudication in the trial court.

13 “(c) LIMITATION.—No action may be maintained
 14 under this section unless it is commenced not later than
 15 10 years after the cause of action arose.

16 “SUBCHAPTER C—GENOCIDE

“Sec.

“1281. Genocide.

“1282. Definitions.

17 “§ 1281. Genocide

18 “(a) BASIC OFFENSE.—Whoever, whether in time of
 19 peace or in time of war and with the specific intent to
 20 destroy, in whole or in substantial part, a national, ethnic,
 21 racial, or religious group as such—

22 “(1) kills members of that group;

23 “(2) causes serious bodily injury to members of
 24 that group;

1 “(3) causes the permanent impairment of the
2 mental faculties of members of the group through
3 drugs, torture, or similar techniques;

4 “(4) subjects the group to conditions of life that
5 are intended to cause the physical destruction of the
6 group in whole or in part;

7 “(5) imposes measures intended to prevent
8 births within the group; or

9 “(6) transfers by force children of the group to
10 another group;

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

12 “(b) PUNISHMENT FOR BASIC OFFENSE.—The pun-
13 ishment for an offense under subsection (a) is—

14 “(1) in the case of an offense under subsection
15 (a)(1), where death results, by death or imprison-
16 ment for life and a fine of not more than
17 \$1,000,000, or both; and

18 “(2) in any other case, a fine of not more than
19 \$1,000,000 or imprisonment for not more than
20 twenty years, or both.

21 “(c) INCITEMENT OFFENSE.—Whoever directly and
22 publicly incites another to violate subsection (a) shall be
23 imprisoned not more than five years.

24 “(d) JURISDICTION.—There is jurisdiction over the
25 offenses described in subsections (a) and (c) if—

1 “(1) the offense is committed in whole or in
2 part within the United States; or

3 “(2) regardless of where the offense is com-
4 mitted, the alleged offender is—

5 “(A) a national of the United States (as
6 that term is defined in section 101 of the Immi-
7 gration and Nationality Act);

8 “(B) an alien lawfully admitted for perma-
9 nent residence in the United States (as that
10 term is defined in section 101 of the Immigra-
11 tion and Nationality Act);

12 “(C) a stateless person whose habitual res-
13 idence is in the United States; or

14 “(D) present in the United States.

15 “(e) NONAPPLICABILITY OF CERTAIN LIMITA-
16 TIONS.—Notwithstanding section 3282, in the case of an
17 offense under this section, an indictment may be found,
18 or information instituted, at any time without limitation.

19 **“§ 1282. Definitions**

20 “As used in this subchapter—

21 “(1) the term ‘children’ means the plural and
22 means individuals who have not attained the age of
23 eighteen years;

1 “(2) the term ‘ethnic group’ means a set of in-
2 dividuals whose identity as such is distinctive in
3 terms of common cultural traditions or heritage;

4 “(3) the term ‘incites’ means urges another to
5 engage imminently in conduct in circumstances
6 under which there is a substantial likelihood of im-
7 minently causing such conduct;

8 “(4) the term ‘members’ means the plural;

9 “(5) the term ‘national group’ means a set of
10 individuals whose identity as such is distinctive in
11 terms of nationality or national origins;

12 “(6) the term ‘racial group’ means a set of indi-
13 viduals whose identity as such is distinctive in terms
14 of physical characteristics or biological descent;

15 “(7) the term ‘religious group’ means a set of
16 individuals whose identity as such is distinctive in
17 terms of common religious creed, beliefs, doctrines,
18 practices, or rituals; and

19 “(8) the term ‘substantial part’ means a part of
20 a group of such numerical significance that the de-
21 struction or loss of that part would cause the de-
22 struction of the group as a viable entity within the
23 nation of which such group is a part.

24 “SUBCHAPTER D—TORTURE

“Sec.

“1291. Torture.

“1292. Definitions.

1 **“§ 1291. Torture**

2 “(a) OFFENSE.—Whoever outside the United States
3 commits or attempts to commit torture shall be impris-
4 oned not more than 20 years and if death results to any
5 person from conduct prohibited by this subsection, shall
6 be punished by death or imprisoned for any term of years
7 or for life.

8 “(b) JURISDICTION.—There is jurisdiction over the
9 activity prohibited in subsection (a) if—

10 “(1) the alleged offender is a national of the
11 United States; or

12 “(2) the alleged offender is present in the
13 United States, irrespective of the nationality of the
14 victim or alleged offender.

15 “(c) CONSPIRACY.—A person who conspires to com-
16 mit an offense under this section shall be subject to the
17 same penalties (other than the penalty of death) as the
18 penalties prescribed for the offense, the commission of
19 which was the object of the conspiracy.

20 **“§ 1292. Definitions**

21 “As used in this subchapter—

22 “(1) the term ‘torture’ means an act committed
23 by a person acting under the color of law specifically
24 intended to inflict severe physical or mental pain or
25 suffering (other than pain or suffering incidental to

1 lawful sanctions) upon another person within his
 2 custody or physical control; and

3 “(2) the term ‘severe mental pain or suffering’
 4 means the prolonged mental harm caused by or re-
 5 sulting from—

6 “(A) the intentional infliction or threat-
 7 ened infliction of severe physical pain or suf-
 8 fering;

9 “(B) the administration or application, or
 10 threatened administration or application, of
 11 mind-altering substances or other procedures
 12 calculated to disrupt profoundly the senses or
 13 the personality;

14 “(C) the threat of imminent death; or

15 “(D) the threat that another person will
 16 imminently be subjected to death, severe phys-
 17 ical pain or suffering, or the administration or
 18 application of mind-altering substances or other
 19 procedures calculated to disrupt profoundly the
 20 senses or personality.

21 “SUBCHAPTER E—WAR CRIMES

“Sec.

“1296. War crimes.

“1297. Recruitment or use of child soldiers.

22 “§ 1296. War crimes

23 “(a) OFFENSE.—Whoever, whether inside or outside
 24 the United States, commits a war crime, in any of the

1 circumstances described in subsection (b), shall be impris-
2 oned for life or any term of years and if death results
3 to the victim, shall also be subject to the penalty of death.

4 “(b) CIRCUMSTANCES.—The circumstances referred
5 to in subsection (a) are that the person committing such
6 war crime or the victim of such war crime is a member
7 of the Armed Forces of the United States or a national
8 of the United States (as defined in section 101 of the Im-
9 migration and Nationality Act).

10 “(c) DEFINITION.—As used in this section the term
11 ‘war crime’ means any conduct—

12 “(1) defined as a grave breach in any of the
13 international conventions signed at Geneva 12 Au-
14 gust 1949, or any protocol to such convention to
15 which the United States is a party;

16 “(2) prohibited by Article 23, 25, 27, or 28 of
17 the Annex to the Hague Convention IV, Respecting
18 the Laws and Customs of War on Land, signed 18
19 October 1907;

20 “(3) which constitutes a grave breach of com-
21 mon Article 3 (as defined in subsection (d)) when
22 committed in the context of and in association with
23 an armed conflict not of an international character;
24 or

1 “(4) of a person who, in relation to an armed
2 conflict and contrary to the Protocol on Prohibitions
3 or Restrictions on the Use of Mines, Booby-Traps
4 and Other Devices as amended at Geneva on 3 May
5 1996 (Protocol II as amended on 3 May 1996),
6 when the United States is a party to such Protocol,
7 knowingly kills or causes serious injury to civilians.

8 “(d) COMMON ARTICLE 3 VIOLATIONS.—

9 “(1) PROHIBITED CONDUCT.—In subsection
10 (c)(3), the term ‘grave breach of common Article 3’
11 means any conduct (such conduct constituting a
12 grave breach of common Article 3 of the inter-
13 national conventions done at Geneva August 12,
14 1949), as follows:

15 “(A) TORTURE.—The act of a person who
16 commits an act specifically intended to inflict
17 severe physical or mental pain or suffering
18 (other than pain or suffering incidental to law-
19 ful sanctions) upon another person within his
20 custody or physical control for the purpose of
21 obtaining information or a confession, punish-
22 ment, intimidation, coercion, or any reason
23 based on discrimination of any kind.

24 “(B) CRUEL OR INHUMAN TREATMENT.—

25 The act of a person who commits an act in-

1 tended to inflict severe or serious physical or
2 mental pain or suffering (other than pain or
3 suffering incidental to lawful sanctions), includ-
4 ing serious physical abuse, upon another within
5 his custody or control.

6 “(C) PERFORMING BIOLOGICAL EXPERI-
7 MENTS.—The act of a person who subjects one
8 or more persons within his custody or physical
9 control to biological experiments without a le-
10 gitimate medical or dental purpose and in so
11 doing endangers the body or health of such per-
12 son or persons.

13 “(D) MURDER.—The act of a person who
14 intentionally kills or kills whether intentionally
15 or unintentionally in the course of committing
16 any other offense under this subsection, one or
17 more persons taking no active part in the hos-
18 tilities, including those placed out of combat by
19 sickness, wounds, detention, or any other cause.

20 “(E) MUTILATION OR MAIMING.—The act
21 of a person who intentionally injures or injures
22 whether intentionally or unintentionally in the
23 course of committing any other offense under
24 this subsection, one or more persons taking no
25 active part in the hostilities, including those

1 placed out of combat by sickness, wounds, de-
2 tention, or any other cause, by disfiguring the
3 person or persons by any mutilation thereof or
4 by permanently disabling any member, limb, or
5 organ of his body, without any legitimate med-
6 ical or dental purpose.

7 “(F) INTENTIONALLY CAUSING SERIOUS
8 BODILY INJURY.—The act of a person who in-
9 tentionally causes serious bodily injury to one
10 or more persons, including lawful combatants,
11 in violation of the law of war.

12 “(G) RAPE.—The act of a person who
13 forcibly or with coercion or threat of force
14 wrongfully invades the body of a person by pen-
15 etrating, however slightly, the anal or genital
16 opening of the victim with any part of the body
17 of the accused, or with any foreign object.

18 “(H) SEXUAL ASSAULT OR ABUSE.—The
19 act of a person who forcibly or with coercion or
20 threat of force engages in sexual contact with
21 one or more persons, or causes one or more per-
22 sons to engage in sexual contact.

23 “(I) TAKING HOSTAGES.—The act of a
24 person who, having knowingly seized or de-
25 tained one or more persons, threatens to kill,

1 injure, or continue to detain such person or per-
2 sons with the intent of compelling any nation,
3 person other than the hostage, or group of per-
4 sons to act or refrain from acting as an explicit
5 or implicit condition for the safety or release of
6 such person or persons.

7 “(2) DEFINITIONS.—In the case of an offense
8 under subsection (a) by reason of subsection
9 (c)(3)—

10 “(A) the term ‘severe mental pain or suf-
11 fering’ shall be applied for purposes of para-
12 graphs (1)(A) and (1)(B) in accordance with
13 the meaning given that term in section 1292(2);

14 “(B) the term ‘sexual contact’ shall be ap-
15 plied for purposes of paragraph (1)(G) in ac-
16 cordance with the meaning given that term in
17 section 205(2);

18 “(C) the term ‘serious physical pain or suf-
19 fering’ shall be applied for purposes of para-
20 graph (1)(B) as meaning bodily injury that in-
21 volves—

22 “(i) a substantial risk of death;

23 “(ii) extreme physical pain;

1 “(iii) a burn or physical disfigurement
2 of a serious nature (other than cuts, abra-
3 sions, or bruises); or

4 “(iv) significant loss or impairment of
5 the function of a bodily member, organ, or
6 mental faculty; and

7 “(D) the term ‘serious mental pain or suf-
8 fering’ shall be applied for purposes of para-
9 graph (1)(B) in accordance with the meaning
10 given the term ‘severe mental pain or suffering’
11 (as defined in section 1292(2)), except that—

12 “(i) the term ‘serious’ shall replace
13 the term ‘severe’ where it appears; and

14 “(ii) as to conduct occurring after the
15 date of the enactment of the Military Com-
16 missions Act of 2006, the term ‘serious
17 and non-transitory mental harm (which
18 need not be prolonged)’ shall replace the
19 term ‘prolonged mental harm’ where it ap-
20 pears.

21 “(3) INAPPLICABILITY OF CERTAIN PROVISIONS
22 WITH RESPECT TO COLLATERAL DAMAGE OR INCI-
23 DENT OF LAWFUL ATTACK.—The intent specified for
24 the conduct stated in subparagraphs (D), (E), and
25 (F) or paragraph (1) precludes the applicability of

1 those subparagraphs to an offense under subsection
2 (a) by reasons of subsection (c)(3) with respect to—

3 “(A) collateral damage; or

4 “(B) death, damage, or injury incident to
5 a lawful attack.

6 “(4) INAPPLICABILITY OF TAKING HOSTAGES
7 TO PRISONER EXCHANGE.—Paragraph (1)(I) does
8 not apply to an offense under subsection (a) by rea-
9 son of subsection (c)(3) in the case of a prisoner ex-
10 change during wartime.

11 “(5) DEFINITION OF GRAVE BREACHES.—The
12 definitions in this subsection are intended only to de-
13 fine the grave breaches of common Article 3 and not
14 the full scope of United States obligations under
15 that Article.

16 **“§ 1297. Recruitment or use of child soldiers**

17 “(a) OFFENSE.—Whoever knowingly—

18 “(1) recruits, enlists, or conscripts a person to
19 serve while such person is under 15 years of age in
20 an armed force or group; or

21 “(2) uses a person under 15 years of age to
22 participate actively in hostilities;

23 knowing such person is under 15 years of age, shall be
24 punished as provided in subsection (b).

1 “(b) PENALTY.—Whoever violates subsection (a)
 2 shall be imprisoned not more than 20 years, and, if death
 3 of any person results, shall be imprisoned for any term
 4 of years or for life.

5 “(c) EXTRATERRITORIAL JURISDICTION.—There is
 6 extraterritorial jurisdiction over an offense under this sec-
 7 tion.

8 “(d) DEFINITIONS.—In this section:

9 “(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—
 10 The term ‘participate actively in hostilities’ means
 11 taking part in—

12 “(A) combat or military activities related
 13 to combat, including sabotage and serving as a
 14 decoy, a courier, or at a military checkpoint; or

15 “(B) direct support functions related to
 16 combat, including transporting supplies or pro-
 17 viding other services.

18 “(2) ARMED FORCE OR GROUP.—The term
 19 ‘armed force or group’ means any army, militia, or
 20 other military organization, whether or not it is
 21 state-sponsored, excluding any group assembled sole-
 22 ly for nonviolent political association.

23 **“CHAPTER 33—TRANSPORTATION**
 24 **RELATED CRIMES**

“Subchapter

“A. Aircraft and motor vehicles

“B. Railroads

1 placed or such making or causing to be made is like-
2 ly to endanger the safety of any such aircraft;

3 “(3) sets fire to, damages, destroys, or disables
4 any air navigation facility, or interferes by force or
5 violence with the operation of such facility, if such
6 fire, damaging, destroying, disabling, or interfering
7 is likely to endanger the safety of any such aircraft
8 in flight;

9 “(4) with the intent to damage, destroy, or dis-
10 able any such aircraft, sets fire to, damages, de-
11 stroy, or disables or places a destructive device or
12 substance in, upon, or in proximity to, any appliance
13 or structure, ramp, landing area, property, machine,
14 or apparatus, or any facility or other material used,
15 or intended to be used, in connection with the oper-
16 ation, maintenance, loading, unloading or storage of
17 any such aircraft or any cargo carried or intended
18 to be carried on any such aircraft;

19 “(5) interferes with or disables, with intent to
20 endanger the safety of any person or with a reckless
21 disregard for the safety of human life, anyone en-
22 gaged in the authorized operation of such aircraft or
23 any air navigation facility aiding in the navigation of
24 any such aircraft;

1 “(6) performs an act of violence against or in-
2 capacitates any individual on any such aircraft, if
3 such act of violence or incapacitation is likely to en-
4 danger the safety of such aircraft; or

5 “(7) communicates information, knowing the
6 information to be false and under circumstances in
7 which such information may reasonably be believed,
8 thereby endangering the safety of any such aircraft
9 in flight,

10 shall be imprisoned not more than 20 years.

11 “(b) OTHER CIVIL AIRCRAFT.—Whoever know-
12 ingly—

13 “(1) performs an act of violence against any in-
14 dividual on board any civil aircraft registered in a
15 country other than the United States while such air-
16 craft is in flight, if such act is likely to endanger the
17 safety of that aircraft;

18 “(2) destroys a civil aircraft registered in a
19 country other than the United States while such air-
20 craft is in service or causes damage to such an air-
21 craft which renders that aircraft incapable of flight
22 or which is likely to endanger that aircraft’s safety
23 in flight; or

24 “(3) places or causes to be placed on a civil air-
25 craft registered in a country other than the United

1 States while such aircraft is in service, a device or
2 substance which is likely to destroy that aircraft, or
3 to cause damage to that aircraft which renders that
4 aircraft incapable of flight or which is likely to en-
5 danger that aircraft's safety in flight,
6 shall be imprisoned not more than 20 years. There is also
7 extraterritorial jurisdiction over an offense under this sub-
8 section if a national of the United States was on board,
9 or would have been on board, the aircraft; an offender is
10 a national of the United States; or an offender is after-
11 wards found in the United States.

12 “(c) THREATS.—Whoever knowingly imparts or con-
13 veys any threat to do an act which would violate any of
14 paragraphs (1) through (6) of subsection (a) or any of
15 paragraphs (1) through (3) of subsection (b) of this sec-
16 tion, with an apparent determination and will to carry the
17 threat into execution shall be imprisoned not more than
18 five years.

19 **“§ 1302. Destruction of motor vehicles or motor vehi-**
20 **cle facilities**

21 “(a) OFFENSE.—Whoever—

22 “(1) knowingly, with intent to endanger the
23 safety of any person on board or anyone who he be-
24 lieves will board the same, or with a reckless dis-
25 regard for the safety of human life, damages, dis-

1 ables, destroys, tampers with, or places or causes to
2 be placed any explosive or other destructive sub-
3 stance in, upon, or in proximity to, any motor vehi-
4 cle which is used, operated, or employed in interstate
5 or foreign commerce, or its cargo or material used
6 or intended to be used in connection with its oper-
7 ation;

8 “(2) knowingly, with like intent, damages, dis-
9 ables, destroys;

10 “(3) sets fire to, tampers with, or places or
11 causes to be placed any explosive or other destruc-
12 tive substance in, upon, or in proximity to any ga-
13 rage, terminal, structure, supply, or facility used in
14 the operation of, or in support of the operation of,
15 motor vehicles engaged in interstate or foreign com-
16 merce or otherwise makes or causes such property to
17 be made unworkable, unusable, or hazardous to
18 work or use; or

19 “(4) with like intent, knowingly disables or in-
20 capacitates any driver or person employed in connec-
21 tion with the operation or maintenance of the motor
22 vehicle, or in any way lessens the ability of such per-
23 son to perform his duties as such;

24 shall be imprisoned not more than 20 years.

1 “(b) INCREASED PENALTY.—Whoever is convicted of
2 a violation of subsection (a) involving a motor vehicle that,
3 at the time the violation occurred, carried high-level radio-
4 active waste (as that term is defined in section 2(12) of
5 the Nuclear Waste Policy Act of 1982) or spent nuclear
6 fuel (as that term is defined in section 2(23) of the Nu-
7 clear Waste Policy Act of 1982), shall be imprisoned for
8 any term of years not less than 30, or for life.

9 **“§ 1303. Penalty when death results**

10 “Whoever is convicted of any crime prohibited by this
11 subchapter, which has resulted in the death of any person,
12 shall be subject also to the death penalty or to imprison-
13 ment for life.

14 **“§ 1304. Imparting or conveying false information**

15 “(a) CIVIL PENALTY.—Whoever imparts or conveys
16 or causes to be imparted or conveyed false information,
17 knowing the information to be false, concerning an at-
18 tempt or alleged attempt being made or to be made, to
19 do any act which would be a crime prohibited by this sub-
20 chapter or subchapter B or D of this chapter shall be sub-
21 ject to a civil penalty of not more than \$1,000 which shall
22 be recoverable in a civil action brought in the name of
23 the United States.

24 “(b) CRIMINAL OFFENSE.—Whoever knowingly, or
25 with reckless disregard for the safety of human life, im-

1 parts or conveys or causes to be imparted or conveyed
2 false information, knowing the information to be false,
3 concerning an attempt or alleged attempt being made or
4 to be made, to do any act which would be a crime prohib-
5 ited by this subchapter or subchapter B or D of this chap-
6 ter shall be imprisoned not more than five years.

7 **“§ 1305. Violence at international airports**

8 “(a) OFFENSE.—Whoever unlawfully and knowingly,
9 using any device, substance, or weapon—

10 “(1) performs an act of violence against a per-
11 son at an airport serving international civil aviation
12 that causes or is likely to cause serious bodily injury
13 or death; or

14 “(2) destroys or seriously damages the facilities
15 of an airport serving international civil aviation or a
16 civil aircraft not in service located thereon or dis-
17 rupts the services of the airport,

18 shall be imprisoned not more than 20 years, and if the
19 death of any person results from conduct prohibited by
20 this subsection, shall be punished as provided in chapter
21 10.

22 “(b) JURISDICTION.—There is jurisdiction over the
23 prohibited activity in subsection (a) if—

24 “(1) the prohibited activity takes place in the
25 United States; or

1 “(B) makes any materially fraudulent represen-
2 tation concerning any aircraft or space vehicle part;
3 or

4 “(C) makes or uses any materially false writing,
5 entry, certification, document, record, data plate,
6 label, or electronic communication concerning any
7 aircraft or space vehicle part; or

8 “(2) exports from or imports or introduces into
9 the United States, sells, trades, installs on or in any
10 aircraft or space vehicle any aircraft or space vehicle
11 part using or by means of a fraudulent representa-
12 tion, document, record, certification, depiction, data
13 plate, label, or electronic communication;
14 shall be punished as provided in subsection (b).

15 “(b) PENALTIES.—The punishment for an offense
16 under subsection (a) is as follows:

17 “(1) AVIATION QUALITY.—If the offense relates
18 to the aviation quality of a part and the part is in-
19 stalled in an aircraft or space vehicle, a fine of not
20 more than \$500,000, imprisonment for not more
21 than 15 years, or both.

22 “(2) FAILURE TO OPERATE AS REP-
23 RESENTED.—If, by reason of the failure of the part
24 to operate as represented, the part to which the of-
25 fense is related is the proximate cause of a malfunc-

1 tion or failure that results in serious bodily injury,
2 a fine of not more than \$1,000,000, imprisonment
3 for not more than 20 years, or both.

4 “(3) FAILURE RESULTING IN DEATH.—If, by
5 reason of the failure of the part to operate as rep-
6 resented, the part to which the offense is related is
7 the proximate cause of a malfunction or failure that
8 results in the death of any person, a fine of not
9 more than \$1,000,000, imprisonment for any term
10 of years or life, or both.

11 “(4) OTHER CIRCUMSTANCES.—In the case of
12 an offense under subsection (a) not described in
13 paragraph (1), (2), or (3) of this subsection, a fine
14 under this title, imprisonment for not more than 10
15 years, or both.

16 “(5) ORGANIZATIONS.—If the offense is com-
17 mitted by an organization, a fine of not more than—

18 “(A) \$10,000,000 in the case of an offense
19 described in paragraph (1) or (4); and

20 “(B) \$20,000,000 in the case of an offense
21 described in paragraph (2) or (3).

22 “(c) CIVIL REMEDIES.—The district courts of the
23 United States shall have jurisdiction to prevent and re-
24 strain violations of this section by issuing appropriate or-
25 ders, including—

1 “(1) ordering a person (convicted of an offense
2 under this section) to divest any interest, direct or
3 indirect, in any enterprise used to commit or facili-
4 tate the commission of the offense, or to destroy, or
5 to mutilate and sell as scrap, aircraft material or
6 part inventories or stocks;

7 “(2) imposing reasonable restrictions on the fu-
8 ture activities or investments of any such person, in-
9 cluding prohibiting engagement in the same type of
10 endeavor as used to commit the offense; and

11 “(3) ordering the dissolution or reorganization
12 of any enterprise knowingly used to commit or facili-
13 tate the commission of an offense under this section
14 making due provisions for the rights and interests of
15 innocent persons.

16 “(d) EXTRATERRITORIAL JURISDICTION.—There is
17 extraterritorial jurisdiction over an offense under this sec-
18 tion.

19 **“§ 1307. Aircraft piracy**

20 “(a) IN SPECIAL AIRCRAFT JURISDICTION.—(1) For
21 the purposes of this subsection—

22 “(A) the term ‘aircraft piracy’ means seizing or
23 exercising control of an aircraft in the special air-
24 craft jurisdiction of the United States by force, vio-

1 lence, threat of force or violence, or any form of in-
2 timidation, and with wrongful intent; and

3 “(B) an attempt to commit aircraft piracy is in
4 the special aircraft jurisdiction of the United States
5 although the aircraft is not in flight at the time of
6 the attempt if the aircraft would have been in the
7 special aircraft jurisdiction of the United States had
8 the aircraft piracy been completed.

9 “(2) Whoever commits aircraft piracy shall be impris-
10 oned for not less than 20 years.

11 “(b) OUTSIDE SPECIAL AIRCRAFT JURISDICTION.—

12 (1) Whoever commits an offense (as defined in the Con-
13 vention for the Suppression of Unlawful Seizure of Air-
14 craft) on an aircraft in flight outside the special aircraft
15 jurisdiction of the United States shall be imprisoned for
16 at least 20 years.

17 “(2) There is extraterritorial jurisdiction over the of-
18 fense in paragraph (1) if—

19 “(A) a national of the United States was
20 aboard the aircraft;

21 “(B) an offender is a national of the United
22 States; or

23 “(C) an offender is afterwards found in the
24 United States.

1 **“§ 1308. Interference with flight crew members and**
2 **attendants**

3 “An individual on an aircraft in the special aircraft
4 jurisdiction of the United States who, by assaulting or in-
5 timidating a flight crew member or flight attendant of the
6 aircraft, interferes with the performance of the duties of
7 the member or attendant or lessens the ability of the mem-
8 ber or attendant to perform those duties, shall be impris-
9 oned for not more than 20 years. However, if a dangerous
10 weapon is used in assaulting or intimidating the member
11 or attendant, the individual shall be imprisoned for any
12 term of years or for life.

13 **“§ 1309. Carrying a weapon or explosive on an air-**
14 **craft**

15 “(a) DEFINITION.—In this section, ‘loaded firearm’
16 means a starter gun or a weapon designed or converted
17 to expel a projectile through an explosive, that has a car-
18 tridge, a detonator, or powder in the chamber, magazine,
19 cylinder, or clip.

20 “(b) GENERAL CRIMINAL PENALTY.—An individual
21 shall be imprisoned for not more than 10 years if the indi-
22 vidual—

23 “(1) when on, or attempting to get on, an air-
24 craft in, or intended for operation in, air transpor-
25 tation or intrastate air transportation, has on or
26 about the individual or the property of the individual

1 a concealed dangerous weapon that is or would be
2 accessible to the individual in flight;

3 “(2) has placed, attempted to place, or at-
4 tempted to have placed a loaded firearm on that air-
5 craft in property not accessible to passengers in
6 flight; or

7 “(3) has on or about the individual, or has
8 placed, attempted to place, or attempted to have
9 placed on that aircraft, an explosive or incendiary
10 device.

11 “(c) CRIMINAL PENALTY INVOLVING DISREGARD
12 FOR HUMAN LIFE.—An individual who willfully and with-
13 out regard for the safety of human life, or with reckless
14 disregard for the safety of human life, violates subsection
15 (b) of this section, shall be imprisoned for not more than
16 20 years, and, if death results to any person, shall be im-
17 prisoned for any term of years or for life.

18 “(d) NONAPPLICATION.—Subsection (b)(1) of this
19 section does not apply to—

20 “(1) a law enforcement officer of a State or po-
21 litical subdivision of a State, or an officer or em-
22 ployee of the United States Government, authorized
23 to carry arms in an official capacity;

24 “(2) another individual the Administrator of
25 the Federal Aviation Administration or the Under

1 Secretary of Transportation for Security by regula-
2 tion authorizes to carry a dangerous weapon in air
3 transportation or intrastate air transportation; or

4 “(3) an individual transporting a weapon (ex-
5 cept a loaded firearm) in baggage not accessible to
6 a passenger in flight if the air carrier was informed
7 of the presence of the weapon.

8 **“§ 1310. Application of certain criminal laws to acts**
9 **on aircraft**

10 “An individual on an aircraft in the special aircraft
11 jurisdiction of the United States who commits an act
12 that—

13 “(1) if committed in the special maritime and
14 territorial jurisdiction of the United States would
15 violate section 102, 111, 121, 141, 649, 650, or sub-
16 chapter A of chapter 13, shall be imprisoned under
17 that section or chapter; or

18 “(2) if committed in the District of Columbia
19 would violate section 9 of the Act of July 29, 1892
20 (D.C. Code Sec. 22–1112), shall be imprisoned
21 under section 9 of the Act.

22 **“§ 1311. Definitions**

23 “(a) DEFINITIONS.—As used in sections 1301
24 through 1306, the following definitions apply:

1 “(1) AIRCRAFT.—The term ‘aircraft’ means a
2 civil, military, or public contrivance invented, used,
3 or designed to navigate, fly, or travel in the air.

4 “(2) AVIATION QUALITY.—The term ‘aviation
5 quality’, with respect to a part of an aircraft or
6 space vehicle, means the quality of having been man-
7 ufactured, constructed, produced, maintained, re-
8 paired, overhauled, rebuilt, reconditioned, or restored
9 in conformity with applicable standards specified by
10 law (including applicable regulations).

11 “(3) DESTRUCTIVE SUBSTANCE.—The term
12 ‘destructive substance’ means an explosive sub-
13 stance, flammable material, infernal machine, or
14 other chemical, mechanical, or radioactive device or
15 matter of a combustible, contaminative, corrosive, or
16 explosive nature.

17 “(4) IN FLIGHT.—The term ‘in flight’ means—

18 “(A) any time from the moment at which
19 all the external doors of an aircraft are closed
20 following embarkation until the moment when
21 any such door is opened for disembarkation;
22 and

23 “(B) in the case of a forced landing, until
24 competent authorities take over the responsi-

1 bility for the aircraft and the persons and prop-
2 erty on board.

3 “(5) IN SERVICE.—The term ‘in service’
4 means—

5 “(A) any time from the beginning of pre-
6 flight preparation of an aircraft by ground per-
7 sonnel or by the crew for a specific flight until
8 24 hours after any landing; and

9 “(B) in any event includes the entire pe-
10 riod during which the aircraft is in flight.

11 “(6) MOTOR VEHICLE.—The term ‘motor vehi-
12 cle’ means every description of carriage or other con-
13 trivance propelled or drawn by mechanical power
14 and used for commercial purposes on the highways
15 in the transportation of passengers, passengers and
16 property, or property or cargo.

17 “(7) PART.—The term ‘part’ means a frame,
18 assembly, component, appliance, engine, propeller,
19 material, part, spare part, piece, section, or related
20 integral or auxiliary equipment.

21 “(8) SPACE VEHICLE.—The term ‘space vehicle’
22 means a man-made device, either manned or un-
23 manned, designed for operation beyond the Earth’s
24 atmosphere.

1 “(9) USED FOR COMMERCIAL PURPOSES.—The
 2 term ‘used for commercial purposes’ means the car-
 3 riage of persons or property for any fare, fee, rate,
 4 charge or other consideration, or directly or indi-
 5 rectly in connection with any business, or other un-
 6 dertaking intended for profit.

7 “(b) TERMS DEFINED IN OTHER LAW.—In this sub-
 8 chapter, the terms ‘aircraft engine’, ‘air navigation facil-
 9 ity’, ‘appliance’, ‘civil aircraft’, ‘foreign air commerce’,
 10 ‘interstate air commerce’, ‘landing area’, ‘overseas air
 11 commerce’, ‘propeller’, ‘spare part’, and ‘special aircraft
 12 jurisdiction of the United States’ have the meanings given
 13 those terms in sections 40102(a) and 46501 of title 49.

14 “SUBCHAPTER B—RAILROADS

“Sec.

“1331. Terrorist attacks and other violence against railroad carriers and against
 mass transportation systems on land, on water, or through the
 air.

15 **“§ 1331. Terrorist attacks and other violence against**
 16 **railroad carriers and against mass trans-**
 17 **portation systems on land, on water, or**
 18 **through the air**

19 “(a) GENERAL PROHIBITIONS.—Whoever, as made
 20 applicable by subsection (c), knowingly and without lawful
 21 authority—

1 “(1) wrecks, derails, sets fire to, or disables
2 railroad on-track equipment or a mass transpor-
3 tation vehicle;

4 “(2) places any biological agent or toxin, de-
5 structive substance, or destructive device in, upon,
6 or near railroad on-track equipment or a mass
7 transportation vehicle with intent to endanger the
8 safety of any person, or with a reckless disregard for
9 the safety of human life;

10 “(3) places or releases a hazardous material or
11 a biological agent or toxin on or near any property
12 described in subparagraph (A) or (B) of paragraph
13 (4), with intent to endanger the safety of any per-
14 son, or with reckless disregard for the safety of
15 human life;

16 “(4) sets fire to, undermines, makes unwork-
17 able, unusable, or hazardous to work on or use, or
18 places any biological agent or toxin, destructive sub-
19 stance, or destructive device in, upon, or near any—

20 “(A) tunnel, bridge, viaduct, trestle, track,
21 electromagnetic guideway, signal, station, depot,
22 warehouse, terminal, or any other way, struc-
23 ture, property, or appurtenance used in the op-
24 eration of, or in support of the operation of, a
25 railroad carrier, and with intent to, or knowing

1 or having reason to know such activity would
2 likely, derail, disable, or wreck railroad on-track
3 equipment; or

4 “(B) garage, terminal, structure, track,
5 electromagnetic guideway, supply, or facility
6 used in the operation of, or in support of the
7 operation of, a mass transportation vehicle, and
8 with intent to, or knowing or having reason to
9 know, such activity would likely, derail, disable,
10 or wreck a mass transportation vehicle used,
11 operated, or employed by a mass transportation
12 provider;

13 “(5) removes an appurtenance from, damages,
14 or otherwise impairs the operation of a railroad sig-
15 nal system or mass transportation signal or dis-
16 patching system, including a train control system,
17 centralized dispatching system, or highway-railroad
18 grade crossing warning signal;

19 “(6) with intent to endanger the safety of any
20 person, or with a reckless disregard for the safety of
21 human life, interferes with, disables, or incapacitates
22 any dispatcher, driver, captain, locomotive engineer,
23 railroad conductor, or other person while the person
24 is employed in dispatching, operating, controlling, or

1 maintaining railroad on-track equipment or a mass
2 transportation vehicle;

3 “(7) commits an act, including the use of a
4 dangerous weapon, with the intent to cause death or
5 serious bodily injury to any person who is on prop-
6 erty described in subparagraph (A) or (B) of para-
7 graph (4);

8 “(8) surveils, photographs, videotapes, dia-
9 grams, or otherwise collects information with the in-
10 tent to plan or assist in planning any of the acts de-
11 scribed in paragraphs (1) through (6);

12 “(9) conveys false information, knowing the in-
13 formation to be false, concerning an attempt or al-
14 leged attempt to engage in a violation of this sub-
15 section; or

16 “(10) threatens to engage in any violation of
17 any of paragraphs (1) through (9);

18 shall be imprisoned not more than 20 years, and if the
19 offense results in the death of any person, shall be impris-
20 oned for any term of years or for life, or be subject to
21 the penalty of death, except in the case of a violation of
22 paragraph (8), (9), or (10).

23 “(b) AGGRAVATED OFFENSE.—Whoever commits an
24 offense under subsection (a) of this section in a cir-
25 cumstance in which—

1 “(1) the railroad on-track equipment or mass
2 transportation vehicle was carrying a passenger or
3 employee at the time of the offense;

4 “(2) the railroad on-track equipment or mass
5 transportation vehicle was carrying high-level radio-
6 active waste or spent nuclear fuel at the time of the
7 offense; or

8 “(3) the offense was committed with the intent
9 to endanger the safety of any person, or with a reck-
10 less disregard for the safety of any person, and the
11 railroad on-track equipment or mass transportation
12 vehicle was carrying a hazardous material at the
13 time of the offense that—

14 “(A) was required to be placarded under
15 subpart F of part 172 of title 49, Code of Fed-
16 eral Regulations; and

17 “(B) is identified as class number 3, 4, 5,
18 6.1, or 8 and packing group I or packing group
19 II, or class number 1, 2, or 7 under the haz-
20 ardous materials table of section 172.101 of
21 title 49, Code of Federal Regulations,

22 shall be imprisoned for any term of years or life, and if
23 the offense resulted in the death of any person, the person
24 may be sentenced to death.

1 “(c) APPLICABILITY.—Subsection (a) applies if any
2 of the following are true:

3 “(1) Any of the conduct required for the offense
4 is, or, in the case of an attempt, threat, or con-
5 spiracy to engage in conduct, the conduct required
6 for the completed offense would be, engaged in, on,
7 against, or affecting a mass transportation provider,
8 or a railroad carrier engaged in interstate or foreign
9 commerce.

10 “(2) Any person travels or communicates across
11 a State line in order to commit the offense, or trans-
12 ports materials across a State line in aid of the com-
13 mission of the offense.

14 “(d) DEFINITIONS.—As used in this section—

15 “(1) the term ‘biological agent’ has the meaning
16 given to that term in section 627(1);

17 “(2) the term ‘dangerous weapon’ means a
18 weapon, device, instrument, material, or substance,
19 animate or inanimate, that is used for, or is readily
20 capable of, causing death or serious bodily injury, in-
21 cluding a pocket knife with a blade of less than 2½
22 inches in length and a box cutter;

23 “(3) the term ‘destructive device’ has the mean-
24 ing given to that term in section 581(2);

1 “(4) the term ‘destructive substance’ means an
2 explosive substance, flammable material, infernal
3 machine, or other chemical, mechanical, or radio-
4 active device or material, or matter of a combustible,
5 contaminative, corrosive, or explosive nature, except
6 that the term ‘radioactive device’ does not include
7 any radioactive device or material used solely for
8 medical, industrial, research, or other peaceful pur-
9 poses;

10 “(5) the term ‘hazardous material’ has the
11 meaning given to that term in chapter 51 of title 49;

12 “(6) the term ‘high-level radioactive waste’ has
13 the meaning given to that term in section 2(12) of
14 the Nuclear Waste Policy Act of 1982;

15 “(7) the term ‘mass transportation’ has the
16 meaning given to that term in section 5302(a)(7) of
17 title 49, except that the term includes intercity bus
18 transportation, school bus, charter, and sightseeing
19 transportation and passenger vessel as that term is
20 defined in section 2101(22) of title 46;

21 “(8) the term ‘on-track equipment’ means a
22 carriage or other contrivance that runs on rails or
23 electromagnetic guideways;

24 “(9) the term ‘railroad on-track equipment’
25 means a train, locomotive, tender, motor unit,

1 freight or passenger car, or other on-track equip-
 2 ment used, operated, or employed by a railroad car-
 3 rier;

4 “(10) the term ‘railroad’ has the meaning given
 5 to that term in chapter 201 of title 49;

6 “(11) the term ‘railroad carrier’ has the mean-
 7 ing given to that term in chapter 201 of title 49;

8 “(12) the term ‘spent nuclear fuel’ has the
 9 meaning given to that term in section 2(23) of the
 10 Nuclear Waste Policy Act of 1982;

11 “(13) the term ‘toxin’ has the meaning given to
 12 that term in section 627(2); and

13 “(14) the term ‘vehicle’ means any carriage or
 14 other contrivance used, or capable of being used, as
 15 a means of transportation on land, on water, or
 16 through the air.

17 **“SUBCHAPTER C—SEAMEN AND STOWAWAYS**

“Sec.

“1341. Drunkenness or neglect of duty by seamen.

“1342. Misuse of Federal certificate, license, or document.

“1343. Stowaways on vessels or aircraft.

18 **“§ 1341. Drunkenness or neglect of duty by seamen**

19 “Whoever, being a master, officer, radio operator,
 20 seaman, apprentice or other person employed on any mer-
 21 chant vessel, by willful breach of duty, or by reason of
 22 drunkenness, does any act tending to the immediate loss
 23 or destruction of, or serious damage to, such vessel, or

1 tending immediately to endanger the life or limb of any
2 person belonging to or on board of such vessel; or, by
3 knowing breach of duty or by neglect of duty or by reason
4 of drunkenness, refuses or omits to do any lawful act prop-
5 er and requisite to be done by him for preserving such
6 vessel from immediate loss, destruction, or serious dam-
7 age, or for preserving any person belonging to or on board
8 of such ship from immediate danger to life or limb, shall
9 be imprisoned not more than one year.

10 **“§ 1342. Misuse of Federal certificate, license, or doc-**
11 **ument**

12 “Whoever—

13 “(1) not being lawfully entitled thereto, uses,
14 exhibits, or attempts to use or exhibit, or, with in-
15 tent unlawfully to use the same, receives or pos-
16 sesses any certificate, license, or document issued to
17 vessels, or officers or seamen by any officer or em-
18 ployee of the United States authorized by law to
19 issue the same;

20 “(2) without authority, alters or attempts to
21 alter any such certificate, license, or document by
22 addition, interpolation, deletion, or erasure;

23 “(3) forges, counterfeits, or steals, or attempts
24 to forge, counterfeit, or steal, any such certificate, li-
25 cense, or document; or unlawfully possesses or know-

1 ingly uses any such altered, changed, forged, coun-
2 terfeit, or stolen certificate, license, or document;

3 “(4) without authority, prints or manufactures
4 any blank form of such certificate, license, or docu-
5 ment;

6 “(5) possesses without lawful excuse, and with
7 intent unlawfully to use the same, any blank form
8 of such certificate, license, or document; or

9 “(6) in any manner, transfers or negotiates
10 such transfer of, any blank form of such certificate,
11 license, or document, or any such altered, forged,
12 counterfeit, or stolen certificate, license, or docu-
13 ment, or any such certificate, license, or document
14 to which the party transferring or receiving the same
15 is not lawfully entitled;

16 shall be imprisoned not more than five years.

17 **“§ 1343. Stowaways on vessels or aircraft**

18 “(a) OFFENSE.—Whoever—

19 “(1) without the consent of the owner,
20 charterer, master, or person in command of any ves-
21 sel, or aircraft, with intent to obtain transportation,
22 boards, enters or secretes himself aboard such vessel
23 or aircraft and is thereon at the time of departure
24 of said vessel or aircraft from a port, harbor, wharf,

1 airport or other place within the jurisdiction of the
2 United States;

3 “(2) with like intent, having boarded, entered
4 or secreted himself aboard a vessel or aircraft at any
5 place within or without the jurisdiction of the United
6 States, remains aboard after the vessel or aircraft
7 has left such place and is thereon at any place with-
8 in the jurisdiction of the United States; or

9 “(3) with intent to obtain a ride or transpor-
10 tation, boards or enters any aircraft owned or oper-
11 ated by the United States without the consent of the
12 person in command or other duly authorized officer
13 or agent;

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

15 “(b) PUNISHMENT.—The punishment for an offense
16 under subsection (a) is imprisonment for not more than
17 5 years, but—

18 “(1) if the person commits an offense under
19 this section, with the intent to commit serious bodily
20 injury, and serious bodily injury occurs to any per-
21 son other than a participant as a result of the of-
22 fense shall be imprisoned not more than 20 years;
23 and

24 “(2) if an individual commits an offense under
25 this section, with the intent to cause death, and if

1 the death of any person other than a participant oc-
 2 curs as a result of the offense shall be imprisoned
 3 for any number of years or for life.

4 “(c) DEFINITION.—As used in this section the term
 5 ‘aircraft’ includes any contrivance for navigation or flight
 6 in the air.

7 “SUBCHAPTER D—SHIPPING

“Sec.

“1345. Violence against maritime navigation.

“1346. Devices or dangerous substances in waters of the United States likely
 to destroy or damage Ships or to interfere with maritime com-
 merce.

“1347. Violence against aids to maritime navigation.

“1348. Transportation of explosive, biological, chemical, or radioactive or nu-
 clear materials.

“1349. Transportation of terrorists.

“1350. Operation of submersible vessel or semi-submersible vessel without na-
 tionality.

8 “§ 1345. Violence against maritime navigation

9 “(a) OFFENSES.—

10 “(1) IN GENERAL.—A person who unlawfully
 11 and intentionally—

12 “(A) seizes or exercises control over a ship
 13 by force or threat thereof or any other form of
 14 intimidation;

15 “(B) performs an act of violence against a
 16 person on board a ship if that act is likely to
 17 endanger the safe navigation of that ship;

18 “(C) destroys a ship or causes damage to
 19 a ship or to its cargo which is likely to endan-
 20 ger the safe navigation of that ship;

1 “(D) places or causes to be placed on a
2 ship, by any means whatsoever, a device or sub-
3 stance which is likely to destroy that ship, or
4 cause damage to that ship or its cargo which
5 endangers or is likely to endanger the safe navi-
6 gation of that ship;

7 “(E) destroys or seriously damages mari-
8 time navigational facilities or seriously inter-
9 feres with their operation, if such act is likely
10 to endanger the safe navigation of a ship;

11 “(F) communicates information, knowing
12 the information to be false and under cir-
13 cumstances in which such information may rea-
14 sonably be believed, thereby endangering the
15 safe navigation of a ship; or

16 “(G) injures or kills any person in connec-
17 tion with the commission or the attempted com-
18 mission of any of the offenses set forth in sub-
19 paragraphs (A) through (F),

20 shall be imprisoned not more than 20 years; and if
21 the death of any person results from conduct prohib-
22 ited by this paragraph, shall be punished by death
23 or imprisoned for any term of years or for life.

24 “(2) THREAT TO NAVIGATION.—A person who
25 threatens to do any act prohibited under paragraph

1 (1)(B), (C) or (E), with apparent determination and
2 will to carry the threat into execution, if the threat-
3 ened act is likely to endanger the safe navigation of
4 the ship in question, shall be imprisoned not more
5 than 5 years.

6 “(b) JURISDICTION.—There is jurisdiction over the
7 activity prohibited in subsection (a)—

8 “(1) in the case of a covered ship, if—

9 “(A) such activity is committed—

10 “(i) against or on board a ship flying
11 the flag of the United States at the time
12 the prohibited activity is committed;

13 “(ii) in the United States; or

14 “(iii) by a national of the United
15 States or by a stateless person whose ha-
16 bitual residence is in the United States;

17 “(B) during the commission of such activ-
18 ity, a national of the United States is seized,
19 threatened, injured or killed; or

20 “(C) the offender is later found in the
21 United States after such activity is committed;

22 “(2) in the case of a ship navigating or sched-
23 uled to navigate solely within the territorial sea or
24 internal waters of a country other than the United

1 States, if the offender is later found in the United
2 States after such activity is committed; and

3 “(3) in the case of any vessel, if such activity
4 is committed in an attempt to compel the United
5 States to do or abstain from doing any act.

6 “(c) BAR TO PROSECUTION.—It is a bar to Federal
7 prosecution under subsection (a) for conduct that occurred
8 within the United States that the conduct involved was
9 during or in relation to a labor dispute, and such conduct
10 is prohibited as a felony under the law of the State in
11 which it was committed. For purposes of this section, the
12 term ‘labor dispute’ has the meaning set forth in section
13 13(c) of the Act of March 23, 1932 (47 Stat. 70) (com-
14 monly known as the Norris-LaGuardia Act).

15 “(d) DELIVERY OF SUSPECTED OFFENDER.—The
16 master of a covered ship flying the flag of the United
17 States who has reasonable grounds to believe that there
18 is on board that ship any person who has committed an
19 offense under Article 3 of the Convention for the Suppres-
20 sion of Unlawful Acts Against the Safety of Maritime
21 Navigation may deliver such person to the authorities of
22 a State Party to that Convention. Before delivering such
23 person to the authorities of another country, the master
24 shall notify in an appropriate manner the Attorney Gen-
25 eral of the United States of the alleged offense and await

1 instructions from the Attorney General as to what action
2 to take. When delivering the person to a country which
3 is a State Party to the Convention, the master shall, when-
4 ever practicable, and if possible before entering the terri-
5 torial sea of such country, notify the authorities of such
6 country of the master's intention to deliver such person
7 and the reasons therefor. If the master delivers such per-
8 son, the master shall furnish to the authorities of such
9 country the evidence in the master's possession that per-
10 tains to the alleged offense.

11 “(e) DEFINITIONS.—As used in this section—

12 “(1) the term ‘covered ship’ means a ship that
13 is navigating or is scheduled to navigate into,
14 through or from waters beyond the outer limit of the
15 territorial sea of a single country or a lateral limit
16 of that country's territorial sea with an adjacent
17 country;

18 “(2) the term ‘territorial sea of the United
19 States’ means all waters extending seaward to 12
20 nautical miles from the baselines of the United
21 States determined in accordance with international
22 law; and

23 “(3) the term ‘ship’ means a vessel of any type
24 whatsoever not permanently attached to the sea-bed,
25 including dynamically supported craft, submersibles

1 or any other floating craft, but does not include a
2 warship, a ship owned or operated by a government
3 when being used as a naval auxiliary or for customs
4 or police purposes, or a ship which has been with-
5 drawn from navigation or laid up.

6 **“§ 1346. Devices or dangerous substances in waters of**
7 **the United States likely to destroy or**
8 **damage Ships or to interfere with mari-**
9 **time commerce**

10 “(a) OFFENSE.—Whoever knowingly places in navi-
11 gable waters of the United States a device or dangerous
12 substance which is likely—

13 “(1) to destroy or cause damage to a vessel or
14 its cargo;

15 “(2) to cause interference with the safe naviga-
16 tion of vessels, or interference with maritime com-
17 merce (such as by damaging or destroying marine
18 terminals, facilities, or any other marine structure or
19 entity used in maritime commerce);

20 with the intent of causing such destruction or damage, in-
21 terference with the safe navigation of vessels, or inter-
22 ference with maritime commerce shall be imprisoned for
23 any term of years or for life.

24 “(b) SPECIAL RULE FOR OFFENSE RESULTING IN
25 DEATH.—Whoever causes the death of any person by en-

1 gaging in conduct prohibited under subsection (a) may be
2 punished by death.

3 “(c) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall be construed to apply to otherwise lawfully au-
5 thorized and conducted activities of the United States
6 Government.

7 “(d) **DEFINITIONS.**—As used in this section—

8 “(1) the term ‘dangerous substance’ means any
9 solid, liquid, or gaseous material that has the capac-
10 ity to cause damage to a vessel or its cargo, or cause
11 interference with the safe navigation of a vessel; and

12 “(2) the term ‘device’ means any object that,
13 because of its physical, mechanical, structural, or
14 chemical properties, has the capacity to cause dam-
15 age to a vessel or its cargo, or cause interference
16 with the safe navigation of a vessel.

17 **“§ 1347. Violence against aids to maritime navigation**

18 “Whoever intentionally destroys, seriously damages,
19 alters, moves, or tampers with any aid to maritime naviga-
20 tion maintained by the Saint Lawrence Seaway Develop-
21 ment Corporation under the authority of section 4 of the
22 Act of May 13, 1954 (68 Stat. 92), by the Coast Guard
23 pursuant to section 81 of title 14, or lawfully maintained
24 under authority granted by the Coast Guard pursuant to
25 section 83 of title 14, if such act endangers or is likely

1 to endanger the safe navigation of a ship, shall imprisoned
2 for not more than 20 years.

3 **“§ 1348. Transportation of explosive, biological, chem-**
4 **ical, or radioactive or nuclear materials**

5 “(a) IN GENERAL.—Whoever knowingly transports
6 aboard any vessel within the United States and on waters
7 subject to the jurisdiction of the United States or any ves-
8 sel outside the United States and on the high seas or hav-
9 ing United States nationality an explosive or incendiary
10 device, biological agent, chemical weapon, or radioactive
11 or nuclear material, knowing that any such item is in-
12 tended to be used to commit an offense listed in section
13 273(g)(3)(B), shall be imprisoned for any term of years
14 or for life.

15 “(b) CAUSING DEATH.—Whoever causes the death of
16 a person by engaging in conduct prohibited by subsection
17 (a) may be punished by death.

18 “(c) DEFINITIONS.—In this section:

19 “(1) BIOLOGICAL AGENT.—The term ‘biological
20 agent’ means any biological agent, toxin, or vector
21 (as those terms are defined in section 627).

22 “(2) BY-PRODUCT MATERIAL.—The term ‘by-
23 product material’ has the meaning given that term
24 in section 11(e) of the Atomic Energy Act of 1954.

1 “(3) CHEMICAL WEAPON.—The term ‘chemical
2 weapon’ has the meaning given that term in section
3 636(1).

4 “(4) EXPLOSIVE OR INCENDIARY DEVICE.—The
5 term ‘explosive or incendiary device’ has the mean-
6 ing given the term in section 296(c)(4) and includes
7 explosive materials, as that term is defined in sec-
8 tion 611(1) and explosive as defined in section
9 614(j).

10 “(5) NUCLEAR MATERIAL.—The term ‘nuclear
11 material’ has the meaning given that term in section
12 601(f)(1).

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

15 “(A) source material and special nuclear
16 material, but does not include natural or de-
17 pleted uranium;

18 “(B) nuclear by-product material;

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

21 “(D) all refined isotopes of radium.

22 “(7) SOURCE MATERIAL.—The term ‘source
23 material’ has the meaning given that term in section
24 11(z) of the Atomic Energy Act of 1954.

1 with an adjacent country, with the intent to evade detec-
2 tion, shall be imprisoned not more than 15 years.

3 “(b) EVIDENCE OF INTENT TO EVADE DETEC-
4 TION.—For purposes of subsection (a), the presence of
5 any of the indicia described in paragraph (1)(A), (E), (F),
6 or (G), or in paragraph (4), (5), or (6), of section
7 70507(b) of title 46 may be considered, in the totality of
8 the circumstances, to be prima facie evidence of intent to
9 evade detection.

10 “(c) EXTRATERRITORIAL JURISDICTION.—There is
11 extraterritorial Federal jurisdiction over an offense under
12 this section.

13 “(d) CLAIM OF NATIONALITY OR REGISTRY.—A
14 claim of nationality or registry under this section includes
15 only—

16 “(1) possession on board the vessel and produc-
17 tion of documents evidencing the vessel’s nationality
18 as provided in article 5 of the 1958 Convention on
19 the High Seas;

20 “(2) flying its nation’s ensign or flag; or

21 “(3) a verbal claim of nationality or registry by
22 the master or individual in charge of the vessel.

23 “(e) AFFIRMATIVE DEFENSES.—

24 “(1) IN GENERAL.—It is an affirmative defense
25 to a prosecution for a violation of subsection (a),

1 which the defendant has the burden to prove by a
2 preponderance of the evidence, that the submersible
3 vessel or semi-submersible vessel involved was, at the
4 time of the offense—

5 “(A) a vessel of the United States or law-
6 fully registered in a foreign nation as claimed
7 by the master or individual in charge of the ves-
8 sel when requested to make a claim by an offi-
9 cer of the United States authorized to enforce
10 applicable provisions of United States law;

11 “(B) classed by and designed in accord-
12 ance with the rules of a classification society;

13 “(C) lawfully operated in government-regu-
14 lated or licensed activity, including commerce,
15 research, or exploration; or

16 “(D) equipped with and using an operable
17 automatic identification system, vessel moni-
18 toring system, or long range identification and
19 tracking system.

20 “(2) PRODUCTION OF DOCUMENTS.—The af-
21 firmative defenses provided by this subsection are
22 proved conclusively by the production of—

23 “(A) government documents evidencing the
24 vessel’s nationality at the time of the offense, as

1 provided in article 5 of the 1958 Convention on
2 the High Seas;

3 “(B) a certificate of classification issued by
4 the vessel’s classification society upon comple-
5 tion of relevant classification surveys and valid
6 at the time of the offense; or

7 “(C) government documents evidencing li-
8 censure, regulation, or registration for com-
9 merce, research, or exploration.

10 “(f) FEDERAL ACTIVITIES EXCEPTED.—Nothing in
11 this section applies to lawfully authorized activities carried
12 out by or at the direction of the United States Govern-
13 ment.

14 “(g) APPLICABILITY OF OTHER PROVISIONS.—Sec-
15 tions 70504 and 70505 of title 46 apply to offenses under
16 this section in the same manner as they apply to offenses
17 under section 70503 of such title.

18 “(h) DEFINITIONS.—In this section, the terms ‘sub-
19 mersible vessel’, ‘semi-submersible vessel’, ‘vessel of the
20 United States’, and ‘vessel without nationality’ have the
21 meaning given those terms in section 70502 of title 46.

22 “SUBCHAPTER E—DESTRUCTION OF, OR IN-
23 TERFERENCE WITH, VESSELS OR MARI-
24 TIME FACILITIES

“Sec.

“1351. Nonapplication of subchapter.

“1352. Destruction of vessel or maritime facility.

“1353. Imparting or conveying false information.

“1354. Bar to prosecution.

“1355. Bribery affecting port Security.

1 **“§ 1351. Nonapplication of subchapter**

2 “Nothing in this subchapter applies to otherwise law-
3 ful activities carried out by or at the direction of the
4 United States Government.

5 **“§ 1352. Destruction of vessel or maritime facility**

6 “(a) OFFENSE.—Whoever, within waters subject to
7 the jurisdiction of the United States or outside the United
8 States, knowingly—

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

11 “(2) places or causes to be placed a destructive
12 device, as defined in section 581(2), destructive sub-
13 stance, as defined in section 1311, or an explosive,
14 as defined in section 611, in, upon, or near, or oth-
15 erwise makes or causes to be made unworkable or
16 unusable or hazardous to work or use, any vessel, or
17 any part or other materials used or intended to be
18 used in connection with the operation of a vessel;

19 “(3) sets fire to, damages, destroys, or disables
20 or places a destructive device or substance in, upon,
21 or near, any maritime facility, including any aid to
22 navigation, lock, canal, or vessel traffic service facil-
23 ity or equipment;

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

6 “(5) sets fire to, damages, destroys, or disables
7 or places a destructive device or substance in, upon,
8 or near, any appliance, structure, property, machine,
9 or apparatus, or any facility or other material used,
10 or intended to be used, in connection with the oper-
11 ation, maintenance, loading, unloading, or storage of
12 any vessel or any passenger or cargo carried or in-
13 tended to be carried on any vessel;

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

18 “(7) performs an act of violence against a per-
19 son that causes or is likely to cause serious bodily
20 injury in, upon, or near, any appliance, structure,
21 property, machine, or apparatus, or any facility or
22 other material used, or intended to be used, in con-
23 nection with the operation, maintenance, loading,
24 unloading, or storage of any vessel or any passenger

1 or cargo carried or intended to be carried on any
2 vessel; or

3 “(8) communicates information, knowing the
4 information to be false and under circumstances in
5 which such information may reasonably be believed,
6 thereby endangering the safety of any vessel in navi-
7 gation;

8 shall be imprisoned not more than 20 years.

9 “(b) LIMITATION.—Subsection (a) does not apply to
10 any person that is engaging in otherwise lawful activity,
11 such as normal repair and salvage activities, and the
12 transportation of hazardous materials regulated and al-
13 lowed to be transported under chapter 51 of title 49.

14 “(c) PENALTY.—Whoever is convicted under sub-
15 section (a) as a result of an act involving a vessel that,
16 at the time of the violation, carried high-level radioactive
17 waste (as that term is defined in section 2(12) of the Nu-
18 clear Waste Policy Act of 1982 or spent nuclear fuel (as
19 that term is defined in section 2(23) of that Act), shall
20 be imprisoned for any term of years or for life.

21 “(d) PENALTY WHEN DEATH RESULTS.—Whoever is
22 convicted under subsection (a) and intended to cause
23 death by the prohibited conduct, if the conduct resulted
24 in the death of any person, shall be subject to the death

1 penalty or to imprisonment for any term of years or for
2 life.

3 “(e) THREATS.—Whoever knowingly and inten-
4 tionally imparts or conveys any threat to do an act which
5 would violate this subchapter, with an apparent deter-
6 mination and will to carry the threat into execution, shall
7 be imprisoned not more than 5 years and is liable for all
8 costs incurred as a result of such threat.

9 “(f) EXTRATERRITORIAL JURISDICTION.—There is
10 extraterritorial jurisdiction over an offense under sub-
11 section (a).

12 **“§ 1353. Imparting or conveying false information**

13 “(a) IN GENERAL.—Whoever imparts or conveys or
14 causes to be imparted or conveyed false information,
15 knowing the information to be false, concerning an at-
16 tempt or alleged attempt being made or to be made, to
17 do any act that would be a crime prohibited by this sub-
18 chapter or by subchapter D, shall be subject to a civil pen-
19 alty of not more than \$5,000, which shall be recoverable
20 in a civil action brought in the name of the United States.

21 “(b) MALICIOUS CONDUCT.—Whoever knowingly, in-
22 tentiously, maliciously, or with reckless disregard for the
23 safety of human life, imparts or conveys or causes to be
24 imparted or conveyed false information, knowing the infor-
25 mation to be false, concerning an attempt or alleged at-

1 tempt to do any act which would be a crime prohibited
2 by this subchapter or by subchapter D, shall be imprisoned
3 not more than 5 years.

4 “(c) JURISDICTION.—Jurisdiction over an offense
5 under this section shall be determined in accordance with
6 the provisions applicable to the offense under section
7 1352, or under subchapter D, to which the imparted or
8 conveyed false information relates, as applicable.

9 **“§ 1354. Bar to prosecution**

10 “(a) IN GENERAL.—It is a bar to prosecution under
11 section 1352 or 1353 that—

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

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

19 “(b) DEFINITION.—In this section, the term ‘labor
20 dispute’ has the meaning given that term in section 13(c)
21 of the Act of March 23, 1932 (47 Stat. 70) (commonly
22 known as the Norris-LaGuardia Act).

23 **“§ 1355. Bribery affecting port Security**

24 “(a) IN GENERAL.—Whoever knowingly—

1 “(1) directly or indirectly, corruptly gives, of-
2 fers, or promises anything of value to any public or
3 private person, with intent to commit international
4 terrorism or domestic terrorism (as those terms are
5 defined under section 283), to—

6 “(A) influence any action or any person to
7 commit or aid in committing, or collude in, or
8 allow, any fraud, or make opportunity for the
9 commission of any fraud affecting any secure or
10 restricted area or seaport; or

11 “(B) induce any official or person to do or
12 omit to do any act in violation of the lawful
13 duty of such official or person that affects any
14 secure or restricted area or seaport; or

15 “(2) directly or indirectly, corruptly demands,
16 seeks, receives, accepts, or agrees to receive or ac-
17 cept anything of value personally or for any other
18 person or entity in return for—

19 “(A) being influenced in the performance
20 of any official act affecting any secure or re-
21 stricted area or seaport; and

22 “(B) knowing that such influence will be
23 used to commit, or plan to commit, inter-
24 national or domestic terrorism,

25 shall be imprisoned not more than 15 years.

1 breeding grounds for such birds, fish, or animals under
2 any law of the United States or knowingly injures, mo-
3 lests, or destroys any property of the United States on
4 any such lands or waters, shall be imprisoned not more
5 than six months.

6 **“§ 1372. Importation or shipment of injurious mam-**
7 **mals, birds, fish (including mollusks and**
8 **crustacea), amphibia, and reptiles; per-**
9 **mits, specimens for museums; regulations**

10 “(a) PROHIBITION.—The importation into the United
11 States, any territory of the United States, the District of
12 Columbia, the Commonwealth of Puerto Rico, or any pos-
13 session of the United States, or any shipment between the
14 continental United States, the District of Columbia, Ha-
15 waii, the Commonwealth of Puerto Rico, or any possession
16 of the United States, of the mongoose of the species
17 *Herpestes auropunctatus*; of the species of so-called ‘flying
18 foxes’ or fruit bats of the genus *Pteropus*; of the zebra
19 mussel of the species *Dreissena polymorpha*; of the big-
20 head carp of the species *Hypophthalmichthys nobilis*; and
21 such other species of wild mammals, wild birds, fish (in-
22 cluding mollusks and crustacea), amphibians, reptiles,
23 brown tree snakes, or the offspring or eggs of any of the
24 foregoing which the Secretary of the Interior may pre-
25 scribe by regulation to be injurious to human beings, to

1 the interests of agriculture, horticulture, forestry, or to
2 wildlife or the wildlife resources of the United States, is
3 hereby prohibited. All such prohibited mammals, birds,
4 fish (including mollusks and crustacea), amphibians, and
5 reptiles, and the eggs or offspring therefrom, shall be
6 promptly exported or destroyed at the expense of the im-
7 porter or consignee. Nothing in this section shall be con-
8 strued to repeal or modify any provision of the Public
9 Health Service Act or Federal Food, Drug, and Cosmetic
10 Act. Also, this section does not authorize any action with
11 respect to the importation of any plant pest as defined
12 in the Plant Protection Act, insofar as such importation
13 is subject to regulation under that Act.

14 “(b) DEFINITIONS.—As used in subsection (a), the
15 term ‘wild’ relates to any creatures that, whether or not
16 raised in captivity, normally are found in a wild state; and
17 the terms ‘wildlife’ and ‘wildlife resources’ include those
18 resources that comprise wild mammals, wild birds, fish
19 (including mollusks and crustacea), and all other classes
20 of wild creatures whatsoever, and all types of aquatic and
21 land vegetation upon which such wildlife resources are de-
22 pendent.

23 “(c) EXCEPTIONS.—The Secretary of the Interior, if
24 the Secretary finds that there has been a proper showing
25 of responsibility and continued protection of the public in-

1 terest and health, shall permit the importation for zoolog-
2 ical, educational, medical, and scientific purposes of any
3 mammal, bird, fish, (including mollusks and crustacea),
4 amphibian, or reptile, or the offspring or eggs thereof,
5 where such importation would otherwise be prohibited
6 under this subchapter. This subchapter does not restrict
7 importations by Federal agencies for their own use.

8 “(d) EXCLUSION.—Nothing in this section restricts
9 the importation of dead natural-history specimens for mu-
10 seums or for scientific collections, or the importation of
11 domesticated canaries, parrots (including all other species
12 of psittacine birds), or such other cage birds as the Sec-
13 retary of the Interior may designate.

14 “(e) ENFORCEMENT.—The Secretary of the Treasury
15 and the Secretary of the Interior shall enforce this sub-
16 section, including any regulations issued hereunder, and,
17 if requested by the Secretary of the Interior, the Secretary
18 of the Treasury may require the furnishing of an appro-
19 priate bond when desirable to insure compliance with such
20 provisions.

21 “(f) OFFENSE.—Whoever violates this section, or any
22 regulation issued pursuant thereto, shall be imprisoned
23 not more than six months.

1 **“§ 1373. Force, violence, and threats involving animal**
2 **enterprises**

3 “(a) OFFENSE.—Whoever travels in interstate or for-
4 eign commerce, or uses or causes to be used the mail or
5 any facility of interstate or foreign commerce—

6 “(1) for the purpose of damaging or interfering
7 with the operations of an animal enterprise; and

8 “(2) in connection with such purpose—

9 “(A) intentionally damages or causes the
10 loss of any real or personal property (including
11 animals or records) used by an animal enter-
12 prise, or any real or personal property of a per-
13 son or entity having a connection to, relation-
14 ship with, or transactions with an animal enter-
15 prise; or

16 “(B) intentionally places a person in rea-
17 sonable fear of the death of, or serious bodily
18 injury to that person, a member of the imme-
19 diate family (as defined in section 115) of that
20 person, or a spouse or intimate partner of that
21 person by a course of conduct involving threats,
22 acts of vandalism, property damage, criminal
23 trespass, harassment, or intimidation;

24 shall be punished as provided for in subsection (b).

25 “(b) PENALTIES.—The punishment for a violation of
26 subsection (a) is—

1 “(1) a fine under this title or imprisonment for
2 not more than 1 year, or both, if the offense does
3 not instill in another the reasonable fear of serious
4 bodily injury or death and—

5 “(A) the offense results in no economic
6 damage or bodily injury; or

7 “(B) the offense results in economic dam-
8 age that does not exceed \$10,000;

9 “(2) a fine under this title or imprisonment for
10 not more than 5 years, or both, if no bodily injury
11 occurs and—

12 “(A) the offense results in economic dam-
13 age exceeding \$10,000 but not exceeding
14 \$100,000; or

15 “(B) the offense instills in another the rea-
16 sonable fear of serious bodily injury or death;

17 “(3) a fine under this title or imprisonment for
18 not more than 10 years, or both, if—

19 “(A) the offense results in economic dam-
20 age exceeding \$100,000; or

21 “(B) the offense results in substantial bod-
22 ily injury to another individual;

23 “(4) a fine under this title or imprisonment for
24 not more than 20 years, or both, if—

1 “(A) the offense results in serious bodily
2 injury to another individual; or

3 “(B) the offense results in economic dam-
4 age exceeding \$1,000,000; and

5 “(5) imprisonment for life or for any terms of
6 years, a fine under this title, or both, if the offense
7 results in death of another individual.

8 “(c) RESTITUTION.—An order of restitution under
9 this title with respect to a violation of this section may
10 also include restitution—

11 “(1) for the reasonable cost of repeating any
12 experimentation that was interrupted or invalidated
13 as a result of the offense;

14 “(2) for the loss of food production or farm in-
15 come reasonably attributable to the offense; and

16 “(3) for any other economic damage, including
17 any losses or costs caused by economic disruption,
18 resulting from the offense.

19 “(d) DEFINITIONS.—As used in this section—

20 “(1) the term ‘animal enterprise’ means—

21 “(A) a commercial or academic enterprise
22 that uses or sells animals or animal products
23 for profit, food or fiber production, agriculture,
24 education, research, or testing;

1 “(B) a zoo, aquarium, animal shelter, pet
2 store, breeder, furrier, circus, or rodeo, or other
3 lawful competitive animal event; or

4 “(C) any fair or similar event intended to
5 advance agricultural arts and sciences;

6 “(2) the term ‘course of conduct’ means a pat-
7 tern of conduct composed of 2 or more acts, evidenc-
8 ing a continuity of purpose;

9 “(3) the term ‘economic damage’—

10 “(A) means the replacement costs of lost
11 or damaged property or records, the costs of re-
12 peating an interrupted or invalidated experi-
13 ment, the loss of profits, or increased costs, in-
14 cluding losses and increased costs resulting
15 from threats, acts or vandalism, property dam-
16 age, trespass, harassment, or intimidation taken
17 against a person or entity on account of that
18 person’s or entity’s connection to, relationship
19 with, or transactions with the animal enter-
20 prise; but

21 “(B) does not include any lawful economic
22 disruption (including a lawful boycott) that re-
23 sults from lawful public, governmental, or busi-
24 ness reaction to the disclosure of information
25 about an animal enterprise;

1 “(4) the term ‘substantial bodily injury’
2 means—

3 “(A) deep cuts and serious burns or abra-
4 sions;

5 “(B) short-term or nonobvious disfigure-
6 ment;

7 “(C) fractured or dislocated bones, or torn
8 members of the body;

9 “(D) significant physical pain;

10 “(E) illness;

11 “(F) short-term loss or impairment of the
12 function of a bodily member, organ, or mental
13 faculty; or

14 “(G) any other significant injury to the
15 body.

16 “(e) RULES OF CONSTRUCTION.—Nothing in this
17 section shall be construed—

18 “(1) to prohibit any expressive conduct (includ-
19 ing peaceful picketing or other peaceful demonstra-
20 tion) protected from legal prohibition by the First
21 Amendment to the Constitution; or

22 “(2) to create new remedies for interference
23 with activities protected by the free speech or free
24 exercise clauses of the First Amendment to the Con-
25 stitution, regardless of the point of view expressed,

1 or to limit any existing legal remedies for such inter-
2 ference.

3 **“§ 1374. Use of aircraft or motor vehicles to hunt cer-
4 tain wild horses or burros; pollution of
5 watering holes**

6 “(a) AIRCRAFT FOR HUNTING.—Whoever uses an
7 aircraft or a motor vehicle to hunt, for the purpose of cap-
8 turing or killing, any wild unbranded horse, mare, colt,
9 or burro running at large on any of the public land or
10 ranges shall be imprisoned not more than six months.

11 “(b) POLLUTION OF WATERING HOLES.—Whoever
12 pollutes or causes the pollution of any watering hole on
13 any of the public land or ranges for the purpose of trap-
14 ping, killing, wounding, or maiming any of the animals
15 referred to in subsection (a) of this section shall be impris-
16 oned not more than six months.

17 “(c) DEFINITIONS.—As used in subsection (a) of this
18 section—

19 “(1) the term ‘aircraft’ means any contrivance
20 used for flight in the air; and

21 “(2) the term ‘motor vehicle’ includes an auto-
22 mobile, automobile truck, automobile wagon, motor-
23 cycle, or any other self-propelled vehicle designed for
24 running on land.

1 **“§ 1375. Animal crush videos**

2 “(a) DEFINITION.—In this section the term ‘animal
3 crush video’ means any photograph, motion-picture film,
4 video or digital recording, or electronic image that—

5 “(1) depicts actual conduct in which 1 or more
6 living non-human mammals, birds, reptiles, or am-
7 phibians is intentionally crushed, burned, drowned,
8 suffocated, impaled, or otherwise subjected to seri-
9 ous bodily injury; and

10 “(2) is obscene.

11 “(b) PROHIBITIONS.—

12 “(1) CREATION OF ANIMAL CRUSH VIDEOS.—It
13 shall be unlawful for any person to knowingly create
14 an animal crush video, if—

15 “(A) the person intends or has reason to
16 know that the animal crush video will be dis-
17 tributed in, or using a means or facility of,
18 interstate or foreign commerce; or

19 “(B) the animal crush video is distributed
20 in, or using a means or facility of, interstate or
21 foreign commerce.

22 “(2) DISTRIBUTION OF ANIMAL CRUSH VID-
23 EOS.—It shall be unlawful for any person to know-
24 ingly sell, market, advertise, exchange, or distribute
25 an animal crush video in, or using a means or facil-
26 ity of, interstate or foreign commerce.

1 “(c) EXTRATERRITORIAL APPLICATION.—Subsection
2 (b) applies to the knowing sale, marketing, advertising, ex-
3 change, distribution, or creation of an animal crush video
4 outside of the United States, if—

5 “(1) the person engaging in such conduct in-
6 tends or has reason to know that the animal crush
7 video will be transported into the United States or
8 its territories or possessions; or

9 “(2) the animal crush video is transported into
10 the United States or its territories or possessions.

11 “(d) PENALTY.—Any person who violates subsection
12 (b) shall be fined under this title, imprisoned for not more
13 than 7 years, or both.

14 “(e) EXCEPTIONS.—

15 “(1) IN GENERAL.—This section does not apply
16 with regard to any visual depiction of—

17 “(A) customary and normal veterinary or
18 agricultural husbandry practices;

19 “(B) the slaughter of animals for food; or

20 “(C) hunting, trapping, or fishing.

21 “(2) GOOD-FAITH DISTRIBUTION.—This section
22 does not apply to the good-faith distribution of an
23 animal crush video to—

24 “(A) a law enforcement agency; or

1 information assisting in the placing of bets or wagers on
2 a sporting event or contest from a State or foreign country
3 where betting on that sporting event or contest is legal
4 into a State or foreign country in which such betting is
5 legal.

6 “(c) NOTIFICATION TO COMMON CARRIER.—When
7 any common carrier, subject to the jurisdiction of the Fed-
8 eral Communications Commission, is notified in writing by
9 a Federal, State, or local law enforcement agency, acting
10 within its jurisdiction, that any facility furnished by it is
11 being used or will be used for the purpose of transmitting
12 or receiving gambling information in interstate or foreign
13 commerce in violation of Federal, State or local law, it
14 shall discontinue or refuse, the leasing, furnishing, or
15 maintaining of such facility, after reasonable notice to the
16 subscriber, but no damages, penalty or forfeiture, civil or
17 criminal, shall be found against any common carrier for
18 any act done in compliance with any notice received from
19 a law enforcement agency. Nothing in this section preju-
20 dices the right of any person affected thereby to secure
21 an appropriate determination, as otherwise provided by
22 law, in a Federal court or in a State or local tribunal or
23 agency, that such facility should not be discontinued or
24 removed, or should be restored.

1 **“§ 1382. Definition**

2 “As used in this subchapter, the term ‘wire commu-
 3 nication facility’ means any and all instrumentalities, per-
 4 sonnel, and services (among other things, the receipt, for-
 5 warding, or delivery of communications) used or useful in
 6 the transmission of writings, signs, pictures, and sounds
 7 of all kinds by aid of wire, cable, or other like connection
 8 between the points of origin and reception of such trans-
 9 mission.

10 **“SUBCHAPTER C—PROTECTION OF TRADE**11 **SECRETS**

“Sec.

“1391. Economic espionage.

“1392. Theft of trade secrets.

“1393. Exceptions to prohibitions.

“1394. Orders to preserve confidentiality.

“1395. Civil proceedings to enjoin violations.

“1396. Applicability to conduct outside the United States.

“1397. Definitions.

12 **“§ 1391. Economic espionage**

13 “(a) IN GENERAL.—Whoever, intending or knowing
 14 that the offense will benefit any foreign government, for-
 15 eign instrumentality, or foreign agent, knowingly—

16 “(1) steals, or without authorization appro-
 17 priates, takes, carries away, or conceals, or by fraud,
 18 artifice, or deception obtains a trade secret;

19 “(2) without authorization copies, duplicates,
 20 sketches, draws, photographs, downloads, uploads,
 21 alters, destroys, photocopies, replicates, transmits,

1 delivers, sends, mails, communicates, or conveys a
2 trade secret; or

3 “(3) receives, buys, or possesses a trade secret,
4 knowing the same to have been stolen or appro-
5 priated, obtained, or converted without authoriza-
6 tion;

7 shall, except as provided in subsection (b), be imprisoned
8 not more than 15 years.

9 “(b) ORGANIZATIONS.—Any organization that com-
10 mits any offense described in subsection (a) shall be fined
11 not more than \$10,000,000.

12 **“§ 1392. Theft of trade secrets**

13 “(a) OFFENSE.—Whoever, with intent to convert a
14 trade secret, that is related to or included in a product
15 that is produced for or placed in interstate or foreign com-
16 merce, to the economic benefit of anyone other than the
17 owner thereof, and intending or knowing that the offense
18 will, injure any owner of that trade secret, knowingly—

19 “(1) steals, or without authorization appro-
20 priates, takes, carries away, or conceals, or by fraud,
21 artifice, or deception obtains such information;

22 “(2) without authorization copies, duplicates,
23 sketches, draws, photographs, downloads, uploads,
24 alters, destroys, photocopies, replicates, transmits,

1 delivers, sends, mails, communicates, or conveys
2 such information; or

3 “(3) receives, buys, or possesses such informa-
4 tion, knowing the same to have been stolen or appro-
5 priated, obtained, or converted without authoriza-
6 tion;

7 shall, except as provided in subsection (b), be imprisoned
8 not more than 10 years.

9 “(b) ORGANIZATIONS.—Any organization that com-
10 mits any offense described in subsection (a) shall be fined
11 not more than \$5,000,000.

12 **“§ 1393. Exceptions to prohibitions**

13 “This subchapter does not prohibit—

14 “(1) any otherwise lawful activity conducted by
15 a governmental entity of the United States, a State,
16 or a political subdivision of a State; or

17 “(2) the reporting of a suspected violation of
18 law to any governmental entity of the United States,
19 a State, or a political subdivision of a State, if such
20 entity has lawful authority with respect to that viola-
21 tion.

22 **“§ 1394. Orders to preserve confidentiality**

23 “In any prosecution or other proceeding under this
24 subchapter and any forfeiture relating to a violation of this
25 subchapter, the court shall enter such orders and take

1 such other action as may be necessary and appropriate
2 to preserve the confidentiality of trade secrets, consistent
3 with the requirements of the Federal Rules of Criminal
4 and Civil Procedure, the Federal Rules of Evidence, and
5 all other applicable laws. An interlocutory appeal by the
6 United States shall lie from a decision or order of a dis-
7 trict court authorizing or directing the disclosure of any
8 trade secret.

9 **“§ 1395. Civil proceedings to enjoin violations**

10 “(a) CIVIL ACTION.—The Attorney General may, in
11 a civil action, obtain appropriate injunctive relief against
12 any violation of this subchapter.

13 “(b) EXCLUSIVE JURISDICTION.—The district courts
14 of the United States shall have exclusive original jurisdic-
15 tion of civil actions under this section.

16 **“§ 1396. Applicability to conduct outside the United**
17 **States**

18 “This subchapter also applies to conduct occurring
19 outside the United States if—

20 “(1) the offender is a natural person who is a
21 citizen or permanent resident alien of the United
22 States, or an organization organized under the laws
23 of the United States or a State or political subdivi-
24 sion thereof; or

1 “(2) an act in furtherance of the offense was
2 committed in the United States.

3 **“§ 1397. Definitions**

4 “As used in this subchapter—

5 “(1) the term ‘foreign instrumentality’ means
6 any agency, bureau, ministry, component, institu-
7 tion, association, or any legal, commercial, or busi-
8 ness organization, corporation, firm, or entity that is
9 substantially owned, controlled, sponsored, com-
10 manded, managed, or dominated by a foreign gov-
11 ernment;

12 “(2) the term ‘foreign agent’ means any officer,
13 employee, proxy, servant, delegate, or representative
14 of a foreign government;

15 “(3) the term ‘trade secret’ means all forms
16 and types of financial, business, scientific, technical,
17 economic, or engineering information, including pat-
18 terns, plans, compilations, program devices, for-
19 mulas, designs, prototypes, methods, techniques,
20 processes, procedures, programs, or codes, whether
21 tangible or intangible, and whether or how stored,
22 compiled, or memorialized physically, electronically,
23 graphically, photographically, or in writing if—

1 “(A) the owner thereof has taken reason-
2 able measures to keep such information secret;
3 and

4 “(B) the information derives independent
5 economic value, actual or potential, from not
6 being generally known to, and not being readily
7 ascertainable through proper means by, the
8 public; and

9 “(4) the term ‘owner’, with respect to a trade
10 secret, means the person or entity in whom or in
11 which rightful legal or equitable title to, or license
12 in, the trade secret is reposed.

13 “SUBCHAPTER D—TRAFFICKING IN
14 CONTRABAND CIGARETTES

“Sec.

“1411. Definitions.

“1412. Unlawful Acts.

“1413. Recordkeeping, reporting, and inspection.

“1414. Penalties.

“1415. Enforcement and regulations.

15 **“§ 1411. Definitions**

16 “As used in this chapter—

17 “(1) the term ‘cigarette’ means—

18 “(A) any roll of tobacco wrapped in paper
19 or in any substance not containing tobacco; and

20 “(B) any roll of tobacco wrapped in any
21 substance containing tobacco which, because of
22 its appearance, the type of tobacco used in the

1 filler, or its packaging and labeling, is likely to
2 be offered to, or purchased by, consumers as a
3 cigarette described in subparagraph (A);

4 “(2) the term ‘contraband cigarettes’ means a
5 quantity in excess of 10,000 cigarettes, which bear
6 no evidence of the payment of applicable State or
7 local cigarette taxes in the State or locality where
8 such cigarettes are found, if the State or local gov-
9 ernment requires a stamp, impression, or other indi-
10 cation to be placed on packages or other containers
11 of cigarettes to evidence payment of cigarette taxes,
12 and which are in the possession of any person other
13 than—

14 “(A) a person holding a permit issued pur-
15 suant to chapter 52 of the Internal Revenue
16 Code of 1986 as a manufacturer of tobacco
17 products or as an export warehouse proprietor,
18 or a person operating a customs bonded ware-
19 house pursuant to section 311 or 555 of the
20 Tariff Act of 1930 or an agent of such person;

21 “(B) a common or contract carrier trans-
22 porting the cigarettes involved under a proper
23 bill of lading or freight bill which states the
24 quantity, source, and destination of such ciga-
25 rettes;

1 “(C) a person—

2 “(i) who is licensed or otherwise au-
3 thorized by the State where the cigarettes
4 are found to account for and pay cigarette
5 taxes imposed by such State; and

6 “(ii) who has complied with the ac-
7 counting and payment requirements relat-
8 ing to such license or authorization with
9 respect to the cigarettes involved; or

10 “(D) an officer, employee, or other agent
11 of the United States or a State, or any depart-
12 ment, agency, or instrumentality of the United
13 States or a State (including any political sub-
14 division of a State) having possession of such
15 cigarettes in connection with the performance of
16 official duties;

17 “(3) the term ‘common or contract carrier’
18 means a carrier holding a certificate of convenience
19 and necessity, a permit for contract carrier by motor
20 vehicle, or other valid operating authority under sub-
21 title IV of title 49, or under equivalent operating au-
22 thority from a regulatory agency of the United
23 States or of any State;

24 “(4) the term ‘Attorney General’ means the At-
25 torney General of the United States;

1 “(5) the term ‘smokeless tobacco’ means any
2 finely cut, ground, powdered, or leaf tobacco that is
3 intended to be placed in the oral or nasal cavity or
4 otherwise consumed without being combusted;

5 “(6) the term ‘contraband smokeless tobacco’
6 means a quantity in excess of 500 single-unit con-
7 sumer-sized cans or packages of smokeless tobacco,
8 or their equivalent, that are in the possession of any
9 person other than—

10 “(A) a person holding a permit issued pur-
11 suant to chapter 52 of the Internal Revenue
12 Code of 1986 as manufacturer of tobacco prod-
13 ucts or as an export warehouse proprietor, a
14 person operating a customs bonded warehouse
15 pursuant to section 311 or 555 of the Tariff
16 Act of 1930, or an agent of such person;

17 “(B) a common carrier transporting such
18 smokeless tobacco under a proper bill of lading
19 or freight bill which states the quantity, source,
20 and designation of such smokeless tobacco;

21 “(C) a person who—

22 “(i) is licensed or otherwise author-
23 ized by the State where such smokeless to-
24 bacco is found to engage in the business of

1 selling or distributing tobacco products;
2 and

3 “(ii) has complied with the account-
4 ing, tax, and payment requirements relat-
5 ing to such license or authorization with
6 respect to such smokeless tobacco; or

7 “(D) an officer, employee, or agent of the
8 United States or a State, or any department,
9 agency, or instrumentality of the United States
10 or a State (including any political subdivision of
11 a State), having possession of such smokeless
12 tobacco in connection with the performance of
13 official duties.

14 **“§ 1412. Unlawful Acts**

15 “It shall be unlawful for any person knowingly to
16 ship, transport, receive, possess, sell, distribute, or pur-
17 chase contraband cigarettes or contraband smokeless to-
18 bacco.

19 **“§ 1413. Recordkeeping, reporting, and inspection**

20 “(a) RECORDKEEPING.—Whoever ships, sells, or dis-
21 tributes any quantity of cigarettes in excess of 10,000, or
22 any quantity of smokeless tobacco in excess of 500 single-
23 unit consumer-sized cans or packages, in a single trans-
24 action shall maintain such information about the ship-
25 ment, receipt, sale, and distribution of cigarettes as the

1 Attorney General may prescribe by rule or regulation. The
2 Attorney General may require such person to keep such
3 information as the Attorney General considers appropriate
4 for purposes of enforcement of this subchapter, includ-
5 ing—

6 “(1) the name, address, destination (including
7 street address), vehicle license number, driver’s li-
8 cense number, signature of the person receiving such
9 cigarettes, and the name of the purchaser;

10 “(2) a declaration of the specific purpose of the
11 receipt (personal use, resale, or delivery to another);
12 and

13 “(3) a declaration of the name and address of
14 the recipient’s principal in all cases when the recipi-
15 ent is acting as an agent.

16 Such information shall be contained on business records
17 kept in the normal course of business.

18 “(b) REPORTING.—Whoever, except for a tribal gov-
19 ernment, engages in a delivery sale, and who ships, sells,
20 or distributes any quantity in excess of 10,000 cigarettes,
21 or any quantity in excess of 500 single-unit consumer-
22 sized cans or packages of smokeless tobacco, or their
23 equivalent, within a single month, shall submit to the At-
24 torney General, pursuant to rules or regulations pre-

1 scribed by the Attorney General, a report that sets forth
2 the following:

3 “(1) The person’s beginning and ending inven-
4 tory of cigarettes and cans or packages of smokeless
5 tobacco (in total) for such month.

6 “(2) The total quantity of cigarettes and cans
7 or packages of smokeless tobacco that the person re-
8 ceived within such month from each other person
9 (itemized by name and address).

10 “(3) The total quantity of cigarettes and cans
11 or packages of smokeless tobacco that the person
12 distributed within such month to each person
13 (itemized by name and address) other than a retail
14 purchaser.

15 “(c) INSPECTION.—

16 “(1) Any officer of the Bureau of Alcohol, To-
17 bacco, Firearms, and Explosives may, during normal
18 business hours, enter the premises of any person de-
19 scribed in subsection (a) or (b) for the purposes of
20 inspecting—

21 “(A) any records or information required
22 to be maintained by the person under this chap-
23 ter; or

24 “(B) any cigarettes or smokeless tobacco
25 kept or stored by the person at the premises.

1 “(2) The district courts of the United States
2 shall have the authority in a civil action under this
3 subsection to compel inspections authorized by para-
4 graph (1).

5 “(3) Whoever denies access to an officer under
6 paragraph (1), or who fails to comply with an order
7 issued under paragraph (2), shall be subject to a
8 civil penalty in an amount not to exceed \$10,000.

9 “(d) OTHERS TO RECEIVE REPORTS.—Any report re-
10 quired to be submitted under this subchapter to the Attor-
11 ney General shall also be submitted to the Secretary of
12 the Treasury and to the attorneys general and the tax ad-
13 ministrators of the States from where the shipments, de-
14 liveries, or distributions both originated and concluded.

15 “(e) DELIVERY SALE DEFINED.—As used in this sec-
16 tion, the term ‘delivery sale’ means any sale of cigarettes
17 or smokeless tobacco in interstate commerce to a con-
18 sumer if—

19 “(1) the consumer submits the order for such
20 sale by means of a telephone or other method of
21 voice transmission, the mails, or the Internet or
22 other online service, or by any other means where
23 the consumer is not in the same physical location as
24 the seller when the purchase or offer of sale is made;
25 or

1 “(2) the cigarettes or smokeless tobacco are de-
2 livered by use of the mails, common carrier, private
3 delivery service, or any other means where the con-
4 sumer is not in the same physical location as the
5 seller when the consumer obtains physical possession
6 of the cigarettes or smokeless tobacco.

7 **“§ 1414. Penalties**

8 “(a) 1412(a) VIOLATIONS.—Whoever knowingly vio-
9 lates section 1412(a) shall be imprisoned not more than
10 five years.

11 “(b) 1413(a) AND 1416 VIOLATIONS.—Whoever
12 knowingly violates any rule or regulation promulgated
13 under section 1413(a) or 1416 or violates section 1412(b)
14 shall be imprisoned not more than three years.

15 **“§ 1415. Enforcement and regulations**

16 “(a) GENERALLY.—The Attorney General, subject to
17 section 1413(a), shall enforce this subchapter and may
18 prescribe rules and regulations to carry out this sub-
19 chapter.

20 “(b) STATE ENFORCEMENT THROUGH CIVIL AC-
21 TIONS.—

22 “(1) A State, through its attorney general, a
23 local government, through its chief law enforcement
24 officer (or a designee thereof), or any person who
25 holds a permit under chapter 52 of the Internal Rev-

1 enue Code of 1986, may bring an action in the
2 United States district courts to prevent and restrain
3 violations of this subchapter by any person (or by
4 any person controlling such person), except that any
5 person who holds a permit under chapter 52 of the
6 Internal Revenue Code of 1986 may not bring such
7 an action against a State or local government. No
8 civil action may be commenced under this paragraph
9 against an Indian tribe or an Indian in Indian coun-
10 try (as defined in section 871).

11 “(2) A State, through its attorney general, or
12 a local government, through its chief law enforce-
13 ment officer (or a designee thereof), may in a civil
14 action under paragraph (1) also obtain any other ap-
15 propriate relief for violations of this subchapter from
16 any person (or by any person controlling such per-
17 son), including civil penalties, money damages, and
18 injunctive or other equitable relief. Nothing in this
19 chapter abrogates or constitutes a waiver of any sov-
20 ereign immunity of a State or local government, or
21 an Indian tribe against any unconsented lawsuit
22 under this chapter, or otherwise restricts, expands,
23 or modifies any sovereign immunity of a State or
24 local government, or an Indian tribe.

1 “SUBCHAPTER E—CHILD SUPPORT

“Sec.

“1431. Failure to pay legal child support obligations.

2 **“§ 1431. Failure to pay legal child support obligations**

3 “(a) OFFENSE.—Whoever—

4 “(1) knowingly fails to pay a support obligation
5 with respect to a child who resides in another State,
6 if such obligation has remained unpaid for a period
7 longer than 1 year, or is greater than \$5,000;8 “(2) travels in interstate or foreign commerce
9 with the intent to evade a support obligation, if such
10 obligation has remained unpaid for a period longer
11 than 1 year, or is greater than \$5,000; or12 “(3) knowingly fails to pay a support obligation
13 with respect to a child who resides in another State,
14 if such obligation has remained unpaid for a period
15 longer than 2 years, or is greater than \$10,000;
16 shall be punished as provided in subsection (c).17 “(b) PRESUMPTION.—The existence of a support ob-
18 ligation that was in effect for the time period charged in
19 the indictment or information creates a rebuttable pre-
20 sumption that the obligor has the ability to pay the sup-
21 port obligation for that time period.22 “(c) PUNISHMENT.—The punishment for an offense
23 under this section is—

1 “(1) in the case of a first offense under sub-
2 section (a)(1), imprisonment for not more than 6
3 months; and

4 “(2) in the case of an offense under paragraph
5 (2) or (3) of subsection (a), or a second or subse-
6 quent offense under subsection (a)(1), imprisonment
7 for not more than 2 years.

8 “(d) VENUE.—With respect to an offense under this
9 section, an action may be inquired of and prosecuted in
10 a district court of the United States for—

11 “(1) the district in which the child who is the
12 subject of the support obligation involved resided
13 during a period during which a person described in
14 subsection (a) (referred to in this subsection as an
15 ‘obligor’) failed to meet that support obligation;

16 “(2) the district in which the obligor resided
17 during a period described in paragraph (1); or

18 “(3) any other district with jurisdiction other-
19 wise provided for by law.

20 “(e) DEFINITIONS.—As used in this section—

21 “(1) the term ‘Indian tribe’ has the meaning
22 given that term in section 102 of the Federally Rec-
23 ognized Indian Tribe List Act of 1994; and

24 “(2) the term ‘support obligation’ means any
25 amount determined under a court order or an order

1 of an administrative process pursuant to the law of
 2 a State or of an Indian tribe to be due from a per-
 3 son for the support and maintenance of a child or
 4 of a child and the parent with whom the child is liv-
 5 ing.

6 “SUBCHAPTER F—OBSCENITY

“Sec.

“1441. Mailing obscene or crime-inciting matter.

“1442. Importation or transportation of obscene matters.

“1443. Production and transportation of obscene matters for sale or distribu-
 tion.

“1444. Engaging in the business of selling or transferring obscene matter.

“1445. Obscene visual representations of the sexual abuse of children.

“1446. Presumptions.

“1447. Transfer of obscene material to minor.

7 “§ 1441. **Mailing obscene or crime-inciting matter**

8 “(a) NONMAILABILITY.—The following are non-
 9 mailable matter and shall not be conveyed in the mails
 10 or delivered from any post office or by any letter carrier:

11 “(1) Every obscene, lewd, lascivious, indecent,
 12 filthy or vile article, matter, thing, device, or sub-
 13 stance.

14 “(2) Every article or thing designed, adapted,
 15 or intended for producing abortion, or for any inde-
 16 cent or immoral use.

17 “(3) Every article, instrument, substance, drug,
 18 medicine, or thing which is advertised or described
 19 in a manner calculated to lead another to use or
 20 apply it for producing abortion, or for any indecent
 21 or immoral purpose.

1 “(4) Every written or printed card, letter, cir-
2 cular, book, pamphlet, advertisement, or notice of
3 any kind giving information, directly or indirectly,
4 where, or how, or from whom, or by what means any
5 of such mentioned matters, articles, or things may
6 be obtained or made, or where or by whom any act
7 or operation of any kind for the procuring or pro-
8 ducing of abortion will be done or performed, or how
9 or by what means abortion may be produced, wheth-
10 er sealed or unsealed.

11 “(5) Every paper, writing, advertisement, or
12 representation that any article, instrument, sub-
13 stance, drug, medicine, or thing may, or can, be
14 used or applied for producing abortion, or for any
15 indecent or immoral purpose.

16 “(6) Every description calculated to induce or
17 incite a person to so use or apply any such article,
18 instrument, substance, drug, medicine, or thing.

19 “(b) OFFENSE.—Whoever knowingly uses the mails
20 for the mailing, carriage in the mails, or delivery of any-
21 thing declared by this section or section 3001(e) of title
22 39 to be nonmailable, or knowingly causes to be delivered
23 by mail according to the direction thereon, or at the place
24 at which it is directed to be delivered by the person to
25 whom it is addressed, or knowingly takes any such thing

1 from the mails for the purpose of circulating or disposing
2 thereof, or of aiding in the circulation or disposition there-
3 of, shall be imprisoned not more than five years, for the
4 first such offense, and shall be imprisoned not more than
5 ten years for each such offense thereafter.

6 **“§ 1442. Importation or transportation of obscene**
7 **matters**

8 “Whoever—

9 “(1) brings into the United States, or any place
10 subject to the jurisdiction thereof, or knowingly uses
11 any express company or other common carrier or
12 interactive computer service (as defined in section
13 230(f)(2) of the Communications Act of 1934), for
14 carriage in interstate or foreign commerce—

15 “(A) any obscene, lewd, lascivious, or filthy
16 book, pamphlet, picture, motion-picture film,
17 paper, letter, writing, print, or other matter of
18 indecent character;

19 “(B) any obscene, lewd, lascivious, or filthy
20 phonograph recording, electrical transcription,
21 or other article or thing capable of producing
22 sound; or

23 “(C) any drug, medicine, article, or thing
24 designed, adapted, or intended for producing
25 abortion, or for any indecent or immoral use; or

1 any written or printed card, letter, circular,
2 book, pamphlet, advertisement, or notice of any
3 kind giving information, directly or indirectly,
4 where, how, or of whom, or by what means any
5 of such mentioned articles, matters, or things
6 may be obtained or made; or

7 “(2) knowingly takes or receives, from such ex-
8 press company or other common carrier or inter-
9 active computer service (as defined in section
10 230(f)(2) of the Communications Act of 1934) any
11 matter or thing the carriage or importation of which
12 is herein made unlawful;

13 shall be imprisoned not more than five years for the first
14 such offense and shall be imprisoned not more than ten
15 years for each such offense thereafter.

16 **“§ 1443. Production and transportation of obscene**
17 **matters for sale or distribution**

18 “(a) OFFENSE.—Whoever knowingly produces with
19 the intent to transport, distribute, or transmit in inter-
20 state or foreign commerce, or whoever knowingly trans-
21 ports or travels in, or uses a facility or means of, interstate
22 or foreign commerce or an interactive computer service (as
23 defined in section 230(f)(2) of the Communications Act
24 of 1934) in or affecting such commerce, for the purpose
25 of sale or distribution, of any obscene, lewd, lascivious, or

1 filthy book, pamphlet, picture, film, paper, letter, writing,
2 print, silhouette, drawing, figure, image, cast, phonograph
3 recording, electrical transcription or other article capable
4 of producing sound or any other matter of indecent or im-
5 moral character, shall be imprisoned not more than five
6 years.

7 “(b) PRESUMPTION.—The transportation as afore-
8 said of two or more copies of any publication or two or
9 more of any article of the character described above, or
10 a combined total of five such publications and articles,
11 shall create a presumption that such publications or arti-
12 cles are intended for sale or distribution, but such pre-
13 sumption shall be rebuttable.

14 **“§ 1444. Engaging in the business of selling or trans-**
15 **ferring obscene matter**

16 “(a) OFFENSE.—Whoever is engaged in the business
17 of producing with intent to distribute or sell, or selling
18 or transferring obscene matter, who knowingly receives or
19 possesses with intent to distribute any obscene book, mag-
20 azine, picture, paper, film, videotape, or phonograph or
21 other audio recording, which has been shipped or trans-
22 ported in interstate or foreign commerce, shall be pun-
23 ished by imprisonment for not more than 5 years or by
24 a fine under this title, or both.

1 “(b) DEFINITION.—As used in this section, the term
2 ‘engaged in the business’ means that the person who pro-
3 duces, sells, or transfers, or offers to sell or transfer ob-
4 scene matter devotes time, attention, or labor to such ac-
5 tivities, as a regular course of trade or business, with the
6 objective of earning a profit, although it is not necessary
7 that the person make a profit or that the production, sell-
8 ing or transferring or offering to sell or transfer such ma-
9 terial be the person’s sole or principal business or source
10 of income. The offering for sale of or to transfer, at one
11 time, two or more copies of any obscene publication, or
12 two or more of any obscene article, or a combined total
13 of five or more such publications and articles, shall create
14 a rebuttable presumption that the person so offering them
15 is ‘engaged in the business’ as defined in this subsection.

16 **“§ 1445. Obscene visual representations of the sexual**
17 **abuse of children**

18 “(a) IN GENERAL.—Whoever, as made applicable by
19 subsection (d), knowingly produces, distributes, receives,
20 or possesses with intent to distribute, a visual depiction
21 of any kind, including a drawing, cartoon, sculpture, or
22 painting, that—

23 “(1)(A) depicts a minor engaging in sexually
24 explicit conduct; and

25 “(B) is obscene; or

1 “(2)(A) depicts an image that is, or appears to
2 be, of a minor engaging in graphic bestiality, sadis-
3 tic or masochistic abuse, or sexual intercourse, in-
4 cluding genital-genital, oral-genital, anal-genital, or
5 oral-anal, whether between persons of the same or
6 opposite sex; and

7 “(B) lacks serious literary, artistic, political, or
8 scientific value;

9 shall be subject to the penalties provided in section
10 223(c)(1), including the penalties provided for cases in-
11 volving a prior conviction.

12 “(b) ADDITIONAL OFFENSES.—Whoever, as made
13 applicable by subsection (d), knowingly possesses a visual
14 depiction of any kind, including a drawing, cartoon, sculp-
15 ture, or painting, that—

16 “(1)(A) depicts a minor engaging in sexually
17 explicit conduct; and

18 “(B) is obscene; or

19 “(2)(A) depicts an image that is, or appears to
20 be, of a minor engaging in graphic bestiality, sadis-
21 tic or masochistic abuse, or sexual intercourse, in-
22 cluding genital-genital, oral-genital, anal-genital, or
23 oral-anal, whether between persons of the same or
24 opposite sex; and

1 “(B) lacks serious literary, artistic, political, or
2 scientific value;
3 shall be subject to the penalties provided in section
4 223(c)(2), including the penalties provided for cases in-
5 volving a prior conviction.

6 “(c) NONREQUIRED ELEMENT OF OFFENSE.—It is
7 not a required element of any offense under this section
8 that the minor depicted actually exist.

9 “(d) APPLICABILITY.—Subsections (a) and (b) apply
10 if—

11 “(1) any communication involved in or made in
12 furtherance of the offense is communicated or trans-
13 ported by the mail, or in interstate or foreign com-
14 merce by any means, including by computer, or any
15 means or instrumentality of interstate or foreign
16 commerce is otherwise used in committing or in fur-
17 therance of the commission of the offense;

18 “(2) any communication involved in or made in
19 furtherance of the offense contemplates the trans-
20 mission or transportation of a visual depiction by the
21 mail, or in interstate or foreign commerce by any
22 means, including by computer;

23 “(3) any person travels or is transported in
24 interstate or foreign commerce in the course of the

1 commission or in furtherance of the commission of
2 the offense;

3 “(4) any visual depiction involved in the offense
4 has been mailed, or has been shipped or transported
5 in interstate or foreign commerce by any means, in-
6 cluding by computer, or was produced using mate-
7 rials that have been mailed, or that have been
8 shipped or transported in interstate or foreign com-
9 merce by any means, including by computer; or

10 “(5) the offense is committed in the special
11 maritime and territorial jurisdiction of the United
12 States or in any territory or possession of the
13 United States.

14 “(e) AFFIRMATIVE DEFENSE.—It shall be an affirm-
15 ative defense to a charge of violating subsection (b) that
16 the defendant—

17 “(1) possessed less than 3 such visual depic-
18 tions; and

19 “(2) promptly and in good faith, and without
20 retaining or allowing any person, other than a law
21 enforcement agency, to access any such visual depic-
22 tion—

23 “(A) took reasonable steps to destroy each
24 such visual depiction; or

1 “(B) reported the matter to a law enforce-
2 ment agency and afforded that agency access to
3 each such visual depiction.

4 “(f) DEFINITIONS.—As used in this section—

5 “(1) the term ‘visual depiction’ includes unde-
6 veloped film and videotape, and data stored on a
7 computer disk or by electronic means which is capa-
8 ble of conversion into a visual image, and also in-
9 cludes any photograph, film, video, picture, digital
10 image or picture, computer image or picture, or
11 computer generated image or picture, whether made
12 or produced by electronic, mechanical, or other
13 means;

14 “(2) the term ‘sexually explicit conduct’ has the
15 meaning given the term in section 225(1)(A) or
16 225(1)(B); and

17 “(3) the term ‘graphic’, when used with respect
18 to a depiction of sexually explicit conduct, means
19 that a viewer can observe any part of the genitals
20 or pubic area of any depicted person or animal dur-
21 ing any part of the time that the sexually explicit
22 conduct is being depicted.

23 **“§ 1446. Presumptions**

24 “(a) INTERSTATE COMMERCE.—In any prosecution
25 under this subchapter in which an element of the offense

1 is that the matter in question was transported, shipped,
2 or carried in interstate commerce, proof, by either cir-
3 cumstantial or direct evidence, that such matter was pro-
4 duced or manufactured in one State and is subsequently
5 located in another State shall raise a rebuttable presump-
6 tion that such matter was transported, shipped, or carried
7 in interstate commerce.

8 “(b) FOREIGN COMMERCE.—In any prosecution
9 under this subchapter in which an element of the offense
10 is that the matter in question was transported, shipped,
11 or carried in foreign commerce, proof, by either cir-
12 cumstantial or direct evidence, that such matter was pro-
13 duced or manufactured outside of the United States and
14 is subsequently located in the United States shall raise
15 a rebuttable presumption that such matter was trans-
16 ported, shipped, or carried in foreign commerce.

17 **“§ 1447. Transfer of obscene material to minor**

18 “Whoever, using the mail or any facility or means
19 of interstate or foreign commerce, knowingly transfers ob-
20 scene matter to another individual who has not attained
21 the age of 16 years, knowing that such other individual
22 has not attained the age of 16 years, or attempts to do
23 so, shall be imprisoned not more than 10 years.

24 “SUBCHAPTER G—MONEY LAUNDERING

“Sec.

“1451. Laundering of monetary instruments.

“1452. Engaging in monetary transactions in property derived from specified unlawful activity.

“1453. Structuring transactions to evade reporting requirement prohibited.

“1454. Bulk cash smuggling into or out of the United States.

1 **“§ 1451. Laundering of monetary instruments**

2 “(a) OFFENSES.—(1) Whoever, knowing that the
3 property involved in a financial transaction represents the
4 proceeds of some form of unlawful activity, conducts or
5 attempts to conduct such a financial transaction which in
6 fact involves the proceeds of specified unlawful activity—

7 “(A)(i) with the intent to promote the carrying
8 on of specified unlawful activity; or

9 “(ii) with intent to engage in conduct consti-
10 tuting a violation of section 7201 or 7206 of the In-
11 ternal Revenue Code of 1986; or

12 “(B) knowing that the transaction is designed
13 in whole or in part—

14 “(i) to conceal or disguise the nature, the loca-
15 tion, the source, the ownership, or the control of the
16 proceeds of specified unlawful activity; or

17 “(ii) to avoid a transaction reporting require-
18 ment under State or Federal law,

19 shall be sentenced to a fine of not more than \$500,000
20 or twice the value of the property involved in the trans-
21 action, whichever is greater, or imprisonment for not more
22 than twenty years, or both. For purposes of this para-
23 graph, a financial transaction shall be considered to be

1 one involving the proceeds of specified unlawful activity
2 if it is part of a set of parallel or dependent transactions,
3 any one of which involves the proceeds of specified unlaw-
4 ful activity, and all of which are part of a single plan or
5 arrangement.

6 “(2) Whoever transports, transmits, or transfers, or
7 attempts to transport, transmit, or transfer a monetary
8 instrument or funds from a place in the United States
9 to or through a place outside the United States or to a
10 place in the United States from or through a place outside
11 the United States—

12 “(A) with the intent to promote the carrying on
13 of specified unlawful activity; or

14 “(B) knowing that the monetary instrument or
15 funds involved in the transportation, transmission,
16 or transfer represent the proceeds of some form of
17 unlawful activity and knowing that such transpor-
18 tation, transmission, or transfer is designed in whole
19 or in part—

20 “(i) to conceal or disguise the nature, the
21 location, the source, the ownership, or the con-
22 trol of the proceeds of specified unlawful activ-
23 ity; or

24 “(ii) to avoid a transaction reporting re-
25 quirement under State or Federal law,

1 shall be sentenced to a fine of not more than \$500,000
2 or twice the value of the monetary instrument or funds
3 involved in the transportation, transmission, or transfer,
4 whichever is greater, or imprisonment for not more than
5 twenty years, or both. For the purpose of the offense de-
6 scribed in subparagraph (B), the defendant's knowledge
7 may be established by proof that a law enforcement officer
8 represented the matter specified in subparagraph (B) as
9 true, and the defendant's subsequent statements or ac-
10 tions indicate that the defendant believed such representa-
11 tions to be true.

12 “(3) Whoever, with the intent—

13 “(A) to promote the carrying on of specified un-
14 lawful activity;

15 “(B) to conceal or disguise the nature, location,
16 source, ownership, or control of property believed to
17 be the proceeds of specified unlawful activity; or

18 “(C) to avoid a transaction reporting require-
19 ment under State or Federal law,

20 conducts or attempts to conduct a financial transaction
21 involving property represented to be the proceeds of speci-
22 fied unlawful activity, or property used to conduct or fa-
23 cilitate specified unlawful activity, shall be imprisoned for
24 not more than 20 years. For purposes of this paragraph
25 and paragraph (2), the term ‘represented’ means any rep-

1 representation made by a law enforcement officer or by an-
2 other person at the direction of, or with the approval of,
3 a Federal official authorized to investigate or prosecute
4 violations of this section.

5 “(b) PENALTIES.—

6 “(1) IN GENERAL.—Whoever conducts or at-
7 tempts to conduct a transaction described in sub-
8 section (a)(1) or (a)(3), or section 1452, or a trans-
9 portation, transmission, or transfer described in sub-
10 section (a)(2), is liable to the United States for a
11 civil penalty of not more than the greater of—

12 “(A) the value of the property, funds, or
13 monetary instruments involved in the trans-
14 action; or

15 “(B) \$10,000.

16 “(2) JURISDICTION OVER FOREIGN PERSONS.—

17 For purposes of adjudicating an action filed or en-
18 forcing a penalty ordered under this section, the dis-
19 trict courts shall have jurisdiction over any foreign
20 person, including any financial institution authorized
21 under the laws of a foreign country, against whom
22 the action is brought, if service of process upon the
23 foreign person is made under the Federal Rules of
24 Civil Procedure or the laws of the country in which
25 the foreign person is found, and—

1 “(A) the foreign person commits an offense
2 under subsection (a) involving a financial trans-
3 action that occurs in whole or in part in the
4 United States;

5 “(B) the foreign person converts, to his or
6 her own use, property in which the United
7 States has an ownership interest by virtue of
8 the entry of an order of forfeiture by a court
9 of the United States; or

10 “(C) the foreign person is a financial insti-
11 tution that maintains a bank account at a fi-
12 nancial institution in the United States.

13 “(3) COURT AUTHORITY OVER ASSETS.—A
14 court may issue a pretrial restraining order or take
15 any other action necessary to ensure that any bank
16 account or other property held by the defendant in
17 the United States is available to satisfy a judgment
18 under this section.

19 “(4) FEDERAL RECEIVER.—

20 “(A) IN GENERAL.—A court may appoint
21 a Federal Receiver, in accordance with subpara-
22 graph (B) of this paragraph, to collect, mar-
23 shal, and take custody, control, and possession
24 of all assets of the defendant, wherever located,
25 to satisfy a civil judgment under this sub-

1 section, a forfeiture judgment under chapter 50,
2 or a criminal sentence under section 1452 or
3 subsection (a) of this section, including an
4 order of restitution to any victim of a specified
5 unlawful activity.

6 “(B) APPOINTMENT AND AUTHORITY.—A
7 Federal Receiver described in subparagraph
8 (A)—

9 “(i) may be appointed upon applica-
10 tion of a Federal prosecutor or a Federal
11 or State regulator, by the court having ju-
12 risdiction over the defendant in the case;

13 “(ii) shall be an officer of the court,
14 and the powers of the Federal Receiver
15 shall include the powers set out in section
16 754 of title 28; and

17 “(iii) shall have standing equivalent to
18 that of a Federal prosecutor for the pur-
19 pose of submitting requests to obtain infor-
20 mation regarding the assets of the defend-
21 ant—

22 “(I) from the Financial Crimes
23 Enforcement Network of the Depart-
24 ment of the Treasury; or

1 “(II) from a foreign country pur-
2 suant to a mutual legal assistance
3 treaty, multilateral agreement, or
4 other arrangement for international
5 law enforcement assistance, provided
6 that such requests are in accordance
7 with the policies and procedures of the
8 Attorney General.

9 “(c) DEFINITIONS.—As used in this section—

10 “(1) the term ‘knowing that the property in-
11 volved in a financial transaction represents the pro-
12 ceeds of some form of unlawful activity’ means that
13 the person knew the property involved in the trans-
14 action represented proceeds from some form, though
15 not necessarily which form, of activity that con-
16 stitutes a felony under State, Federal, or foreign
17 law, regardless of whether or not such activity is
18 specified in paragraph (7);

19 “(2) the term ‘conducts’ includes initiating,
20 concluding, or participating in initiating, or con-
21 cluding a transaction;

22 “(3) the term ‘transaction’ includes a purchase,
23 sale, loan, pledge, gift, transfer, delivery, or other
24 disposition, and with respect to a financial institu-
25 tion includes a deposit, withdrawal, transfer between

1 accounts, exchange of currency, loan, extension of
2 credit, purchase or sale of any stock, bond, certifi-
3 cate of deposit, or other monetary instrument, use of
4 a safe deposit box, or any other payment, transfer,
5 or delivery by, through, or to a financial institution,
6 by whatever means effected;

7 “(4) the term ‘financial transaction’ means (A)
8 a transaction which in any way or degree affects
9 interstate or foreign commerce (i) involving the
10 movement of funds by wire or other means or (ii) in-
11 volving one or more monetary instruments, or (iii)
12 involving the transfer of title to any real property,
13 vehicle, vessel, or aircraft, or (B) a transaction in-
14 volving the use of a financial institution which is en-
15 gaged in, or the activities of which affect, interstate
16 or foreign commerce in any way or degree;

17 “(5) the term ‘monetary instruments’ means (i)
18 coin or currency of the United States or of any other
19 country, travelers’ checks, personal checks, bank
20 checks, and money orders, or (ii) investment securi-
21 ties or negotiable instruments, in bearer form or
22 otherwise in such form that title thereto passes upon
23 delivery;

24 “(6) the term ‘financial institution’ means—

1 “(A) any financial institution, as defined in
2 section 5312(a)(2) of title 31, or regulations
3 under such section; or

4 “(B) any foreign bank, as defined in sec-
5 tion 1 of the International Banking Act of
6 1978;

7 “(7) the term ‘specified unlawful activity’
8 means—

9 “(A) any act or activity constituting an of-
10 fense listed in section 511(1) except an act
11 which is indictable under subchapter II of chap-
12 ter 53 of title 31;

13 “(B) with respect to a financial transaction
14 occurring in whole or in part in the United
15 States, an offense against a foreign nation in-
16 volving—

17 “(i) the manufacture, importation,
18 sale, or distribution of a controlled sub-
19 stance;

20 “(ii) murder, kidnapping, robbery, ex-
21 tortion, destruction of property by means
22 of explosive or fire, or a crime of violence;

23 “(iii) fraud, or any scheme or attempt
24 to defraud, by or against a foreign bank

1 (as defined in paragraph 7 of section 1(b)
2 of the International Banking Act of 1978);

3 “(iv) bribery of a public official, or
4 the misappropriation, theft, or embezzle-
5 ment of public funds by or for the benefit
6 of a public official;

7 “(v) smuggling or export control viola-
8 tions involving—

9 “(I) an item controlled on the
10 United States Munitions List estab-
11 lished under section 38 of the Arms
12 Export Control Act; or

13 “(II) an item controlled under
14 regulations under the Export Admin-
15 istration Regulations (15 C.F.R.
16 Parts 730–774); or

17 “(vi) an offense with respect to which
18 the United States would be obligated by a
19 multilateral treaty, either to extradite the
20 alleged offender or to submit the case for
21 prosecution, if the offender were found
22 within the territory of the United States;
23 or

24 “(vii) trafficking in persons, selling or
25 buying of children, sexual exploration or

1 children, or transporting, recruiting or har-
2 boring a person, including a child, for com-
3 mercial sex acts;

4 “(C) any act or acts constituting a con-
5 tinuing criminal enterprise, as that term is de-
6 fined in section 413;

7 “(D) an offense under section 1301 (relat-
8 ing to the destruction of aircraft), section 1305
9 (relating to violence at international airports),
10 section 131 (relating to influencing, impeding,
11 or retaliating against a Federal official by
12 threatening or injuring a family member), sec-
13 tion 871 (relating to concealment of assets;
14 false oaths and claims; bribery), section 624
15 (relating to the variola virus), section 1003 (re-
16 lating to commissions or gifts for procuring
17 loans), section 711 (relating to money orders),
18 section 712 (relating to postage stamps, post-
19 age meter stamps, and postal cards), section
20 718 (relating to securities of States and private
21 entities), section 861 (relating to entry of goods
22 falsely classified), section 862 (relating to entry
23 of goods by means of false statements), section
24 863 (relating to smuggling goods into the
25 United States), section 865 (relating to remov-

1 ing goods from customs custody; breaking
2 seals), section 867 (relating to smuggling goods
3 from the United States), section 641 (relating
4 to public money, property, or records), section
5 644 (relating to theft, embezzlement, or
6 misapplication by bank officer or employee),
7 section 645 (relating to lending, credit, and in-
8 surance institutions), section 646 (relating to
9 property mortgaged or pledged to farm credit
10 agencies), section 654 (relating to theft or brib-
11 ery concerning programs receiving Federal
12 funds), section 301, 302, or 303 (relating to es-
13 pionage and censorship), section 601 (relating
14 to prohibited transactions involving nuclear ma-
15 terials), section 614 (f) or (i) (relating to de-
16 struction by explosives or fire of Government
17 property or property affecting interstate or for-
18 eign commerce), section 144 (relating to com-
19 munication of ransom demands and other
20 threatening communications in or affecting
21 commerce), section 582(1) (relating to the un-
22 lawful importation of firearms), section 584(n)
23 (relating to firearms trafficking), section 924
24 (relating to conspiracy to kill, kidnap, maim, or
25 injure certain property in a foreign country),

1 section 773 (relating to fraudulent bank en-
2 tries), section 774 (relating to fraudulent Fed-
3 eral credit institution entries), section 775 (re-
4 lating to Federal Deposit Insurance Corpora-
5 tion transactions), section 779 (relating to
6 fraudulent loan or credit applications), section
7 787 (relating to computer fraud and abuse),
8 section 789 (relating to concealment of assets
9 from conservator, receiver, or liquidating agent
10 of financial institution), section 102 (relating to
11 Federally punishable homicides), section 121
12 (relating to kidnapping), section 123 (relating
13 to hostage taking), section 1201 (relating to
14 Government property or contracts), section
15 1203 (relating to buildings or property within
16 the special maritime and territorial jurisdic-
17 tion), section 947 (relating to theft or receipt of
18 stolen mail matter generally), section 143 (re-
19 lating to bank robbery and incidental crimes),
20 section 223 (relating to certain activities relat-
21 ing to material involving the sexual exploitation
22 of children and child pornography) where the
23 child pornography contains a visual depiction of
24 an actual minor engaging in sexually explicit
25 conduct, section 1345 (relating to violence

1 against maritime navigation), section 676 (re-
2 relating to criminal infringement of a copyright),
3 section 680 (relating to trafficking in counter-
4 feit goods and services), section 271 (relating to
5 weapons of mass destruction, and explosives
6 and other lethal devices), section 272 (relating
7 to atomic weapons), section 273 (relating to
8 acts of terrorism transcending national bound-
9 aries), section 275 (relating to missile systems
10 designed to destroy aircraft), section 276 (relat-
11 ing to radiological dispersal devices), section
12 278 or 279 (relating to providing material sup-
13 port to terrorists), section 280 (relating to pro-
14 hibitions against the financing of terrorism),
15 section 281 (relating to receiving military-type
16 training from a foreign terrorist organization),
17 section 414 (relating to drug paraphernalia), or
18 section 1307 (relating to aircraft piracy) of this
19 title, a felony violation of the Chemical Diver-
20 sion and Trafficking Act of 1988 (relating to
21 precursor and essential chemicals), section 590
22 of the Tariff Act of 1930 (relating to aviation
23 smuggling), section 38(c) (relating to criminal
24 violations) of the Arms Export Control Act, sec-
25 tion 11 (relating to violations) of the Export

1 Administration Act of 1979, section 206 (relat-
2 ing to penalties) of the International Emer-
3 gency Economic Powers Act, section 16 (relat-
4 ing to offenses and punishment) of the Trading
5 with the Enemy Act, any felony violation of sec-
6 tion 15 of the Food and Nutrition Act of 2008
7 (relating to violations and enforcement) involv-
8 ing a quantity of benefits having a value of not
9 less than \$5,000, any violation of section
10 543(a)(1) of the Housing Act of 1949 (relating
11 to equity skimming), any felony violation of the
12 Foreign Agents Registration Act of 1938, or
13 any felony violation of the Foreign Corrupt
14 Practices Act;

15 “(E) a felony violation of the Federal
16 Water Pollution Control Act, the Ocean Dump-
17 ing Act, the Act to Prevent Pollution from
18 Ships, the Safe Drinking Water Act, or the Re-
19 sources Conservation and Recovery Act; or

20 “(F) any act or activity constituting an of-
21 fense involving a Federal health care offense;
22 and

23 “(8) the term ‘proceeds’ means any property
24 derived from or obtained or retained, directly or in-

1 directly, through some form of unlawful activity, in-
2 cluding the gross receipts of such activity.

3 “(d) EXTRATERRITORIAL JURISDICTION.—There is
4 extraterritorial jurisdiction over the an offense under this
5 section if—

6 “(1) the conduct is by a United States citizen
7 or, in the case of a non-United States citizen, the
8 conduct occurs in part in the United States; and

9 “(2) the transaction or series of related trans-
10 actions involves funds or monetary instruments of a
11 value exceeding \$10,000.

12 “(e) NOTICE OF CONVICTION OF FINANCIAL INSTI-
13 TUTIONS.—If any financial institution or any officer, di-
14 rector, or employee of any financial institution has been
15 found guilty of an offense under this section, section 1452
16 or 508, or section 5322 or 5324 of title 31, the Attorney
17 General shall provide written notice of such fact to the
18 appropriate regulatory agency for the financial institution.

19 “(f) VENUE.—(1) Except as provided in paragraph
20 (2), a prosecution for an offense under this section or sec-
21 tion 1452 may be brought in—

22 “(A) any district in which the financial or mon-
23 etary transaction is conducted; or

24 “(B) any district where a prosecution for the
25 underlying specified unlawful activity could be

1 brought, if the defendant participated in the transfer
2 of the proceeds of the specified unlawful activity
3 from that district to the district where the financial
4 or monetary transaction is conducted.

5 “(2) A prosecution for an attempt or conspiracy of-
6 fense under this section or section 1957 may be brought
7 in the district where venue would lie for the completed of-
8 fense under paragraph (1), or in any other district where
9 an act in furtherance of the attempt or conspiracy took
10 place.

11 “(3) For purposes of this section, a transfer of funds
12 from 1 place to another, by wire or any other means, shall
13 constitute a single, continuing transaction. Any person
14 who conducts (as that term is defined in subsection (c)(2))
15 any portion of the transaction may be charged in any dis-
16 trict in which the transaction takes place.

17 **“§ 1452. Engaging in monetary transactions in prop-**
18 **erty derived from specified unlawful ac-**
19 **tivity**

20 “(a) ELEMENTS OF OFFENSE.—Whoever, as made
21 applicable by subsection (d), knowingly engages or at-
22 tempts to engage in a monetary transaction in criminally
23 derived property of a value greater than \$10,000 and is
24 derived from specified unlawful activity, shall be punished
25 as provided in subsection (b).

1 “(b) PUNISHMENT.—(1) Except as provided in para-
2 graph (2), the punishment for an offense under this sec-
3 tion is imprisonment for not more than ten years.

4 “(2) The court may impose an alternate fine to that
5 imposable under paragraph (1) of not more than twice the
6 amount of the criminally derived property involved in the
7 transaction.

8 “(c) PROOF.—In a prosecution for an offense under
9 this section, the Government is not required to prove the
10 defendant knew that the offense from which the criminally
11 derived property was derived was specified unlawful activ-
12 ity.

13 “(d) APPLICABILITY.—Subsection (a) applies if—

14 “(1) that the offense under this section takes
15 place in the United States or in the special maritime
16 and territorial jurisdiction of the United States; or

17 “(2) that the offense under this section takes
18 place outside the United States and such special ju-
19 risdiction, but the defendant is a United States per-
20 son (as defined in section 3077, but excluding the
21 class described in paragraph (2)(D) of such section).

22 “(e) INVESTIGATIVE AUTHORITY.—Violations of this
23 section may be investigated by such components of the De-
24 partment of Justice as the Attorney General may direct,
25 and by such components of the Department of the Treas-

1 ury as the Secretary of the Treasury may direct, as appro-
2 priate, and, with respect to offenses over which the De-
3 partment of Homeland Security has jurisdiction, by such
4 components of the Department of Homeland Security as
5 the Secretary of Homeland Security may direct, and, with
6 respect to offenses over which the United States Postal
7 Service has jurisdiction, by the Postal Service. Such au-
8 thority of the Secretary of the Treasury, the Secretary of
9 Homeland Security, and the Postal Service shall be exer-
10 cised in accordance with an agreement which shall be en-
11 tered into by the Secretary of the Treasury, the Secretary
12 of Homeland Security, the Postal Service, and the Attor-
13 ney General.

14 “(f) DEFINITIONS.—As used in this section—

15 “(1) the term ‘monetary transaction’ means the
16 deposit, withdrawal, transfer, or exchange, in or af-
17 fecting interstate or foreign commerce, of funds or
18 a monetary instrument (as defined in section
19 1451(c)(5)) by, through, or to a financial institution
20 (as defined in section 1451), including any trans-
21 action that would be a financial transaction under
22 section 1451(c)(4)(B), but such term does not in-
23 clude any transaction necessary to preserve a per-
24 son’s right to representation as guaranteed by the
25 sixth amendment to the Constitution;

1 “(2) the term ‘criminally derived property’
2 means any property constituting, or derived from,
3 proceeds obtained from a criminal offense; and

4 “(3) the terms ‘specified unlawful activity’ and
5 ‘proceeds’ shall have the meaning given those terms
6 in section 1451.

7 **“§ 1453. Structuring transactions to evade reporting**
8 **requirement prohibited**

9 “(a) DOMESTIC COIN AND CURRENCY TRANS-
10 ACTIONS INVOLVING FINANCIAL INSTITUTIONS.—No per-
11 son shall, for the purpose of evading the reporting require-
12 ments of section 5313(a) or 5325 of title 31 or any regula-
13 tion prescribed under any such section, the reporting or
14 recordkeeping requirements imposed by any order issued
15 under section 5326 of that title, or the recordkeeping re-
16 quirements imposed by any regulation prescribed under
17 section 21 of the Federal Deposit Insurance Act or section
18 123 of Public Law 91–508—

19 “(1) cause or attempt to cause a domestic fi-
20 nancial institution to fail to file a report required
21 under section 5313(a) or 5325 of title 31 or any
22 regulation prescribed under any such section, to file
23 a report or to maintain a record required by an
24 order issued under section 5326 of title 31, or to
25 maintain a record required pursuant to any regula-

1 tion prescribed under section 21 of the Federal De-
2 posit Insurance Act or section 123 of Public Law
3 91–508;

4 “(2) cause or attempt to cause a domestic fi-
5 nancial institution to file a report required under
6 section 5313(a) or 5325 of title 31 or any regulation
7 prescribed under any such section, to file a report or
8 to maintain a record required by any order issued
9 under section 5326 of title 31, or to maintain a
10 record required pursuant to any regulation pre-
11 scribed under section 5326 of title 31, or to main-
12 tain a record required pursuant to any regulation
13 prescribed under section 21 of the Federal Deposit
14 Insurance Act or section 123 of Public Law 91–508,
15 that contains a material omission or misstatement of
16 fact; or

17 “(3) structure or assist in structuring, or at-
18 tempt to structure or assist in structuring, any
19 transaction with one or more domestic financial in-
20 stitutions.

21 “(b) DOMESTIC COIN AND CURRENCY TRANS-
22 ACTIONS INVOLVING NONFINANCIAL TRADES OR BUSI-
23 NESSES.—No person shall, for the purpose of evading the
24 report requirements of section 5331 of title 31 or any reg-
25 ulation prescribed under such section—

1 “(1) cause or attempt to cause a nonfinancial
2 trade or business to fail to file a report required
3 under section 5331 of title 31 or any regulation pre-
4 scribed under such section;

5 “(2) cause or attempt to cause a nonfinancial
6 trade or business to file a report required under sec-
7 tion 5331 of title 31 or any regulation prescribed
8 under such section that contains a material omission
9 or misstatement of fact; or

10 “(3) structure or assist in structuring, or at-
11 tempt to structure or assist in structuring, any
12 transaction with 1 or more nonfinancial trades or
13 businesses.

14 “(c) INTERNATIONAL MONETARY INSTRUMENT
15 TRANSACTIONS.—No person shall, for the purpose of
16 evading the reporting requirements of section 5316 of title
17 31—

18 “(1) fail to file a report required by section
19 5316 of title 31, or cause or attempt to cause a per-
20 son to fail to file such a report;

21 “(2) file or cause or attempt to cause a person
22 to file a report required under section 5316 of title
23 31 that contains a material omission or
24 misstatement of fact; or

1 “(3) structure or assist in structuring, or at-
2 tempt to structure or assist in structuring, any im-
3 portation or exportation of monetary instruments.

4 “(d) CRIMINAL PENALTY.—

5 “(1) IN GENERAL.—Whoever violates this sec-
6 tion shall be imprisoned for not more than 5 years.

7 “(2) ENHANCED PENALTY FOR AGGRAVATED
8 CASES.—Whoever violates this section while violating
9 another law of the United States or as part of a pat-
10 tern of any illegal activity involving more than
11 \$100,000 in a 12-month period shall be imprisoned
12 for not more than 10 years.

13 **“§ 1454. Bulk cash smuggling into or out of the**
14 **United States**

15 “(a) CRIMINAL OFFENSE.—

16 “(1) IN GENERAL.—Whoever, with the intent to
17 evade a currency reporting requirement under sec-
18 tion 5316 of title 31, knowingly conceals more than
19 \$10,000 in currency or other monetary instruments
20 on the person of such individual or in any convey-
21 ance, article of luggage, merchandise, or other con-
22 tainer, and transports or transfers or attempts to
23 transport or transfer such currency or monetary in-
24 struments from a place within the United States to
25 a place outside of the United States, or from a place

1 outside the United States to a place within the
 2 United States, shall be guilty of a currency smug-
 3 gling offense and imprisoned for not more than 5
 4 years.

5 “(2) CONCEALMENT ON PERSON.—For pur-
 6 poses of this section, the concealment of currency on
 7 the person of any individual includes concealment in
 8 any article of clothing worn by the individual or in
 9 any luggage, backpack, or other container worn or
 10 carried by such individual.

11 **“CHAPTER 37—PRIVACY**

“Subchapter

“A. Privacy

“B. Wire and electronic communications interception and interception of oral
 communications

“C. Stored wire and electronic communications and transactional records access

“D. Prohibition on release and use of certain personal information from State
 motor vehicle records

“E. Identity theft

12 **“SUBCHAPTER A—PRIVACY**

“Sec.

“1481. Video voyeurism.

13 **“§ 1481. Video voyeurism**

14 “(a) OFFENSE.—Whoever, in the special maritime
 15 and territorial jurisdiction of the United States, has the
 16 intent to capture an image of a private area of an indi-
 17 vidual without their consent, and knowingly does so under
 18 circumstances in which the individual has a reasonable ex-
 19 pectation of privacy, shall be imprisoned not more than
 20 one year.

1 “(b) DEFINITIONS FOR SECTION.—As used in this
2 section—

3 “(1) the term ‘capture’, with respect to an
4 image, means to videotape, photograph, film, record
5 by any means, or broadcast;

6 “(2) the term ‘broadcast’ means to electroni-
7 cally transmit a visual image with the intent that it
8 be viewed by a person or persons;

9 “(3) the term ‘a private area of the individual’
10 means the naked or undergarment clad genitals,
11 pubic area, buttocks, or female breast of that indi-
12 vidual;

13 “(4) the term ‘female breast’ means any portion
14 of the female breast below the top of the areola; and

15 “(5) the term ‘under circumstances in which
16 that individual has a reasonable expectation of pri-
17 vacy’ means—

18 “(A) circumstances in which a reasonable
19 person would believe that he or she could dis-
20 robe in privacy, without being concerned that
21 an image of a private area of the individual was
22 being captured; or

23 “(B) circumstances in which a reasonable
24 person would believe that a private area of the
25 individual would not be visible to the public, re-

1 gardless of whether that person is in a public
2 or private place.

3 “(c) EXCLUSION.—This section does not prohibit any
4 lawful law enforcement, correctional, or intelligence activ-
5 ity.

6 “SUBCHAPTER B—WIRE AND ELECTRONIC
7 COMMUNICATIONS INTERCEPTION AND
8 INTERCEPTION OF ORAL COMMUNICATIONS

“Sec.

“1491. Definitions.

“1492. Interception and disclosure of wire, oral, or electronic communications prohibited.

“1493. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited.

“1494. Confiscation of wire, oral, or electronic communication intercepting devices.

9 “§ 1491. Definitions

10 “As used in this subchapter—

11 “(1) the term ‘wire communication’ means any
12 aural transfer made in whole or in part through the
13 use of facilities for the transmission of communica-
14 tions by the aid of wire, cable, or other like connec-
15 tion between the point of origin and the point of re-
16 ception (including the use of such connection in a
17 switching station) furnished or operated by any per-
18 son engaged in providing or operating such facilities
19 for the transmission of interstate or foreign commu-
20 nications or communications affecting interstate or
21 foreign commerce;

1 “(2) the term ‘oral communication’ means any
2 oral communication uttered by a person exhibiting
3 an expectation that such communication is not sub-
4 ject to interception under circumstances justifying
5 such expectation, but such term does not include any
6 electronic communication;

7 “(3) the term ‘intercept’ means the aural or
8 other acquisition of the contents of any wire, elec-
9 tronic, or oral communication through the use of
10 any electronic, mechanical, or other device;

11 “(4) the term ‘electronic, mechanical, or other
12 device’ means any device or apparatus which can be
13 used to intercept a wire, oral, or electronic commu-
14 nication other than—

15 “(A) any telephone or telegraph instru-
16 ment, equipment or facility, or any component
17 thereof, (i) furnished to the subscriber or user
18 by a provider of wire or electronic communica-
19 tion service in the ordinary course of its busi-
20 ness and being used by the subscriber or user
21 in the ordinary course of its business or fur-
22 nished by such subscriber or user for connection
23 to the facilities of such service and used in the
24 ordinary course of its business; or (ii) being
25 used by a provider of wire or electronic commu-

1 nication service in the ordinary course of its
2 business, or by an investigative or law enforce-
3 ment officer in the ordinary course of his du-
4 ties;

5 “(B) a hearing aid or similar device being
6 used to correct subnormal hearing to not better
7 than normal;

8 “(5) the term ‘Investigative or law enforcement
9 officer’ means any officer of the United States or of
10 a State or political subdivision thereof, who is em-
11 powered by law to conduct investigations of or to
12 make arrests for offenses enumerated in this chap-
13 ter, and any attorney authorized by law to prosecute
14 or participate in the prosecution of such offenses;

15 “(6) the term ‘contents’, when used with re-
16 spect to any wire, oral, or electronic communication,
17 includes any information concerning the substance,
18 purport, or meaning of that communication;

19 “(7) the term ‘Judge of competent jurisdiction’
20 means—

21 “(A) a judge of a United States district
22 court or a United States court of appeals; and

23 “(B) a judge of any court of general crimi-
24 nal jurisdiction of a State who is authorized by
25 a statute of that State to enter orders author-

1 izing interceptions of wire, oral, or electronic
2 communications;

3 “(8) the term ‘communication common carrier’
4 has the meaning given that term in section 3 of the
5 Communications Act of 1934;

6 “(9) the term ‘aggrieved person’ means a per-
7 son who was a party to any intercepted wire, oral,
8 or electronic communication or a person against
9 whom the interception was directed;

10 “(10) the term ‘electronic communication’
11 means any transfer of signs, signals, writing, im-
12 ages, sounds, data, or intelligence of any nature
13 transmitted in whole or in part by a wire, radio,
14 electromagnetic, photoelectronic or photooptical sys-
15 tem that affects interstate or foreign commerce, but
16 does not include—

17 “(A) any wire or oral communication;

18 “(B) any communication made through a
19 tone-only paging device;

20 “(C) any communication from a tracking
21 device (as defined in section 3117); or

22 “(D) electronic funds transfer information
23 stored by a financial institution in a commu-
24 nications system used for the electronic storage
25 and transfer of funds;

1 “(11) the term ‘user’ means any person or enti-
2 ty who—

3 “(A) uses an electronic communication
4 service; and

5 “(B) is duly authorized by the provider of
6 such service to engage in such use;

7 “(12) the term ‘electronic communications sys-
8 tem’ means any wire, radio, electromagnetic,
9 photooptical or photoelectronic facilities for the
10 transmission of wire or electronic communications,
11 and any computer facilities or related electronic
12 equipment for the electronic storage of such commu-
13 nications;

14 “(13) the term ‘electronic communication serv-
15 ice’ means any service which provides to users there-
16 of the ability to send or receive wire or electronic
17 communications;

18 “(14) the term ‘readily accessible to the general
19 public’ means, with respect to a radio communica-
20 tion, that such communication is not—

21 “(A) scrambled or encrypted;

22 “(B) transmitted using modulation tech-
23 niques whose essential parameters have been
24 withheld from the public with the intention of
25 preserving the privacy of such communication;

1 “(C) carried on a subcarrier or other sig-
2 nal subsidiary to a radio transmission;

3 “(D) transmitted over a communication
4 system provided by a common carrier, unless
5 the communication is a tone only paging system
6 communication; or

7 “(E) transmitted on frequencies allocated
8 under part 25, subpart D, E, or F of part 74,
9 or part 94 of the Rules of the Federal Commu-
10 nications Commission, unless, in the case of a
11 communication transmitted on a frequency allo-
12 cated under part 74 that is not exclusively allo-
13 cated to broadcast auxiliary services, the com-
14 munication is a two-way voice communication
15 by radio;

16 “(15) the term ‘electronic storage’ means—

17 “(A) any temporary, intermediate storage
18 of a wire or electronic communication incidental
19 to the electronic transmission thereof; and

20 “(B) any storage of such communication
21 by an electronic communication service for pur-
22 poses of backup protection of such communica-
23 tion;

24 “(16) the term ‘aural transfer’ means a trans-
25 fer containing the human voice at any point between

1 and including the point of origin and the point of re-
2 ception;

3 “(17) the term ‘foreign intelligence informa-
4 tion’, for purposes of section 3119B(f), means—

5 “(A) information, whether or not con-
6 cerning a United States person, that relates to
7 the ability of the United States to protect
8 against—

9 “(i) actual or potential attack or other
10 grave hostile acts of a foreign power or an
11 agent of a foreign power;

12 “(ii) sabotage or international ter-
13 rorism by a foreign power or an agent of
14 a foreign power; or

15 “(iii) clandestine intelligence activities
16 by an intelligence service or network of a
17 foreign power or by an agent of a foreign
18 power; or

19 “(B) information, whether or not con-
20 cerning a United States person, with respect to
21 a foreign power or foreign territory that relates
22 to—

23 “(i) the national defense or the secu-
24 rity of the United States; or

1 “(ii) the conduct of the foreign affairs
2 of the United States;

3 “(18) the term ‘protected computer’ has the
4 meaning set forth in section 787; and

5 “(19) the term ‘computer trespasser’—

6 “(A) means a person who accesses a pro-
7 tected computer without authorization and thus
8 has no reasonable expectation of privacy in any
9 communication transmitted to, through, or from
10 the protected computer; and

11 “(B) does not include a person known by
12 the owner or operator of the protected computer
13 to have an existing contractual relationship with
14 the owner or operator of the protected computer
15 for access to all or part of the protected com-
16 puter.

17 **“§ 1492. Interception and disclosure of wire, oral, or**
18 **electronic communications prohibited**

19 “(a) OFFENSE.—Except as otherwise specifically pro-
20 vided in this subchapter whoever—

21 “(1) intentionally intercepts, endeavors to inter-
22 cept, or procures any other person to intercept or
23 endeavor to intercept, any wire, oral, or electronic
24 communication;

1 “(2) intentionally uses, endeavors to use, or
2 procures any other person to use or endeavor to use
3 any electronic, mechanical, or other device to inter-
4 cept any oral communication when—

5 “(A) such device is affixed to, or otherwise
6 transmits a signal through, a wire, cable, or
7 other like connection used in wire communica-
8 tion;

9 “(B) such device transmits communica-
10 tions by radio, or interferes with the trans-
11 mission of such communication;

12 “(C) such person knows, or has reason to
13 know, that such device or any component there-
14 of has been sent through the mail or trans-
15 ported in interstate or foreign commerce;

16 “(D) such use or endeavor to use (i) takes
17 place on the premises of any business or other
18 commercial establishment the operations of
19 which affect interstate or foreign commerce; or
20 (ii) obtains or is for the purpose of obtaining
21 information relating to the operations of any
22 business or other commercial establishment the
23 operations of which affect interstate or foreign
24 commerce; or

1 “(E) such person acts in the District of
2 Columbia, the Commonwealth of Puerto Rico,
3 or any territory or possession of the United
4 States;

5 “(3) intentionally discloses, or endeavors to dis-
6 close, to any other person the contents of any wire,
7 oral, or electronic communication, knowing or having
8 reason to know that the information was obtained
9 through the interception of a wire, oral, or electronic
10 communication in violation of this subsection;

11 “(4) intentionally uses, or endeavors to use, the
12 contents of any wire, oral, or electronic communica-
13 tion, knowing or having reason to know that the in-
14 formation was obtained through the interception of
15 a wire, oral, or electronic communication in violation
16 of this subsection; or

17 “(5) intentionally discloses, or endeavors to dis-
18 close, to any other person the contents of any wire,
19 oral, or electronic communication, intercepted by
20 means authorized by sections 1492(b)(1)(B),
21 1492(b)(2)–(3), 1492(b)(5), 3119A, and 3119C;

22 “(A) knowing or having reason to know that
23 the information was obtained through the intercep-
24 tion of such a communication in connection with a
25 criminal investigation;

1 “(B) having obtained or received the informa-
2 tion in connection with a criminal investigation; and

3 “(C) with intent to improperly obstruct, im-
4 pede, or interfere with a duly authorized criminal in-
5 vestigation,

6 shall be punished as provided in subsection (d) or shall
7 be subject to suit as provided in subsection (e).

8 “(b) EXCLUSIONS.—(1)(A) It shall not be unlawful
9 under this subchapter for an operator of a switchboard,
10 or an officer, employee, or agent of a provider of wire or
11 electronic communication service, whose facilities are used
12 in the transmission of a wire or electronic communication,
13 to intercept, disclose, or use that communication in the
14 normal course of his employment while engaged in any ac-
15 tivity which is a necessary incident to the rendition of his
16 service or to the protection of the rights or property of
17 the provider of that service, except that a provider of wire
18 communication service to the public shall not utilize serv-
19 ice observing or random monitoring except for mechanical
20 or service quality control checks.

21 “(B) Notwithstanding any other law, providers of
22 wire or electronic communication service, their officers,
23 employees, and agents, landlords, custodians, or other per-
24 sons, are authorized to provide information, facilities, or
25 technical assistance to persons authorized by law to inter-

1 cept wire, oral, or electronic communications or to conduct
2 electronic surveillance, as defined in section 101 of the
3 Foreign Intelligence Surveillance Act of 1978, if such pro-
4 vider, its officers, employees, or agents, landlord, custo-
5 dian, or other specified person, has been provided with—

6 “(i) a court order directing such assistance or
7 a court order pursuant to section 704 of the Foreign
8 Intelligence Surveillance Act of 1978 signed by the
9 authorizing judge, or

10 “(ii) a certification in writing by a person speci-
11 fied in section 3119C(g) or the Attorney General of
12 the United States that no warrant or court order is
13 required by law, that all statutory requirements have
14 been met, and that the specified assistance is re-
15 quired,

16 setting forth the period of time during which the provision
17 of the information, facilities, or technical assistance is au-
18 thorized and specifying the information, facilities, or tech-
19 nical assistance required. No provider of wire or electronic
20 communication service, officer, employee, or agent thereof,
21 or landlord, custodian, or other specified person shall dis-
22 close the existence of any interception or surveillance or
23 the device used to accomplish the interception or surveil-
24 lance with respect to which the person has been furnished
25 a court order or certification under this subchapter, except

1 as may otherwise be required by legal process and then
2 only after prior notification to the Attorney General or to
3 the principal prosecuting attorney of a State or any polit-
4 ical subdivision of a State, as may be appropriate. Any
5 such disclosure, shall render such person liable for the civil
6 damages provided for in section 3119E. No cause of action
7 shall lie in any court against any provider of wire or elec-
8 tronic communication service, its officers, employees, or
9 agents, landlord, custodian, or other specified person for
10 providing information, facilities, or assistance in accord-
11 ance with the terms of a court order, statutory authoriza-
12 tion, or certification under this subchapter.

13 “(C) If a certification under subparagraph (B)(ii) for
14 assistance to obtain foreign intelligence information is
15 based on statutory authority, the certification shall iden-
16 tify the specific statutory provision and shall certify that
17 the statutory requirements have been met.

18 “(2) It shall not be unlawful under this subchapter
19 for an officer, employee, or agent of the Federal Commu-
20 nications Commission, in the normal course of his employ-
21 ment and in discharge of the monitoring responsibilities
22 exercised by the Commission in the enforcement of chapter
23 5 of title 47 of the United States Code, to intercept a
24 wire or electronic communication, or oral communication

1 transmitted by radio, or to disclose or use the information
2 thereby obtained.

3 “(3) It shall not be unlawful under this subchapter
4 for a person acting under color of law to intercept a wire,
5 oral, or electronic communication, where such person is
6 a party to the communication or one of the parties to the
7 communication has given prior consent to such intercep-
8 tion.

9 “(4) It shall not be unlawful under this subchapter
10 for a person not acting under color of law to intercept
11 a wire, oral, or electronic communication where such per-
12 son is a party to the communication or where one of the
13 parties to the communication has given prior consent to
14 such interception unless such communication is inter-
15 cepted for the purpose of committing any criminal or
16 tortious act in violation of the Constitution or laws of the
17 United States or of any State.

18 “(5) Notwithstanding any other provision of this title
19 or section 705 or 706 of the Communications Act of 1934,
20 it shall not be unlawful for an officer, employee, or agent
21 of the United States in the normal course of his official
22 duty to conduct electronic surveillance, as defined in sec-
23 tion 101 of the Foreign Intelligence Surveillance Act of
24 1978, as authorized by that Act.

1 “(6) Nothing in this subchapter, subchapter C or
2 chapter 205B of this title, or section 705 of the Commu-
3 nications Act of 1934, affects the acquisition by the
4 United States Government of foreign intelligence informa-
5 tion from international or foreign communications, or for-
6 eign intelligence activities conducted in accordance with
7 otherwise applicable Federal law involving a foreign elec-
8 tronic communications system, utilizing a means other
9 than electronic surveillance as defined in section 101 of
10 the Foreign Intelligence Surveillance Act of 1978. The
11 procedures in this subchapter, subchapter C or chapter
12 205B of this title, or section 705 of the Communications
13 Act of 1934, and the Foreign Intelligence Surveillance Act
14 of 1978 shall be the exclusive means by which electronic
15 surveillance, as defined in section 101 of such Act, and
16 the interception of domestic wire, oral, and electronic com-
17 munications may be conducted.

18 “(7) It shall not be unlawful under this subchapter
19 or subchapter C for any person—

20 “(A) to intercept or access an electronic com-
21 munication made through an electronic communica-
22 tion system that is configured so that such electronic
23 communication is readily accessible to the general
24 public;

1 “(B) to intercept any radio communication
2 which is transmitted—

3 “(i) by any station for the use of the gen-
4 eral public, or that relates to ships, aircraft, ve-
5 hicles, or persons in distress;

6 “(ii) by any governmental, law enforce-
7 ment, civil defense, private land mobile, or pub-
8 lic safety communications system, including po-
9 lice and fire, readily accessible to the general
10 public;

11 “(iii) by a station operating on an author-
12 ized frequency within the bands allocated to the
13 amateur, citizens band, or general mobile radio
14 services; or

15 “(iv) by any marine or aeronautical com-
16 munications system;

17 “(C) to engage in any conduct which—

18 “(i) is prohibited by section 633 of the
19 Communications Act of 1934; or

20 “(ii) is excepted from the application of
21 section 705(a) of the Communications Act of
22 1934 by section 705(b) of that Act;

23 “(D) to intercept any wire or electronic commu-
24 nication the transmission of which is causing harm-
25 ful interference to any lawfully operating station or

1 consumer electronic equipment, to the extent nec-
2 essary to identify the source of such interference; or

3 “(E) for other users of the same frequency to
4 intercept any radio communication made through a
5 system that utilizes frequencies monitored by indi-
6 viduals engaged in the provision or the use of such
7 system, if such communication is not scrambled or
8 encrypted.

9 “(8) It shall not be unlawful under this subchapter—

10 “(A) to use a pen register or a trap and trace
11 device (as those terms are defined for the purposes
12 of chapter 206 (relating to pen registers and trap
13 and trace devices)); or

14 “(B) for a provider of electronic communication
15 service to record the fact that a wire or electronic
16 communication was initiated or completed in order
17 to protect such provider, another provider furnishing
18 service toward the completion of the wire or elec-
19 tronic communication, or a user of that service, from
20 fraudulent, unlawful or abusive use of such service.

21 “(9) It shall not be unlawful under this subchapter
22 for a person acting under color of law to intercept the wire
23 or electronic communications of a computer trespasser
24 transmitted to, through, or from the protected computer,
25 if—

1 “(A) the owner or operator of the protected
2 computer authorizes the interception of the com-
3 puter trespasser’s communications on the protected
4 computer;

5 “(B) the person acting under color of law is
6 lawfully engaged in an investigation;

7 “(C) the person acting under color of law has
8 reasonable grounds to believe that the contents of
9 the computer trespasser’s communications will be
10 relevant to the investigation; and

11 “(D) such interception does not acquire com-
12 munications other than those transmitted to or from
13 the computer trespasser.

14 “(c) CONTENTS IN TRANSMISSION.—(1) Except as
15 provided in paragraph (2) of this subsection, a person or
16 entity providing an electronic communication service to
17 the public shall not intentionally divulge the contents of
18 any communication (other than one to such person or enti-
19 ty, or an agent thereof) while in transmission on that serv-
20 ice to any person or entity other than an addressee or in-
21 tended recipient of such communication or an agent of
22 such addressee or intended recipient.

23 “(2) A person or entity providing electronic commu-
24 nication service to the public may divulge the contents of
25 any such communication—

1 “(A) as otherwise authorized in section
2 1492(b)(1) or 3119B;

3 “(B) with the lawful consent of the originator
4 or any addressee or intended recipient of such com-
5 munication;

6 “(C) to a person employed or authorized, or
7 whose facilities are used, to forward such commu-
8 nication to its destination; or

9 “(D) which were inadvertently obtained by the
10 service provider and which appear to pertain to the
11 commission of a crime, if such divulgence is made to
12 a law enforcement agency.

13 “(d) PUNISHMENT.—(1) Except as provided in para-
14 graph (2) of this subsection or in subsection (e), whoever
15 violates subsection (a) of this section shall be imprisoned
16 not more than five years.

17 “(2) Conduct otherwise an offense under this sub-
18 section that consists of or relates to the interception of
19 a satellite transmission that is not encrypted or scrambled
20 and that is transmitted—

21 “(A) to a broadcasting station for purposes of
22 retransmission to the general public; or

23 “(B) as an audio subcarrier intended for redis-
24 tribution to facilities open to the public, but not in-
25 cluding data transmissions or telephone calls,

1 is not an offense under this subsection unless the conduct
2 is for the purposes of direct or indirect commercial advan-
3 tage or private financial gain.

4 “(e) CERTAIN COMMUNICATIONS.—(1)(A) If the
5 communication is—

6 “(i) a private satellite video communication
7 that is not scrambled or encrypted and the con-
8 duct in violation of this subchapter is the pri-
9 vate viewing of that communication and is not
10 for a tortious or illegal purpose or for purposes
11 of direct or indirect commercial advantage or
12 private commercial gain; or

13 “(ii) a radio communication that is trans-
14 mitted on frequencies allocated under subpart
15 D of part 74 of the rules of the Federal Com-
16 munications Commission that is not scrambled
17 or encrypted and the conduct in violation of this
18 subchapter is not for a tortious or illegal pur-
19 pose or for purposes of direct or indirect com-
20 mercial advantage or private commercial gain,
21 then the person who engages in such conduct
22 shall be subject to suit by the Federal Govern-
23 ment in a court of competent jurisdiction.

24 “(B) In an action under this subsection—

1 “(i) if the violation of this subchapter
2 is a first offense for the person under
3 paragraph (1) of subsection (d) and such
4 person has not been found liable in a civil
5 action under section 3119E, the Federal
6 Government shall be entitled to appro-
7 priate injunctive relief; and

8 “(i) if the violation of this subchapter
9 is a second or subsequent offense under
10 paragraph (1) of subsection (d) or such
11 person has been found liable in any prior
12 civil action under section 3119E, the per-
13 son shall be subject to a mandatory \$500
14 civil fine.

15 “(2) The court may use any means within its
16 authority to enforce an injunction issued under
17 paragraph (1)(B)(i), and shall impose a civil fine of
18 not less than \$500 for each violation of such an in-
19 junction.

20 **“§ 1493. Manufacture, distribution, possession, and**
21 **advertising of wire, oral, or electronic**
22 **communication intercepting devices pro-**
23 **hibited**

24 “(a) OFFENSE.—Except as otherwise specifically pro-
25 vided in this subchapter, whoever intentionally—

1 “(1) sends through the mail, or sends or carries
2 in interstate or foreign commerce, any electronic,
3 mechanical, or other device, knowing or having rea-
4 son to know that the design of such device renders
5 it primarily useful for the purpose of the surrep-
6 titious interception of wire, oral, or electronic com-
7 munications;

8 “(2) manufactures, assembles, possesses, or
9 sells any electronic, mechanical, or other device,
10 knowing or having reason to know that the design
11 of such device renders it primarily useful for the
12 purpose of the surreptitious interception of wire,
13 oral, or electronic communications, and that such
14 device or any component thereof has been or will be
15 sent through the mail or transported in interstate or
16 foreign commerce; or

17 “(3) places in any newspaper, magazine, hand-
18 bill, or other publication or disseminates by elec-
19 tronic means any advertisement of—

20 “(A) any electronic, mechanical, or other
21 device knowing or having reason to know that
22 the design of such device renders it primarily
23 useful for the purpose of the surreptitious inter-
24 ception of wire, oral, or electronic communica-
25 tions; or

1 “(B) any other electronic, mechanical, or
2 other device, where such advertisement pro-
3 motes the use of such device for the purpose of
4 the surreptitious interception of wire, oral, or
5 electronic communications,
6 knowing the content of the advertisement and know-
7 ing or having reason to know that such advertise-
8 ment will be sent through the mail or transported in
9 interstate or foreign commerce,
10 shall be imprisoned for not more than five years.

11 “(b) EXCLUSION.—It shall not be unlawful under this
12 section for—

13 “(1) a provider of wire or electronic commu-
14 nication service or an officer, agent, or employee of,
15 or a person under contract with, such a provider, in
16 the normal course of the business of providing that
17 wire or electronic communication service, or

18 “(2) an officer, agent, or employee of, or a per-
19 son under contract with, the United States, a State,
20 or a political subdivision thereof, in the normal
21 course of the activities of the United States, a State,
22 or a political subdivision thereof,

23 to send through the mail, send or carry in interstate or
24 foreign commerce, or manufacture, assemble, possess, or
25 sell any electronic, mechanical, or other device knowing

1 or having reason to know that the design of such device
2 renders it primarily useful for the purpose of the surrep-
3 titious interception of wire, oral, or electronic communica-
4 tions.

5 “(c) **ADDITIONAL EXCLUSION.**—It shall not be un-
6 lawful under this section to advertise for sale a device de-
7 scribed in subsection (a) of this section if the advertise-
8 ment is mailed, sent, or carried in interstate or foreign
9 commerce solely to a domestic provider of wire or elec-
10 tronic communication service or to an agency of the
11 United States, a State, or a political subdivision thereof
12 which is duly authorized to use such device.

13 **“§ 1494. Confiscation of wire, oral, or electronic com-
14 munication intercepting devices**

15 “Any electronic, mechanical, or other device used,
16 sent, carried, manufactured, assembled, possessed, sold, or
17 advertised in violation of section 1492 or section 1493
18 may be seized and forfeited to the United States. All provi-
19 sions of law relating to (1) the seizure, summary and judi-
20 cial forfeiture, and condemnation of vessels, vehicles, mer-
21 chandise, and baggage for violations of the customs laws
22 contained in title 19 of the United States Code, (2) the
23 disposition of such vessels, vehicles, merchandise, and bag-
24 gage or the proceeds from the sale thereof, (3) the remis-
25 sion or mitigation of such forfeiture, (4) the compromise

1 of claims, and (5) the award of compensation to informers
2 in respect of such forfeitures, apply to seizures and forfeit-
3 ures incurred, or alleged to have been incurred, under this
4 section, insofar as applicable and not inconsistent with
5 this section; except that such duties as are imposed upon
6 the collector of customs or any other person with respect
7 to the seizure and forfeiture of vessels, vehicles, merchan-
8 dise, and baggage under the customs laws contained in
9 title 19 of the United States Code shall be performed with
10 respect to seizure and forfeiture of electronic, mechanical,
11 or other intercepting devices under this section by such
12 officers, agents, or other persons as may be authorized or
13 designated for that purpose by the Attorney General.

14 “SUBCHAPTER C—STORED WIRE AND ELEC-
15 TRONIC COMMUNICATIONS AND TRANS-
16 ACTIONAL RECORDS ACCESS

“Sec.

“1521. Unlawful access to stored communications.

17 **“§ 1521. Unlawful access to stored communications**

18 “(a) OFFENSE.—Except as provided in subsection (c)
19 of this section whoever—

20 “(1) intentionally accesses without authoriza-
21 tion a facility through which an electronic commu-
22 nication service is provided; or

23 “(2) intentionally exceeds an authorization to
24 access that facility;

1 and thereby obtains, alters, or prevents authorized access
2 to a wire or electronic communication while it is in elec-
3 tronic storage in such system shall be punished as pro-
4 vided in subsection (b) of this section.

5 “(b) PUNISHMENT.—The punishment for an offense
6 under subsection (a) of this section is—

7 “(1) if the offense is committed for purposes of
8 commercial advantage, malicious destruction or dam-
9 age, or private commercial gain, or in furtherance of
10 any criminal or tortious act in violation of the Con-
11 stitution or laws of the United States or any State—

12 “(A) a fine under this title or imprison-
13 ment for not more than 5 years, or both, in the
14 case of a first offense under this subparagraph;
15 and

16 “(B) a fine under this title or imprison-
17 ment for not more than 10 years, or both, for
18 any subsequent offense under this subpara-
19 graph; and

20 “(2) in any other case—

21 “(A) a fine under this title or imprison-
22 ment for not more than 1 year or both, in the
23 case of a first offense under this paragraph;
24 and

1 “(B) a fine under this title or imprison-
 2 ment for not more than 5 years, or both, in the
 3 case of an offense under this subparagraph that
 4 occurs after a conviction of another offense
 5 under this section.

6 “(c) EXCEPTIONS.—Subsection (a) of this section
 7 does not apply with respect to conduct authorized—

8 “(1) by the person or entity providing a wire or
 9 electronic communications service;

10 “(2) by a user of that service with respect to
 11 a communication of or intended for that user; or

12 “(3) in section 3120A, 3120B, or 3119C.

13 **“§ 1522. Definitions**

14 “A term that is defined by chapter 205B has the
 15 same meaning when used in this subchapter.

16 **“SUBCHAPTER D—PROHIBITION ON RELEASE**
 17 **AND USE OF CERTAIN PERSONAL INFOR-**
 18 **MATION FROM STATE MOTOR VEHICLE**
 19 **RECORDS**

“Sec.

“1541. Prohibition on release and use of certain personal information from
 State motor vehicle records.

“1542. Additional unlawful Acts.

“1543. Penalties.

“1544. Civil action.

“1545. Definitions.

1 **“§ 1541. Prohibition on release and use of certain per-**
2 **sonal information from State motor vehi-**
3 **cle records**

4 “(a) IN GENERAL.—A State department of motor ve-
5 hicles, and any officer, employee, or contractor thereof,
6 shall not knowingly disclose or otherwise make available
7 to any person or entity—

8 “(1) personal information about any individual
9 obtained by the department in connection with a
10 motor vehicle record, except as provided in sub-
11 section (b) of this section; or

12 “(2) highly restricted personal information
13 about any individual obtained by the department in
14 connection with a motor vehicle record, without the
15 express consent of the person to whom such infor-
16 mation applies, except uses permitted in subsections
17 (b)(1), (b)(4), (b)(6), and (b)(9), but this paragraph
18 does not in any way affect the use of organ donation
19 information on an individual’s driver’s license or af-
20 fect the administration of organ donation initiatives
21 in the States.

22 “(b) PERMISSIBLE USES.—Personal information re-
23 ferred to in subsection (a) shall be disclosed for use in
24 connection with matters of motor vehicle or driver safety
25 and theft, motor vehicle emissions, motor vehicle product
26 alterations, recalls, or advisories, performance monitoring

1 of motor vehicles and dealers by motor vehicle manufac-
2 turers, and removal of non-owner records from the original
3 owner records of motor vehicle manufacturers to carry out
4 the purposes of titles I and IV of the Anti Car Theft Act
5 of 1992, the Automobile Information Disclosure Act, the
6 Clean Air Act, and chapters 301, 305, and 321–331 of
7 title 49, and, subject to subsection (a)(2), may be disclosed
8 as follows:

9 “(1) For use by any government agency, includ-
10 ing any court or law enforcement agency, in carrying
11 out its functions, or any private person or entity act-
12 ing on behalf of a Federal, State, or local agency in
13 carrying out its functions.

14 “(2) For use in connection with matters of
15 motor vehicle or driver safety and theft; motor vehi-
16 cle emissions; motor vehicle product alterations, re-
17 calls, or advisories; performance monitoring of motor
18 vehicles, motor vehicle parts and dealers; motor vehi-
19 cle market research activities, including survey re-
20 search; and removal of non-owner records from the
21 original owner records of motor vehicle manufactur-
22 ers.

23 “(3) For use in the normal course of business
24 by a legitimate business or its agents, employees, or
25 contractors, but only—

1 “(A) to verify the accuracy of personal in-
2 formation submitted by the individual to the
3 business or its agents, employees, or contrac-
4 tors; and

5 “(B) if such information as so submitted is
6 not correct or is no longer correct, to obtain the
7 correct information, but only for the purposes
8 of preventing fraud by, pursuing legal remedies
9 against, or recovering on a debt or security in-
10 terest against, the individual.

11 “(4) For use in connection with any civil, crimi-
12 nal, administrative, or arbitral proceeding in any
13 Federal, State, or local court or agency or before
14 any self-regulatory body, including the service of
15 process, investigation in anticipation of litigation,
16 and the execution or enforcement of judgments and
17 orders, or pursuant to an order of a Federal, State,
18 or local court.

19 “(5) For use in research activities, and for use
20 in producing statistical reports, so long as the per-
21 sonal information is not published, redisclosed, or
22 used to contact individuals.

23 “(6) For use by any insurer or insurance sup-
24 port organization, or by a self-insured entity, or its
25 agents, employees, or contractors, in connection with

1 claims investigation activities, antifraud activities,
2 rating or underwriting.

3 “(7) For use in providing notice to the owners
4 of towed or impounded vehicles.

5 “(8) For use by any licensed private investiga-
6 tive agency or licensed security service for any pur-
7 pose permitted under this subsection.

8 “(9) For use by an employer or its agent or in-
9 surer to obtain or verify information relating to a
10 holder of a commercial driver’s license that is re-
11 quired under chapter 313 of title 49.

12 “(10) For use in connection with the operation
13 of private toll transportation facilities.

14 “(11) For any other use in response to requests
15 for individual motor vehicle records if the State has
16 obtained the express consent of the person to whom
17 such personal information pertains.

18 “(12) For bulk distribution for surveys, mar-
19 keting or solicitations if the State has obtained the
20 express consent of the person to whom such personal
21 information pertains.

22 “(13) For use by any requester, if the requester
23 demonstrates it has obtained the written consent of
24 the individual to whom the information pertains.

1 “(14) For any other use specifically authorized
2 under the law of the State that holds the record, if
3 such use is related to the operation of a motor vehi-
4 cle or public safety.

5 “(c) RESALE OR REDISCLOSURE.—An authorized re-
6 cipient of personal information (except a recipient under
7 subsection (b)(11) or (12)) may resell or redisclose the in-
8 formation only for a use permitted under subsection (b)
9 (but not for uses under subsection (b)(11) or (12)). An
10 authorized recipient under subsection (b)(11) may resell
11 or redisclose personal information for any purpose. An au-
12 thorized recipient under subsection (b)(12) may resell or
13 redisclose personal information pursuant to subsection
14 (b)(12). Any authorized recipient (except a recipient under
15 subsection (b)(11)) that resells or rediscloses personal in-
16 formation covered by this chapter must keep for a period
17 of 5 years records identifying each person or entity that
18 receives information and the permitted purpose for which
19 the information will be used and must make such records
20 available to the motor vehicle department upon request.

21 “(d) WAIVER PROCEDURES.—A State motor vehicle
22 department may establish and carry out procedures under
23 which the department or its agents, upon receiving a re-
24 quest for personal information that does not fall within
25 one of the exceptions in subsection (b), may mail a copy

1 of the request to the individual about whom the informa-
2 tion was requested, informing such individual of the re-
3 quest, together with a statement to the effect that the in-
4 formation will not be released unless the individual waives
5 such individual's right to privacy under this section.

6 “(e) PROHIBITION ON CONDITIONS.—No State may
7 condition or burden in any way the issuance of an individ-
8 ual's motor vehicle record to obtain express consent. Noth-
9 ing in this paragraph shall be construed to prohibit a
10 State from charging an administrative fee for issuance of
11 a motor vehicle record.

12 **“§ 1542. Additional unlawful Acts**

13 “(a) PROCUREMENT FOR UNLAWFUL PURPOSE.—It
14 shall be unlawful for any person knowingly to obtain or
15 disclose personal information, from a motor vehicle record,
16 for any use not permitted under section 1541(b).

17 “(b) FALSE REPRESENTATION.—It shall be unlawful
18 for any person to make false representation to obtain any
19 personal information from an individual's motor vehicle
20 record.

21 **“§ 1543. Penalties**

22 “(a) CRIMINAL FINE.—Whoever knowingly violates
23 this subchapter shall be fined under this title.

24 “(b) VIOLATIONS BY STATE DEPARTMENT OF
25 MOTOR VEHICLES.—Any State department of motor vehi-

1 cles that has a policy or practice of substantial noncompli-
2 ance with this chapter shall be subject to a civil penalty
3 imposed by the Attorney General of not more than \$5,000
4 a day for each day of substantial noncompliance.

5 **“§ 1544. Civil action**

6 “(a) CAUSE OF ACTION.—A person who knowingly
7 obtains, discloses or uses personal information, from a
8 motor vehicle record, for a purpose not permitted under
9 this chapter shall be liable to the individual to whom the
10 information pertains, who may bring a civil action in a
11 United States district court.

12 “(b) REMEDIES.—The court may award—

13 “(1) actual damages, but not less than liq-
14 uidated damages in the amount of \$2,500;

15 “(2) punitive damages upon proof of willful or
16 reckless disregard of the law;

17 “(3) reasonable attorneys’ fees and other litiga-
18 tion costs reasonably incurred; and

19 “(4) such other preliminary and equitable relief
20 as the court determines to be appropriate.

21 **“§ 1545. Definitions**

22 “As used in this subchapter—

23 “(1) the term ‘motor vehicle record’ means any
24 record that pertains to a motor vehicle operator’s
25 permit, motor vehicle title, motor vehicle registra-

1 tion, or identification card issued by a department of
2 motor vehicles;

3 “(2) the term ‘personal information’ means in-
4 formation that identifies an individual, including an
5 individual’s photograph, social security number, driv-
6 er identification number, name, address (but not the
7 5-digit zip code), telephone number, and medical or
8 disability information, but does not include informa-
9 tion on vehicular accidents, driving violations, and
10 driver’s status;

11 “(3) the term ‘highly restricted personal infor-
12 mation’ means an individual’s photograph or image,
13 social security number, medical or disability infor-
14 mation; and

15 “(4) the term ‘express consent’ means consent
16 in writing, including consent conveyed electronically
17 that bears an electronic signature as defined in sec-
18 tion 106(5) of Public Law 106–229.

19 “SUBCHAPTER E—IDENTITY THEFT

“Sec.

“1551. Obtaining information under false pretenses.

“1552. Unauthorized disclosures by officers or employees.

“1553. Definitions for subchapter.

20 “§ 1551. **Obtaining information under false pretenses**

21 “Whoever knowingly obtains information on a con-
22 sumer from a consumer reporting agency under false pre-
23 tenses shall be imprisoned for not more than 2 years.

1 **“§ 1552. Unauthorized disclosures by officers or em-**
2 **ployees**

3 “Any officer or employee of a consumer reporting
4 agency who knowingly provides information concerning an
5 individual from the agency’s files to a person not author-
6 ized to receive that information shall be imprisoned for
7 not more than 2 years.

8 **“§ 1553. Definitions for subchapter**

9 “A term defined in the Fair Credit Reporting Act
10 shall have the same meaning when used in this sub-
11 chapter.

12 **“CHAPTER 50—FORFEITURE**

“Subchapter

“A. Property subject to forfeiture

“B. Civil forfeiture

“C. Criminal forfeiture

13 **“SUBCHAPTER A—PROPERTY SUBJECT TO**
14 **FORFEITURE**

“Sec.

“2501. Forfeitable property.

15 **“§ 2501. Forfeitable property**

16 “As used in this chapter—

17 “(1) the term ‘forfeitable property’—

18 “(A) means any property, real or personal, tan-
19 gible or intangible, that is—

20 “(i) used or intended to be used to commit
21 or facilitate the offense;

1 “(ii) constituting, derived from, or trace-
2 able to proceeds of the offense; or

3 “(iii) substitute assets for property de-
4 scribed in subparagraph (A) or (B); and

5 “(B) in the case of a Federal crime of terrorism
6 (as defined in section 273(g)(3)), includes all assets,
7 foreign and domestic—

8 “(i) of any individual, entity, or organiza-
9 tion engaged in planning or perpetrating the
10 act, and all assets, foreign or domestic, afford-
11 ing any person a source of influence over any
12 such entity or organization;

13 “(ii) acquired or maintained by any person
14 with the intent and for the purpose of sup-
15 porting, planning, conducting, or concealing the
16 act; or

17 “(iii) derived from, involved in, or used or
18 intended to be used to commit the act; and

19 “(2) the term ‘proceeds’ means all property ob-
20 tained directly or indirectly from the offense.

21 “SUBCHAPTER B—CIVIL FORFEITURE

“Sec.

“2551. Offenses giving rise to civil forfeiture.

“2552. Procedure generally.

“2553. General rules for civil forfeiture proceedings.

“2554. Civil forfeiture of fungible property.

“2555. Civil forfeiture of real property.

“2556. Subpoenas for bank records.

“2557. Anti-terrorist forfeiture protection.

1 **“§ 2551. Offenses giving rise to civil forfeiture**

2 “(a) CRIMINALLY RELATED PROPERTY SUBJECT TO
3 FORFEITURE.—All right, title, and interest in forfeitable
4 property relating to an offense described in subsection (b)
5 shall vest in the United States upon commission of that
6 offense.

7 “(b) OFFENSES GIVING RISE TO CIVIL FOR-
8 FEITURE.—The following offenses give rise to civil for-
9 feiture under this section:

10 “(1) A violation of section 508, 1451, or 1452.

11 “(2) An offense against a foreign nation, or any
12 property used to facilitate such an offense, if the of-
13 fense—

14 “(A) involves trafficking in nuclear, chem-
15 ical, biological, or radiological weapons tech-
16 nology or material, or the manufacture, impor-
17 tation, sale, or distribution of a controlled sub-
18 stance, or any other conduct described in sec-
19 tion 1451(e)(7)(B);

20 “(B) would be punishable within the juris-
21 diction of the foreign nation by death or impris-
22 onment for a term exceeding one year; and

23 “(C) would be punishable under the laws
24 of the United States by imprisonment for a
25 term exceeding one year, if the conduct consti-

1 tuting the offense had occurred within the juris-
2 diction of the United States.

3 “(3) A violation of section 512, 612, 614, 644,
4 645, 692-695, 697-702, 712, 716, 773–775, 779,
5 783, 786, 787, 789, 804, 862, 863, or 1003 or any
6 offense constituting ‘specified unlawful activity’ (as
7 defined in section 1451(c)(7)).

8 “(4) A violation of—

9 “(A) section 653(a)(1) (relating to theft or
10 concerning programs receiving Federal funds);

11 “(B) section 772 (relating to fraud and
12 false statements);

13 “(C) section 788 (relating to major fraud
14 against the United States);

15 “(D) section 789 (relating to concealment
16 of assets from conservator or receiver of insured
17 financial institution);

18 “(E) section 801 (relating to mail fraud);

19 or

20 “(F) section 803 (relating to wire fraud),
21 if such violation relates to the sale of assets acquired
22 or held by the Federal Deposit Insurance Corpora-
23 tion, as conservator or receiver for a financial insti-
24 tution, or any other conservator for a financial insti-
25 tution appointed by the Office of the Comptroller of

1 the Currency or the National Credit Union Adminis-
2 tration, as conservator or liquidating agent for a fi-
3 nancial institution.

4 “(5) A violation of—

5 “(A) section 717 (relating to altering or
6 removing motor vehicle identification numbers);

7 “(B) section 866 (relating to importing or
8 exporting stolen motor vehicles);

9 “(C) section 671 (relating to transporting
10 stolen motor vehicles in interstate commerce);

11 or

12 “(D) section 672 (relating to possessing or
13 selling a stolen motor vehicle that has moved in
14 interstate commerce).

15 “(6) A Federal crime of terrorism (as defined
16 in section 273(g)(3)).

17 “(7) Any act of international terrorism (as de-
18 fined in section 283) against the United States, citi-
19 zens or residents of the United States, or their prop-
20 erty, against any international organization as de-
21 fined in the State Department Basic Authorities Act
22 of 1956, or against any foreign government.

23 “(8) A violation of section 280.

24 “(9) A violation of chapter 17.

1 “(10) A violation of subchapter D or F of chap-
2 ter 35.

3 “(11) A violation of section 221, 222, 223, or
4 224, or subchapter B of chapter 13.

5 “(12) A violation of section 318, 505, 951, or
6 1454.

7 “(13) A violation of section 675, 676, 677, 678,
8 679, 680, or subchapter C of chapter 35.

9 “(c) APPLICATION TO OTHER CIVIL FORFEIT-
10 URES.—Unless otherwise specified, whenever a law of the
11 United States provides for civil forfeiture, this subchapter
12 applies to that forfeiture.

13 **“§ 2552. Procedure generally**

14 “(a) SEIZURE AND PRELIMINARY MATTERS.—

15 “(1) Except as provided in section 2555, any
16 property subject to forfeiture to the United States
17 under section 2551 may be seized by the Attorney
18 General and, in the case of property involved in a
19 violation investigated by the Secretary of the Treas-
20 ury or the United States Postal Service, the prop-
21 erty may also be seized by the Secretary of the
22 Treasury or the Postal Service, respectively.

23 “(2) Seizures under this section shall be made
24 pursuant to a warrant obtained in the same manner
25 as provided for a search warrant under the Federal

1 Rules of Criminal Procedure, except that a seizure
2 may be made without a warrant if—

3 “(A) a complaint for forfeiture has been filed in
4 the United States district court and the court issued
5 an arrest warrant in rem pursuant to the Supple-
6 mental Rules for Certain Admiralty and Maritime
7 Claims;

8 “(B) there is probable cause to believe that the
9 property is subject to forfeiture and—

10 “(i) the seizure is made pursuant to a law-
11 ful arrest or search; or

12 “(ii) another exception to the Fourth
13 Amendment warrant requirement would apply;
14 or

15 “(C) the property was lawfully seized by a State
16 or local law enforcement agency and transferred to
17 a Federal agency.

18 “(3) Notwithstanding rule 41(a) of the Federal
19 Rules of Criminal Procedure, a seizure warrant may
20 be issued pursuant to this subsection by a judicial
21 officer in any district in which a forfeiture action
22 against the property may be filed under section
23 1355(b) of title 28, and may be executed in any dis-
24 trict in which the property is found, or transmitted
25 to the central authority of any foreign state for serv-

1 ice in accordance with any treaty or other inter-
2 national agreement. Any motion for the return of
3 property seized under this section shall be filed in
4 the district court in which the seizure warrant was
5 issued or in the district court for the district in
6 which the property was seized.

7 “(4)(A) If any person is arrested or charged in
8 a foreign country in connection with an offense that
9 would give rise to the forfeiture of property in the
10 United States under this section, the Attorney Gen-
11 eral may apply to any Federal judge or magistrate
12 judge in the district in which the property is located
13 for an ex parte order restraining the property sub-
14 ject to forfeiture for not more than 30 days, except
15 that the time may be extended for good cause shown
16 at a hearing conducted in the manner provided in
17 rule 43(e) of the Federal Rules of Civil Procedure.

18 “(B) The application for the restraining order
19 shall set forth the nature and circumstances of the
20 foreign charges and the basis for belief that the per-
21 son arrested or charged has property in the United
22 States that would be subject to forfeiture, and shall
23 contain a statement that the restraining order is
24 needed to preserve the availability of property for
25 such time as is necessary to receive evidence from

1 the foreign country or elsewhere in support of prob-
2 able cause for the seizure of the property under this
3 subsection.

4 “(b) SECURING OF PROPERTY.—Property taken or
5 detained under this section shall not be repleviable, but
6 shall be deemed to be in the custody of the Attorney Gen-
7 eral, the Secretary of the Treasury, or the Postal Service,
8 as the case may be, subject only to the orders and decrees
9 of the court or the official having jurisdiction thereof.
10 Whenever property is seized under this subsection, the At-
11 torney General, the Secretary of the Treasury, or the
12 Postal Service, as the case may be, may—

13 “(1) place the property under seal;

14 “(2) remove the property to a place designated
15 by him; or

16 “(3) require that the General Services Adminis-
17 tration take custody of the property and remove it,
18 if practicable, to an appropriate location for disposi-
19 tion in accordance with law.

20 “(c) APPLICATION OF CUSTOMS LAWS.—For pur-
21 poses of this section, sections 602 through 619 of the Tar-
22 iff Act of 1930, insofar as they are applicable and not
23 inconsistent with this section, apply to seizures and for-
24 feitures incurred, or alleged to have been incurred, under
25 this section, except that such duties as are imposed upon

1 the customs officer or any other person with respect to
2 the seizure and forfeiture of property under the customs
3 laws shall be performed with respect to seizures and for-
4 feitures of property under this section by such officers,
5 agents, or other persons as may be authorized or des-
6 ignated for that purpose by the Attorney General, the Sec-
7 retary of the Treasury, or the Postal Service, as the case
8 may be. The Attorney General shall have sole responsi-
9 bility for disposing of petitions for remission or mitigation
10 with respect to property involved in a judicial forfeiture
11 proceeding.

12 “(d) RETENTION OR TRANSFER OF FORFEITED
13 PROPERTY.—Notwithstanding any other provision of the
14 law, except section 3 of the Anti Drug Abuse Act of 1986,
15 the Attorney General, the Secretary of the Treasury, or
16 the Postal Service, as the case may be, is authorized to
17 retain property forfeited pursuant to this section, or to
18 transfer such property on such terms and conditions as
19 the Attorney General may determine—

20 “(1) to any other Federal agency;

21 “(2) to any State or local law enforcement
22 agency which participated directly in any of the acts
23 which led to the seizure or forfeiture of the property;

1 “(3) in the case of property referred to in sec-
2 tion 2551(b)(1), to any Federal financial institution
3 regulatory agency—

4 “(A) to reimburse the agency for payments
5 to claimants or creditors of the institution; and

6 “(B) to reimburse the insurance fund of
7 the agency for losses suffered by the fund as a
8 result of the receivership or liquidation;

9 “(4) in the case of property referred to in sec-
10 tion 2551(b)(1), upon the order of the appropriate
11 Federal financial institution regulatory agency, to
12 the financial institution as restitution, with the value
13 of the property so transferred to be set off against
14 any amount later recovered by the financial institu-
15 tion as compensatory damages in any State or Fed-
16 eral proceeding;

17 “(5) in the case of property referred to in sec-
18 tion 2551(b)(1), to any Federal financial institution
19 regulatory agency, to the extent of the agency’s con-
20 tribution of resources to, or expenses involved in, the
21 seizure and forfeiture, and the investigation leading
22 directly to the seizure and forfeiture, of such prop-
23 erty;

24 “(6) as restoration to any victim of the offense
25 giving rise to the forfeiture, including, in the case of

1 a money laundering offense, any offense constituting
2 the underlying specified unlawful activity; or

3 “(7) in the case of property referred to in sec-
4 tion 2551(b)(3), to the Federal Deposit Insurance
5 Corporation or any other Federal financial institu-
6 tion regulatory agency (as defined in section
7 8(e)(7)(D) of the Federal Deposit Insurance Act).

8 The Attorney General, the Secretary of the Treasury, or
9 the Postal Service, as the case may be, shall ensure the
10 equitable transfer pursuant to paragraph (2) of any for-
11 feited property to the appropriate State or local law en-
12 forcement agency so as to reflect generally the contribu-
13 tion of any such agency participating directly in any of
14 the acts which led to the seizure or forfeiture of such prop-
15 erty. A decision by the Attorney General, the Secretary
16 of the Treasury, or the Postal Service pursuant to para-
17 graph (2) shall not be subject to review. The United States
18 shall not be liable in any action arising out of the use of
19 any property the custody of which was transferred pursu-
20 ant to this section to any non-Federal agency. The Attor-
21 ney General, the Secretary of the Treasury, or the Postal
22 Service may order the discontinuance of any forfeiture
23 proceedings under this section in favor of the institution
24 of forfeiture proceedings by State or local authorities
25 under an appropriate State or local statute. After the fil-

1 ing of a complaint for forfeiture under this section, the
2 Attorney General may seek dismissal of the complaint in
3 favor of forfeiture proceedings under State or local law.
4 Whenever forfeiture proceedings are discontinued by the
5 United States in favor of State or local proceedings, the
6 United States may transfer custody and possession of the
7 seized property to the appropriate State or local official
8 immediately upon the initiation of the proper actions by
9 such officials. Whenever forfeiture proceedings are discon-
10 tinued by the United States in favor of State or local pro-
11 ceedings, notice shall be sent to all known interested par-
12 ties advising them of the discontinuance or dismissal. The
13 United States shall not be liable in any action arising out
14 of the seizure, detention, and transfer of seized property
15 to State or local officials. The United States shall not be
16 liable in any action arising out of a transfer under para-
17 graph (3), (4), or (5) of this subsection.

18 “(e) STAYS.—

19 “(1) Upon the motion of the United States, the
20 court shall stay the civil forfeiture proceeding if the
21 court determines that civil discovery will adversely
22 affect the ability of the Government to conduct a re-
23 lated criminal investigation or the prosecution of a
24 related criminal case.

1 “(2) Upon the motion of a claimant, the court
2 shall stay the civil forfeiture proceeding with respect
3 to that claimant if the court determines that—

4 “(A) the claimant is the subject of a re-
5 lated criminal investigation or case;

6 “(B) the claimant has standing to assert a
7 claim in the civil forfeiture proceeding; and

8 “(C) continuation of the forfeiture pro-
9 ceeding will burden the right of the claimant
10 against self-incrimination in the related inves-
11 tigation or case.

12 “(3) With respect to the impact of civil dis-
13 covery described in paragraphs (1) and (2), the
14 court may determine that a stay is unnecessary if a
15 protective order limiting discovery would protect the
16 interest of one party without unfairly limiting the
17 ability of the opposing party to pursue the civil case.
18 In no case, however, shall the court impose a protec-
19 tive order as an alternative to a stay if the effect of
20 such protective order would be to allow one party to
21 pursue discovery while the other party is substan-
22 tially unable to do so.

23 “(4) In this subsection, the terms ‘related
24 criminal case’ and ‘related criminal investigation’
25 mean an actual prosecution or investigation in

1 progress at the time at which the request for the
2 stay, or any subsequent motion to lift the stay is
3 made. In determining whether a criminal case or in-
4 vestigation is ‘related’ to a civil forfeiture pro-
5 ceeding, the court shall consider the degree of simi-
6 larity between the parties, witnesses, facts, and cir-
7 cumstances involved in the two proceedings, without
8 requiring an identity with respect to any one or
9 more factors.

10 “(5) In requesting a stay under paragraph (1),
11 the Government may, in appropriate cases, submit
12 evidence ex parte in order to avoid disclosing any
13 matter that may adversely affect an ongoing crimi-
14 nal investigation or pending criminal trial.

15 “(6) Whenever a civil forfeiture proceeding is
16 stayed pursuant to this subsection, the court shall
17 enter any order necessary to preserve the value of
18 the property or to protect the rights of lienholders
19 or other persons with an interest in the property
20 while the stay is in effect.

21 “(7) A determination by the court that the
22 claimant has standing to request a stay pursuant to
23 paragraph (2) applies only to this subsection and
24 does not preclude the Government from objecting to

1 the standing of the claimant by dispositive motion or
2 at the time of trial.

3 “(f) VENUE.—In addition to the venue provided for
4 in section 1395 of title 28 or any other provision of law,
5 in the case of property of a defendant charged with a viola-
6 tion that is the basis for forfeiture of the property under
7 this section, a proceeding for forfeiture under this section
8 may be brought in the judicial district in which the defend-
9 ant owning such property is found or in the judicial dis-
10 trict in which the criminal prosecution is brought.

11 “(g) DISPOSITION.—

12 “(1) Whenever property is forfeited under this
13 subchapter, the Attorney General or the Secretary of
14 the Treasury, as the case may be, may transfer the
15 forfeited personal property or the proceeds of the
16 sale of any forfeited personal or real property to any
17 foreign country which participated directly or indi-
18 rectly in the seizure or forfeiture of the property, if
19 such a transfer—

20 “(A) has been agreed to by the Secretary
21 of State;

22 “(B) is authorized in an international
23 agreement between the United States and the
24 foreign country; and

1 “(C) is made to a country which, if appli-
2 cable, has been certified under section
3 490(a)(1) of the Foreign Assistance Act of
4 1961.

5 A decision by the Attorney General or the Secretary
6 of the Treasury pursuant to this paragraph shall not
7 be subject to review. The foreign country shall, in
8 the event of a transfer of property or proceeds of
9 sale of property under this subsection, bear all ex-
10 penses incurred by the United States in the seizure,
11 maintenance, inventory, storage, forfeiture, and dis-
12 position of the property, and all transfer costs. The
13 payment of all such expenses, and the transfer of as-
14 sets pursuant to this paragraph, shall be upon such
15 terms and conditions as the Attorney General or the
16 Secretary of the Treasury may, in his discretion, set.

17 “(2) This section does not limit or supersede
18 any other authority of the United States to provide
19 assistance to a foreign country in obtaining property
20 related to a crime committed in the foreign country,
21 including property which is sought as evidence of a
22 crime committed in the foreign country.

23 “(3) A certified order or judgment of forfeiture
24 by a court of competent jurisdiction of a foreign
25 country concerning property which is the subject of

1 forfeiture under this section and was determined by
2 such court to be the type of property described in
3 section 2551(b)(2), and any certified recordings or
4 transcripts of testimony taken in a foreign judicial
5 proceeding concerning such order or judgment of
6 forfeiture, shall be admissible in evidence in a pro-
7 ceeding brought pursuant to this section. Such cer-
8 tified order or judgment of forfeiture, when admitted
9 into evidence, shall constitute probable cause that
10 the property forfeited by such order or judgment of
11 forfeiture is subject to forfeiture under this section
12 and creates a rebuttable presumption of the forfeit-
13 ability of such property under this section.

14 “(4) A certified order or judgment of conviction
15 by a court of competent jurisdiction of a foreign
16 country concerning an unlawful drug activity which
17 gives rise to forfeiture under this section and any
18 certified recordings or transcripts of testimony taken
19 in a foreign judicial proceeding concerning such
20 order or judgment of conviction shall be admissible
21 in evidence in a proceeding brought pursuant to this
22 section. Such certified order or judgment of convic-
23 tion, when admitted into evidence, creates a rebutta-
24 ble presumption that the unlawful drug activity giv-
25 ing rise to forfeiture under this section has occurred.

1 “(5) Paragraphs (3) and (4) do not limit the
2 admissibility of any evidence otherwise admissible, or
3 the ability of the United States to establish probable
4 cause that property is subject to forfeiture by any
5 evidence otherwise admissible.

6 “(h) DEFINITIONS.—As used in this section—

7 “(1) the term ‘Attorney General’ means the At-
8 torney General or his delegate; and

9 “(2) the term ‘Secretary of the Treasury’
10 means the Secretary of the Treasury or his delegate.

11 “(i) INTERBANK ACCOUNTS.—

12 “(1) IN GENERAL.—

13 “(A) IN GENERAL.—For the purpose of a
14 forfeiture under this section, if funds are depos-
15 ited into an account at a foreign financial insti-
16 tution, and that foreign financial institution has
17 an interbank account in the United States with
18 a covered financial institution (as defined in
19 section 5318(j)(1) of title 31), the funds shall
20 be deemed to have been deposited into the
21 interbank account in the United States, and
22 any restraining order, seizure warrant, or arrest
23 warrant in rem regarding the funds may be
24 served on the covered financial institution, and
25 funds in the interbank account, up to the value

1 of the funds deposited into the account at the
2 foreign financial institution, may be restrained,
3 seized, or arrested.

4 “(B) AUTHORITY TO SUSPEND.—The At-
5 torney General, in consultation with the Sec-
6 retary of the Treasury, may suspend or termi-
7 nate a forfeiture under this section if the Attor-
8 ney General determines that a conflict of law
9 exists between the laws of the jurisdiction in
10 which the foreign financial institution is located
11 and the laws of the United States with respect
12 to liabilities arising from the restraint, seizure,
13 or arrest of such funds, and that such suspen-
14 sion or termination would be in the interest of
15 justice and would not harm the national inter-
16 ests of the United States.

17 “(2) NO REQUIREMENT FOR GOVERNMENT TO
18 TRACE FUNDS.—If a forfeiture action is brought
19 against funds that are restrained, seized, or arrested
20 under paragraph (1), it shall not be necessary for
21 the Government to establish that the funds are di-
22 rectly traceable to the funds that were deposited into
23 the foreign financial institution, nor shall it be nec-
24 essary for the Government to rely on the application
25 of section 2554.

1 “(3) CLAIMS BROUGHT BY OWNER OF THE
2 FUNDS.—If a forfeiture action is instituted against
3 funds restrained, seized, or arrested under para-
4 graph (1), the owner of the funds deposited into the
5 account at the foreign financial institution may con-
6 test the forfeiture by filing a claim under section
7 2553.

8 “(4) DEFINITIONS.—For purposes of this sub-
9 section, the following definitions apply:

10 “(A) INTERBANK ACCOUNT.—The term
11 ‘interbank account’ has the same meaning as in
12 section 2554(c)(2)(B).

13 “(B) OWNER.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), the term ‘owner’—

16 “(I) means the person who was
17 the owner, as that term is defined in
18 section 2553(d)(6), of the funds that
19 were deposited into the foreign finan-
20 cial institution at the time such funds
21 were deposited; and

22 “(II) does not include either the
23 foreign financial institution or any fi-
24 nancial institution acting as an inter-

1 mediary in the transfer of the funds
2 into the interbank account.

3 “(ii) EXCEPTION.—The foreign finan-
4 cial institution may be considered the
5 ‘owner’ of the funds (and no other person
6 shall qualify as the owner of such funds)
7 only if—

8 “(I) the basis for the forfeiture
9 action is wrongdoing committed by
10 the foreign financial institution; or

11 “(II) the foreign financial institu-
12 tion establishes, by a preponderance
13 of the evidence, that prior to the re-
14 straint, seizure, or arrest of the funds,
15 the foreign financial institution had
16 discharged all or part of its obligation
17 to the prior owner of the funds, in
18 which case the foreign financial insti-
19 tution shall be deemed the owner of
20 the funds to the extent of such dis-
21 charged obligation.

22 “(C) FOREIGN FINANCIAL INSTITUTION.—
23 The term ‘foreign financial institution’ includes
24 a foreign bank as defined in section 1(b)(7) of
25 the International Banking Act of 1978.

1 **“§ 2553. General rules for civil forfeiture proceedings**

2 “(a) NOTICE; CLAIM; COMPLAINT.—

3 “(1)(A)(i) Except as provided in clauses (ii)
4 through (v), in any nonjudicial civil forfeiture pro-
5 ceeding under a civil forfeiture statute, with respect
6 to which the Government is required to send written
7 notice to interested parties, such notice shall be sent
8 in a manner to achieve proper notice as soon as
9 practicable, and in no case more than 60 days after
10 the date of the seizure.

11 “(ii) No notice is required if, before the 60-day
12 period expires, the Government files a civil judicial
13 forfeiture action against the property and provides
14 notice of that action as required by law.

15 “(iii) If, before the 60-day period expires, the
16 Government does not file a civil judicial forfeiture
17 action, but does obtain a criminal indictment con-
18 taining an allegation that the property is subject to
19 forfeiture, the Government shall either—

20 “(I) send notice within the 60 days and
21 continue the nonjudicial civil forfeiture pro-
22 ceeding under this section; or

23 “(II) terminate the nonjudicial civil for-
24 feiture proceeding, and take the steps necessary
25 to preserve its right to maintain custody of the

1 property as provided in the applicable criminal
2 forfeiture statute.

3 “(iv) In a case in which the property is seized
4 by a State or local law enforcement agency and
5 turned over to a Federal law enforcement agency for
6 the purpose of forfeiture under Federal law, notice
7 shall be sent not more than 90 days after the date
8 of seizure by the State or local law enforcement
9 agency.

10 “(v) If the identity or interest of a party is not
11 determined until after the seizure or turnover but is
12 determined before a declaration of forfeiture is en-
13 tered, notice shall be sent to such interested party
14 not later than 60 days after the determination by
15 the Government of the identity of the party or the
16 party’s interest.

17 “(B) A supervisory official in the headquarters
18 office of the seizing agency may extend the period
19 for sending notice under subparagraph (A) for a pe-
20 riod not to exceed 30 days (which period may not be
21 further extended except by a court), if the official
22 determines that the conditions in subparagraph (D)
23 are present.

24 “(C) Upon motion by the Government, a court
25 may extend the period for sending notice under sub-

1 paragraph (A) for a period not to exceed 60 days,
2 which period may be further extended by the court
3 for 60-day periods, as necessary, if the court deter-
4 mines, based on a written certification of a super-
5 visory official in the headquarters office of the seiz-
6 ing agency, that the conditions in subparagraph (D)
7 are present.

8 “(D) The period for sending notice under this
9 paragraph may be extended only if there is reason
10 to believe that notice may have an adverse result, in-
11 cluding—

12 “(i) endangering the life or physical safety
13 of an individual;

14 “(ii) flight from prosecution;

15 “(iii) destruction of or tampering with evi-
16 dence;

17 “(iv) intimidation of potential witnesses; or

18 “(v) otherwise seriously jeopardizing an in-
19 vestigation or unduly delaying a trial.

20 “(E) Each of the Federal seizing agencies con-
21 ducting nonjudicial forfeitures under this section
22 shall report periodically to the Committees on the
23 Judiciary of the House of Representatives and the
24 Senate the number of occasions when an extension
25 of time is granted under subparagraph (B).

1 “(F) If the Government does not send notice of
2 a seizure of property in accordance with subpara-
3 graph (A) to the person from whom the property
4 was seized, and no extension of time is granted, the
5 Government shall return the property to that person
6 without prejudice to the right of the Government to
7 commence a forfeiture proceeding at a later time.
8 The Government shall not be required to return con-
9 traband or other property that the person from
10 whom the property was seized may not legally pos-
11 sess.

12 “(2)(A) Any person claiming property seized in
13 a nonjudicial civil forfeiture proceeding under a civil
14 forfeiture statute may file a claim with the appro-
15 priate official after the seizure.

16 “(B) A claim under subparagraph (A) may be
17 filed not later than the deadline set forth in a per-
18 sonal notice letter (which deadline may be not earlier
19 than 35 days after the date the letter is mailed), ex-
20 cept that if that letter is not received, then a claim
21 may be filed not later than 30 days after the date
22 of final publication of notice of seizure.

23 “(C) A claim shall—

24 “(i) identify the specific property being
25 claimed;

1 “(ii) state the claimant’s interest in such
2 property; and

3 “(iii) be made under oath, subject to pen-
4 alty of perjury.

5 “(D) A claim need not be made in any par-
6 ticular form. Each Federal agency conducting non-
7 judicial forfeitures under this section shall make
8 claim forms generally available on request, which
9 forms shall be written in easily understandable lan-
10 guage.

11 “(E) Any person may make a claim under sub-
12 paragraph (A) without posting bond with respect to
13 the property which is the subject of the claim.

14 “(3)(A) Not later than 90 days after a claim
15 has been filed, the Government shall file a complaint
16 for forfeiture in the manner set forth in the Supple-
17 mental Rules for Certain Admiralty and Maritime
18 Claims or return the property pending the filing of
19 a complaint, except that a court in the district in
20 which the complaint will be filed may extend the pe-
21 riod for filing a complaint for good cause shown or
22 upon agreement of the parties.

23 “(B) If the Government does not—

1 “(i) file a complaint for forfeiture or re-
2 turn the property, in accordance with subpara-
3 graph (A); or

4 “(ii) before the time for filing a complaint
5 has expired—

6 “(I) obtain a criminal indictment con-
7 taining an allegation that the property is
8 subject to forfeiture; and

9 “(II) take the steps necessary to pre-
10 serve its right to maintain custody of the
11 property as provided in the applicable
12 criminal forfeiture statute,

13 the Government shall promptly release the property
14 pursuant to regulations promulgated by the Attorney
15 General, and may not take any further action to ef-
16 fect the civil forfeiture of such property in connec-
17 tion with the underlying offense.

18 “(C) In lieu of, or in addition to, filing a civil
19 forfeiture complaint, the Government may include a
20 forfeiture allegation in a criminal indictment. If
21 criminal forfeiture is the only forfeiture proceeding
22 commenced by the Government, the Government’s
23 right to continued possession of the property shall be
24 governed by the applicable criminal forfeiture stat-
25 ute.

1 “(D) No complaint may be dismissed on the
2 ground that the Government did not have adequate
3 evidence at the time the complaint was filed to es-
4 tablish the forfeitability of the property.

5 “(4)(A) In any case in which the Government
6 files in the appropriate United States district court
7 a complaint for forfeiture of property, any person
8 claiming an interest in the seized property may file
9 a claim asserting such person’s interest in the prop-
10 erty in the manner set forth in the Supplemental
11 Rules for Certain Admiralty and Maritime Claims,
12 except that such claim may be filed not later than
13 30 days after the date of service of the Govern-
14 ment’s complaint or, as applicable, not later than 30
15 days after the date of final publication of notice of
16 the filing of the complaint.

17 “(B) A person asserting an interest in seized
18 property, in accordance with subparagraph (A), shall
19 file an answer to the Government’s complaint for
20 forfeiture not later than 20 days after the date of
21 the filing of the claim.

22 “(b) REPRESENTATION.—

23 “(1)(A) If a person with standing to contest the
24 forfeiture of property in a judicial civil forfeiture
25 proceeding under a civil forfeiture statute is finan-

1 cially unable to obtain representation by counsel,
2 and the person is represented by counsel appointed
3 under section 3006A in connection with a related
4 criminal case, the court may authorize counsel to
5 represent that person with respect to the claim.

6 “(B) In determining whether to authorize coun-
7 sel to represent a person under subparagraph (A),
8 the court shall take into account such factors as—

9 “(i) the person’s standing to contest the
10 forfeiture; and

11 “(ii) whether the claim appears to be made
12 in good faith.

13 “(2)(A) If a person with standing to contest the
14 forfeiture of property in a judicial civil forfeiture
15 proceeding under a civil forfeiture statute is finan-
16 cially unable to obtain representation by counsel,
17 and the property subject to forfeiture is real prop-
18 erty that is being used by the person as a primary
19 residence, the court, at the request of the person,
20 shall insure that the person is represented by an at-
21 torney for the Legal Services Corporation with re-
22 spect to the claim.

23 “(B)(i) At appropriate times during a represen-
24 tation under subparagraph (A), the Legal Services

1 Corporation shall submit a statement of reasonable
2 attorney fees and costs to the court.

3 “(ii) The court shall enter a judgment in favor
4 of the Legal Services Corporation for reasonable at-
5 torney fees and costs submitted pursuant to clause
6 (i) and treat such judgment as payable under section
7 2465 of title 28, regardless of the outcome of the
8 case.

9 “(3) The court shall set the compensation for
10 representation under this subsection, which shall be
11 equivalent to that provided for court-appointed rep-
12 resentation under section 3006A.

13 “(c) BURDEN OF PROOF.—In a suit or action
14 brought under any civil forfeiture statute for the civil for-
15 feiture of any property—

16 “(1) the burden of proof is on the Government
17 to establish, by a preponderance of the evidence,
18 that the property is subject to forfeiture;

19 “(2) the Government may use evidence gath-
20 ered after the filing of a complaint for forfeiture to
21 establish, by a preponderance of the evidence, that
22 property is subject to forfeiture; and

23 “(3) if the Government’s theory of forfeiture is
24 that the property was used to commit or facilitate
25 the commission of a criminal offense, or was in-

1 involved in the commission of a criminal offense, the
2 Government shall establish that there was a substan-
3 tial connection between the property and the offense.

4 “(d) INNOCENT OWNER DEFENSE.—

5 “(1) An innocent owner’s interest in property
6 shall not be forfeited under any civil forfeiture stat-
7 ute. The claimant shall have the burden of proving
8 that the claimant is an innocent owner by a prepon-
9 derance of the evidence.

10 “(2)(A) With respect to a property interest in
11 existence at the time the illegal conduct giving rise
12 to forfeiture took place, the term ‘innocent owner’
13 means an owner who—

14 “(i) did not know of the conduct giving
15 rise to forfeiture; or

16 “(ii) upon learning of the conduct giving
17 rise to the forfeiture, did all that reasonably
18 could be expected under the circumstances to
19 terminate such use of the property.

20 “(B)(i) For the purposes of this paragraph,
21 ways in which a person may show that such person
22 did all that reasonably could be expected may in-
23 clude demonstrating that such person, to the extent
24 permitted by law—

1 “(I) gave timely notice to an appropriate
2 law enforcement agency of information that led
3 the person to know the conduct giving rise to
4 a forfeiture would occur or has occurred; and

5 “(II) in a timely fashion revoked or made
6 a good faith attempt to revoke permission for
7 those engaging in such conduct to use the prop-
8 erty or took reasonable actions in consultation
9 with a law enforcement agency to discourage or
10 prevent the illegal use of the property.

11 “(ii) A person is not required by this subpara-
12 graph to take steps that the person reasonably be-
13 lieves would be likely to subject any person (other
14 than the person whose conduct gave rise to the for-
15 feiture) to physical danger.

16 “(3)(A) With respect to a property interest ac-
17 quired after the conduct giving rise to the forfeiture
18 has taken place, the term ‘innocent owner’ means a
19 person who, at the time that person acquired the in-
20 terest in the property—

21 “(i) was a bona fide purchaser or seller for
22 value (including a purchaser or seller of goods
23 or services for value); and

1 “(ii) did not know and was reasonably
2 without cause to believe that the property was
3 subject to forfeiture.

4 “(B) An otherwise valid claim under subpara-
5 graph (A) shall not be denied on the ground that the
6 claimant gave nothing of value in exchange for the
7 property if—

8 “(i) the property is the primary residence
9 of the claimant;

10 “(ii) depriving the claimant of the property
11 would deprive the claimant of the means to
12 maintain reasonable shelter in the community
13 for the claimant and all dependents residing
14 with the claimant;

15 “(iii) the property is not, and is not trace-
16 able to, the proceeds of any criminal offense;
17 and

18 “(iv) the claimant acquired his or her in-
19 terest in the property through marriage, di-
20 vorce, or legal separation, or the claimant was
21 the spouse or legal dependent of a person whose
22 death resulted in the transfer of the property to
23 the claimant through inheritance or probate,
24 except that the court shall limit the value of any real
25 property interest for which innocent ownership is

1 recognized under this subparagraph to the value nec-
2 essary to maintain reasonable shelter in the commu-
3 nity for such claimant and all dependents residing
4 with the claimant.

5 “(4) Notwithstanding any provision of this sub-
6 section, no person may assert an ownership interest
7 under this subsection in contraband or other prop-
8 erty that it is illegal to possess.

9 “(5) If the court determines, in accordance with
10 this section, that an innocent owner has a partial in-
11 terest in property otherwise subject to forfeiture, or
12 a joint tenancy or tenancy by the entirety in such
13 property, the court may enter an appropriate
14 order—

15 “(A) severing the property;

16 “(B) transferring the property to the Gov-
17 ernment with a provision that the Government
18 compensate the innocent owner to the extent of
19 his or her ownership interest once a final order
20 of forfeiture has been entered and the property
21 has been reduced to liquid assets; or

22 “(C) permitting the innocent owner to re-
23 tain the property subject to a lien in favor of
24 the Government to the extent of the forfeitable
25 interest in the property.

1 “(6) In this subsection, the term ‘owner’—

2 “(A) means a person with an ownership in-
3 terest in the specific property sought to be for-
4 feited, including a leasehold, lien, mortgage, re-
5 corded security interest, or valid assignment of
6 an ownership interest; and

7 “(B) does not include—

8 “(i) a person with only a general un-
9 secured interest in, or claim against, the
10 property or estate of another;

11 “(ii) a bailee unless the bailor is iden-
12 tified and the bailee shows a colorable le-
13 gitimate interest in the property seized; or

14 “(iii) a nominee who exercises no do-
15 minion or control over the property.

16 “(e) MOTION TO SET ASIDE FORFEITURE.—

17 “(1) Any person entitled to written notice in
18 any nonjudicial civil forfeiture proceeding under a
19 civil forfeiture statute who does not receive such no-
20 tice may file a motion to set aside a declaration of
21 forfeiture with respect to that person’s interest in
22 the property, which motion shall be granted if—

23 “(A) the Government knew, or reasonably
24 should have known, of the moving party’s inter-

1 est and failed to take reasonable steps to pro-
2 vide such party with notice; and

3 “(B) the moving party did not know or
4 have reason to know of the seizure within suffi-
5 cient time to file a timely claim.

6 “(2)(A) Notwithstanding the expiration of any
7 applicable statute of limitations, if the court grants
8 a motion under paragraph (1), the court shall set
9 aside the declaration of forfeiture as to the interest
10 of the moving party without prejudice to the right
11 of the Government to commence a subsequent for-
12 feiture proceeding as to the interest of the moving
13 party.

14 “(B) Any proceeding described in subparagraph
15 (A) shall be commenced—

16 “(i) if nonjudicial, within 60 days of the
17 entry of the order granting the motion; or

18 “(ii) if judicial, within 6 months of the
19 entry of the order granting the motion.

20 “(3) A motion under paragraph (1) may be
21 filed not later than 5 years after the date of final
22 publication of notice of seizure of the property.

23 “(4) If, at the time a motion made under para-
24 graph (1) is granted, the forfeited property has been
25 disposed of by the Government in accordance with

1 law, the Government may institute proceedings
2 against a substitute sum of money equal to the value
3 of the moving party's interest in the property at the
4 time the property was disposed of.

5 “(5) A motion filed under this subsection shall
6 be the exclusive remedy for seeking to set aside a
7 declaration of forfeiture under a civil forfeiture stat-
8 ute.

9 “(f) RELEASE OF SEIZED PROPERTY.—

10 “(1) A claimant under subsection (a) is entitled
11 to immediate release of seized property if—

12 “(A) the claimant has a possessory interest
13 in the property;

14 “(B) the claimant has sufficient ties to the
15 community to provide assurance that the prop-
16 erty will be available at the time of the trial;

17 “(C) the continued possession by the Gov-
18 ernment pending the final disposition of for-
19 feiture proceedings will cause substantial hard-
20 ship to the claimant, such as preventing the
21 functioning of a business, preventing an indi-
22 vidual from working, or leaving an individual
23 homeless;

24 “(D) the claimant's likely hardship from
25 the continued possession by the Government of

1 the seized property outweighs the risk that the
2 property will be destroyed, damaged, lost, con-
3 cealed, or transferred if it is returned to the
4 claimant during the pendency of the proceeding;
5 and

6 “(E) none of the conditions set forth in
7 paragraph (8) applies.

8 “(2) A claimant seeking release of property
9 under this subsection must request possession of the
10 property from the appropriate official, and the re-
11 quest must set forth the basis on which the require-
12 ments of paragraph (1) are met.

13 “(3)(A) If not later than 15 days after the date
14 of a request under paragraph (2) the property has
15 not been released, the claimant may file a petition
16 in the district court in which the complaint has been
17 filed or, if no complaint has been filed, in the dis-
18 trict court in which the seizure warrant was issued
19 or in the district court for the district in which the
20 property was seized.

21 “(B) The petition described in subparagraph
22 (A) shall set forth—

23 “(i) the basis on which the requirements of
24 paragraph (1) are met; and

1 “(ii) the steps the claimant has taken to
2 secure release of the property from the appro-
3 priate official.

4 “(4) If the Government establishes that the
5 claimant’s claim is frivolous, the court shall deny the
6 petition. In responding to a petition under this sub-
7 section on other grounds, the Government may in
8 appropriate cases submit evidence ex parte in order
9 to avoid disclosing any matter that may adversely
10 affect an ongoing criminal investigation or pending
11 criminal trial.

12 “(5) The court shall render a decision on a pe-
13 tition filed under paragraph (3) not later than 30
14 days after the date of the filing, unless such 30-day
15 limitation is extended by consent of the parties or by
16 the court for good cause shown.

17 “(6) If—

18 “(A) a petition is filed under paragraph
19 (3); and

20 “(B) the claimant demonstrates that the
21 requirements of paragraph (1) have been met,
22 the district court shall order that the property be re-
23 turned to the claimant, pending completion of pro-
24 ceedings by the Government to obtain forfeiture of
25 the property.

1 “(7) If the court grants a petition under para-
2 graph (3)—

3 “(A) the court may enter any order nec-
4 essary to ensure that the value of the property
5 is maintained while the forfeiture action is
6 pending, including—

7 “(i) permitting the inspection,
8 photographing, and inventory of the prop-
9 erty;

10 “(ii) fixing a bond in accordance with
11 rule E(5) of the Supplemental Rules for
12 Certain Admiralty and Maritime Claims;
13 and

14 “(iii) requiring the claimant to obtain
15 or maintain insurance on the subject prop-
16 erty; and

17 “(B) the Government may place a lien
18 against the property or file a *lis pendens* to en-
19 sure that the property is not transferred to an-
20 other person.

21 “(8) This subsection does not apply if the
22 seized property—

23 “(A) is contraband, currency, or other
24 monetary instrument, or electronic funds unless
25 such currency or other monetary instrument or

1 electronic funds constitutes the assets of a le-
2 gitimate business which has been seized;

3 “(B) is to be used as evidence of a viola-
4 tion of the law;

5 “(C) by reason of design or other char-
6 acteristic, is particularly suited for use in illegal
7 activities; or

8 “(D) is likely to be used to commit addi-
9 tional criminal acts if returned to the claimant.

10 “(g) PROPORTIONALITY.—

11 “(1) The claimant under subsection (a)(4) may
12 petition the court to determine whether the for-
13 feiture was constitutionally excessive.

14 “(2) In making this determination, the court
15 shall compare the forfeiture to the gravity of the of-
16 fense giving rise to the forfeiture.

17 “(3) The claimant shall have the burden of es-
18 tablishing that the forfeiture is grossly dispropor-
19 tional by a preponderance of the evidence at a hear-
20 ing conducted by the court without a jury.

21 “(4) If the court finds that the forfeiture is
22 grossly disproportional to the offense it shall reduce
23 or eliminate the forfeiture as necessary to avoid a
24 violation of the Excessive Fines Clause of the Eighth
25 Amendment of the Constitution.

1 “(h) CIVIL FINE.—

2 “(1) In any civil forfeiture proceeding under a
3 civil forfeiture statute in which the Government pre-
4 vails, if the court finds that the claimant’s assertion
5 of an interest in the property was frivolous, the
6 court may impose a civil fine on the claimant of an
7 amount equal to 10 percent of the value of the for-
8 feited property, but in no event shall the fine be less
9 than \$250 or greater than \$5,000.

10 “(2) Any civil fine imposed under this sub-
11 section shall not preclude the court from imposing
12 sanctions under rule 11 of the Federal Rules of Civil
13 Procedure.

14 “(3) In addition to the limitations of section
15 1915 of title 28, in no event shall a prisoner file a
16 claim under a civil forfeiture statute or appeal a
17 judgment in a civil action or proceeding based on a
18 civil forfeiture statute if the prisoner has, on three
19 or more prior occasions, while incarcerated or de-
20 tained in any facility, brought an action or appeal in
21 a court of the United States that was dismissed on
22 the grounds that it is frivolous or malicious, unless
23 the prisoner shows extraordinary and exceptional cir-
24 cumstances.

1 “(i) CIVIL FORFEITURE STATUTE DEFINED.—In
2 this section, the term ‘civil forfeiture statute’—

3 “(1) means any provision of Federal law pro-
4 viding for the forfeiture of property other than as a
5 sentence imposed upon conviction of a criminal of-
6 fense; and

7 “(2) does not include—

8 “(A) the Tariff Act of 1930 or any other
9 provision of law codified in title 19;

10 “(B) the Internal Revenue Code of 1986;

11 “(C) the Federal Food, Drug, and Cos-
12 metic Act;

13 “(D) the Trading with the Enemy Act or
14 the International Emergency Economic Powers
15 Act (IEEPA); or

16 “(E) section 1 of title VI of the Act of
17 June 15, 1917 (40 Stat. 233).

18 “(j) RESTRAINING ORDERS; PROTECTIVE ORDERS.—

19 “(1) Upon application of the United States, the
20 court may enter a restraining order or injunction,
21 require the execution of satisfactory performance
22 bonds, create receiverships, appoint conservators,
23 custodians, appraisers, accountants, or trustees, or
24 take any other action to seize, secure, maintain, or

1 preserve the availability of property subject to civil
2 forfeiture—

3 “(A) upon the filing of a civil forfeiture
4 complaint alleging that the property with re-
5 spect to which the order is sought is subject to
6 civil forfeiture; or

7 “(B) prior to the filing of such a com-
8 plaint, if, after notice to persons appearing to
9 have an interest in the property and oppor-
10 tunity for a hearing, the court determines
11 that—

12 “(i) there is a substantial probability
13 that the United States will prevail on the
14 issue of forfeiture and that failure to enter
15 the order will result in the property being
16 destroyed, removed from the jurisdiction of
17 the court, or otherwise made unavailable
18 for forfeiture; and

19 “(ii) the need to preserve the avail-
20 ability of the property through the entry of
21 the requested order outweighs the hardship
22 on any party against whom the order is to
23 be entered.

24 “(2) An order entered pursuant to paragraph
25 (1)(B) shall be effective for not more than 90 days,

1 unless extended by the court for good cause shown,
2 or unless a complaint described in paragraph (1)(A)
3 has been filed.

4 “(3) A temporary restraining order under this
5 subsection may be entered upon application of the
6 United States without notice or opportunity for a
7 hearing when a complaint has not yet been filed with
8 respect to the property, if the United States dem-
9 onstrates that there is probable cause to believe that
10 the property with respect to which the order is
11 sought is subject to civil forfeiture and that provi-
12 sion of notice will jeopardize the availability of the
13 property for forfeiture. Such a temporary order shall
14 expire not more than 14 days after the date on
15 which it is entered, unless extended for good cause
16 shown or unless the party against whom it is entered
17 consents to an extension for a longer period. A hear-
18 ing requested concerning an order entered under this
19 paragraph shall be held at the earliest possible time
20 and prior to the expiration of the temporary order.

21 “(4) The court may receive and consider, at a
22 hearing held pursuant to this subsection, evidence
23 and information that would be inadmissible under
24 the Federal Rules of Evidence.

1 **“§ 2554. Civil forfeiture of fungible property**

2 “(a) GENERALLY.—

3 “(1) In any forfeiture action in rem in which
4 the subject property is cash, monetary instruments
5 in bearer form, funds deposited in an account in a
6 financial institution or precious metals—

7 “(A) it shall not be necessary for the Gov-
8 ernment to identify the specific property in-
9 volved in the offense that is the basis for the
10 forfeiture; and

11 “(B) it shall not be a defense that the
12 property involved in such an offense has been
13 removed and replaced by identical property.

14 “(2) Except as provided in subsection (b), any
15 identical property found in the same place or ac-
16 count as the property involved in the offense that is
17 the basis for the forfeiture shall be subject to for-
18 feiture under this section.

19 “(b) LIMITATION.—No action pursuant to this sec-
20 tion to forfeit property not traceable directly to the offense
21 that is the basis for the forfeiture may be commenced
22 more than 1 year from the date of the offense.

23 “(c) EXCEPTION.—

24 “(1) Subsection (a) does not apply to an action
25 against funds held by a financial institution in an
26 interbank account unless the account holder know-

1 ingly engaged in the offense that is the basis for the
2 forfeiture.

3 “(2) In this subsection—

4 “(A) the term ‘financial institution’ in-
5 cludes a foreign bank (as defined in section
6 1(b)(7) of the International Banking Act of
7 1978); and

8 “(B) the term ‘interbank account’ means
9 an account held by one financial institution at
10 another financial institution primarily for the
11 purpose of facilitating customer transactions.

12 “(d) DISCLAIMER.—Nothing in this section limits the
13 ability of the Government to forfeit property under any
14 provision of law if the property involved in the offense giv-
15 ing rise to the forfeiture or property traceable thereto is
16 available for forfeiture.

17 **“§ 2555. Civil forfeiture of real property**

18 “(a) JUDICIAL FORFEITURES.—Notwithstanding any
19 other provision of law, all civil forfeitures of real property
20 and interests in real property shall proceed as judicial for-
21 feitures.

22 “(b) PRELIMINARY MATTERS.—

23 “(1) Except as provided in this section—

1 “(A) real property that is the subject of a
2 civil forfeiture action shall not be seized before
3 entry of an order of forfeiture; and

4 “(B) the owners or occupants of the real
5 property shall not be evicted from, or otherwise
6 deprived of the use and enjoyment of, real prop-
7 erty that is the subject of a pending forfeiture
8 action.

9 “(2) The filing of a lis pendens and the execu-
10 tion of a writ of entry for the purpose of conducting
11 an inspection and inventory of the property shall not
12 be considered a seizure under this subsection.

13 “(c) INITIATION.—

14 “(1) The Government shall initiate a civil for-
15 feiture action against real property by—

16 “(A) filing a complaint for forfeiture;

17 “(B) posting a notice of the complaint on
18 the property; and

19 “(C) serving notice on the property owner,
20 along with a copy of the complaint.

21 “(2) If the property owner cannot be served
22 with the notice under paragraph (1) because the
23 owner—

24 “(A) is a fugitive;

1 “(B) resides outside the United States and
2 efforts at service pursuant to rule 4 of the Fed-
3 eral Rules of Civil Procedure are unavailing; or

4 “(C) cannot be located despite the exercise
5 of due diligence,

6 constructive service may be made in accordance with
7 the laws of the State in which the property is lo-
8 cated.

9 “(3) If real property has been posted in accord-
10 ance with this subsection, it shall not be necessary
11 for the court to issue an arrest warrant in rem, or
12 to take any other action to establish in rem jurisdic-
13 tion over the property.

14 “(d) SEIZURE PRIOR TO ENTRY OF ORDER.—

15 “(1) Real property may be seized prior to the
16 entry of an order of forfeiture if—

17 “(A) the Government notifies the court
18 that it intends to seize the property before trial;
19 and

20 “(B) the court—

21 “(i) issues a notice of application for
22 warrant, causes the notice to be served on
23 the property owner and posted on the
24 property, and conducts a hearing in which

1 the property owner has a meaningful op-
2 portunity to be heard; or

3 “(ii) makes an ex parte determination
4 that there is probable cause for the for-
5 feiture and that there are exigent cir-
6 cumstances that permit the Government to
7 seize the property without prior notice and
8 an opportunity for the property owner to
9 be heard.

10 “(2) For purposes of paragraph (1)(B)(ii), to
11 establish exigent circumstances, the Government
12 shall show that less restrictive measures such as a
13 lis pendens, restraining order, or bond would not
14 suffice to protect the Government’s interests in pre-
15 venting the sale, destruction, or continued unlawful
16 use of the real property.

17 “(e) POST-SEIZURE HEARING.—If the court author-
18 izes a seizure of real property under subsection
19 (d)(1)(B)(ii), it shall conduct a prompt post-seizure hear-
20 ing during which the property owner shall have an oppor-
21 tunity to contest the basis for the seizure.

22 “(f) APPLICATION.—This section—

23 “(1) applies only to civil forfeitures of real
24 property and interests in real property;

1 “(2) does not apply to forfeitures of the pro-
2 ceeds of the sale of such property or interests, or of
3 money or other assets intended to be used to acquire
4 such property or interests; and

5 “(3) shall not affect the authority of the court
6 to enter a restraining order relating to real property.

7 **“§ 2556. Subpoenas for bank records**

8 “(a) IN GENERAL.—At any time after the commence-
9 ment of any action for forfeiture in rem brought by the
10 United States under section 1451, 1452, and 508 of this
11 title, section 5322 or 5324 of title 31, or the Controlled
12 Substances Act, any party may request the Clerk of the
13 Court in the district in which the proceeding is pending
14 to issue a subpoena duces tecum to any financial institu-
15 tion, as defined in section 5312(a) of title 31, to produce
16 books, records and any other documents at any place des-
17 ignated by the requesting party. All parties to the pro-
18 ceeding shall be notified of the issuance of any such sub-
19 poena. The procedures and limitations set forth in section
20 2555 shall apply to subpoenas issued under this section.

21 “(b) SERVICE.—Service of a subpoena issued pursu-
22 ant to this section shall be by certified mail. Records pro-
23 duced in response to such a subpoena may be produced
24 in person or by mail, common carrier, or such other meth-
25 od as may be agreed upon by the party requesting the

1 subpoena and the custodian of records. The party request-
2 ing the subpoena may require the custodian of records to
3 submit an affidavit certifying the authenticity and com-
4 pleteness of the records and explaining the omission of any
5 record called for in the subpoena.

6 “(c) DISCOVERY.—Nothing in this section precludes
7 any party from pursuing any form of discovery pursuant
8 to the Federal Rules of Civil Procedure.

9 “(d) ACCESS TO RECORDS IN BANK SECRECY JURIS-
10 DICTIONS.—

11 “(1) IN GENERAL.—In any civil forfeiture case,
12 or in any ancillary proceeding in any criminal for-
13 feiture case involving a violation of Chapter 17 pun-
14 ishable by imprisonment by more than one year, in
15 which—

16 “(A) financial records located in a foreign
17 country may be material—

18 “(i) to any claim or to the ability of
19 the Government to respond to such claim;
20 or

21 “(ii) in a civil forfeiture case, to the
22 ability of the Government to establish the
23 forfeitability of the property; and

24 “(B) it is within the capacity of the claim-
25 ant to waive the claimant’s rights under appli-

1 cable financial secrecy laws, or to obtain the
2 records so that such records can be made avail-
3 able notwithstanding such secrecy laws,
4 the refusal of the claimant to provide the records in
5 response to a discovery request or to take the action
6 necessary otherwise to make the records available
7 shall be grounds for judicial sanctions, up to and in-
8 cluding dismissal of the claim with prejudice.

9 “(2) PRIVILEGE.—This subsection does not af-
10 fect the right of the claimant to refuse production on
11 the basis of any privilege guaranteed by the Con-
12 stitution of the United States or any other provision
13 of Federal law.

14 **“§ 2557. Anti-terrorist forfeiture protection**

15 “(a) RIGHT TO CONTEST.—An owner of property
16 that is confiscated under any provision of law relating to
17 the confiscation of assets of suspected international terror-
18 ists, may contest that confiscation by filing a claim in the
19 manner set forth in the Federal Rules of Civil Procedure
20 (Supplemental Rules for Certain Admiralty and Maritime
21 Claims), and asserting as an affirmative defense that—

22 “(1) the property is not subject to confiscation
23 under such provision of law; or

24 “(2) the innocent owner provisions of section
25 2553(d) apply to the case.

1 “(b) EVIDENCE.—In considering a claim filed under
 2 this section, a court may admit evidence that is otherwise
 3 inadmissible under the Federal Rules of Evidence, if the
 4 court determines that the evidence is reliable, and that
 5 compliance with the Federal Rules of Evidence may jeop-
 6 ardize the national security interests of the United States.

7 “(c) CLARIFICATIONS.—

8 “(1) PROTECTION OF RIGHTS.—The exclusion
 9 of certain provisions of Federal law from the defini-
 10 tion of the term ‘civil forfeiture statute’ in section
 11 2553(i) shall not be construed to deny an owner of
 12 property the right to contest the confiscation of as-
 13 sets of suspected international terrorists under—

14 “(A) subsection (a) of this section;

15 “(B) the Constitution; or

16 “(C) subchapter II of chapter 5 of title 5.

17 “(2) SAVINGS CLAUSE.—Nothing in this section
 18 limits or otherwise affects any other remedies that
 19 may be available to an owner of property under sec-
 20 tion 2553 or any other provision of law.

21 “SUBCHAPTER C—CRIMINAL FORFEITURE

“Sec.

“2561. Offenses giving rise to criminal forfeiture.

“2562. Procedures for criminal forfeiture.

22 “§ 2561. Offenses giving rise to criminal forfeiture

23 “(a) PROPERTY FORFEITED AT TIME OF SEN-
 24 TENCE.—The court, when imposing a sentence on a de-

1 defendant convicted of an offense described in subsection
2 (b), shall order the defendant forfeit to the United States
3 all forfeitable property (as defined in section 2501) related
4 to the offense.

5 “(b) OFFENSES FOR WHICH CRIMINAL FORFEITURE
6 IS TO BE ORDERED.—The offenses for which criminal for-
7 feiture shall occur under this section are the following:

8 “(1) A violation of section 508, 1451, or 1452.

9 “(2) A violation of, or a conspiracy to violate—

10 “(A) section 644, 645, 773–775, 779, 801,
11 803, 804, or 1003, affecting a financial institu-
12 tion;

13 “(B) section 614, 692–695, 697–702, 712,
14 716, 783, 862, or 863;

15 “(3) A violation of—

16 “(A) section 653(a)(1) (relating to theft or
17 bribery concerning programs receiving Federal
18 funds);

19 “(B) section 772 (relating to fraud and
20 false statements);

21 “(C) section 788 (relating to major fraud
22 against the United States);

23 “(D) section 789 (relating to concealment
24 of assets from conservator, receiver, or liqui-
25 dating agent of insured financial institution);

1 “(E) section 801 (relating to mail fraud);

2 or

3 “(F) section 803 (relating to wire fraud),
4 involving the sale of assets acquired or held by the
5 Federal Deposit Insurance Corporation, as conser-
6 vator or receiver for a financial institution or any
7 other conservator for a financial institution ap-
8 pointed by the Office of the Comptroller of the Cur-
9 rency, or the National Credit Union Administration,
10 as conservator or liquidating agent for a financial in-
11 stitution, shall order that the person forfeit to the
12 United States any property, real or personal, which
13 represents or is traceable to the gross receipts ob-
14 tained, directly or indirectly, as a result of such vio-
15 lation.

16 “(4) A violation of—

17 “(A) section 717 (altering or removing
18 motor vehicle identification numbers);

19 “(B) section 866 (importing or exporting
20 stolen motor vehicles);

21 “(C) section 671 (transporting stolen
22 motor vehicles in interstate commerce); or

23 “(D) section 672 (possessing or selling a
24 stolen motor vehicle that has moved in inter-
25 state commerce).

1 “(5) A violation of, or conspiracy to violate,
2 274A(a)(1), or 274A(a)(2) of the Immigration and
3 Nationality Act, or any of sections 311 through 316,
4 section 318(a), section 867 of this title, or a
5 vioalton of, or conspiracy to violate, section 783 of
6 this title if committed in connection with passport or
7 visa issuance or use.

8 “(6) A Federal health care offense.

9 “(7) A violation of, or conspiracy to violate, sec-
10 tion 783, 786, 801, 802, 803, or 804.

11 “(8) A violation of chapter 17 punishable by
12 imprisonment for more than one year.

13 “(9) A violation of section 221, 222, 223, or
14 224, or subchapter B of chapter 13.

15 “(10) A violation of section 512.

16 “(11) A violation of section 783, 786, 787, or
17 794.

18 “(12) A violation of section 302, 302, 631, or
19 927, or subchapter F of chapter 35.

20 “(13) A violation of section 675, 676, 677, 678,
21 679, 680, or subchapter C of chapter 35.

22 **“§ 2562. Procedures for criminal forfeiture**

23 “(a) APPLICATION OF PROCEDURES.—Unless other-
24 wise provided by law, the procedures set forth in this sec-

1 tion govern any criminal forfeiture under a law of the
2 United States.

3 “(b) THIRD PARTY TRANSFERS.—All right, title, and
4 interest in forfeitable vests in the United States upon the
5 commission of the act giving rise to forfeiture under this
6 subchapter. Any such property that is subsequently trans-
7 ferred to a person other than the defendant may be the
8 subject of a special verdict of forfeiture and thereafter
9 shall be ordered forfeited to the United States, unless the
10 transferee establishes in a hearing pursuant to subsection
11 (n) that the transferee is a bona fide purchaser for value
12 of such property who at the time of purchase was reason-
13 ably without cause to believe that the property was subject
14 to forfeiture under this section.

15 “(c) REBUTTABLE PRESUMPTION.—There is a rebut-
16 table presumption at trial that any property of a person
17 convicted of a felony under chapter 17 is subject to for-
18 feiture under this section if the United States establishes
19 by a preponderance of the evidence that—

20 “(1) such property was acquired by such person
21 during the period of the violation or within a reason-
22 able time after such period; and

23 “(2) there was no likely source for such prop-
24 erty other than the violation

25 “(d) PROTECTIVE ORDERS.—

1 “(1) WHEN ISSUED.—Upon application of the
2 United States, the court may enter a restraining
3 order or injunction, require the execution of a satis-
4 factory performance bond, or take any other action
5 to preserve the availability of property for forfeiture
6 under this section—

7 “(A) upon the filing of an indictment or
8 information charging a violation for which
9 criminal forfeiture may be ordered under this
10 section and alleging that the property with re-
11 spect to which the order is sought would, in the
12 event of conviction, be subject to forfeiture
13 under this section; or

14 “(B) prior to the filing of such an indict-
15 ment or information, if, after notice to persons
16 appearing to have an interest in the property
17 and opportunity for a hearing, the court deter-
18 mines that—

19 “(i) there is a substantial probability
20 that the United States will prevail on the
21 issue of forfeiture and that failure to enter
22 the order will result in the property being
23 destroyed, removed from the jurisdiction of
24 the court, or otherwise made unavailable
25 for forfeiture; and

1 “(ii) the need to preserve the avail-
2 ability of the property through the entry of
3 the requested order outweighs the hardship
4 on any party against whom the order is to
5 be entered.

6 “(2) LENGTH.—An order entered pursuant to
7 paragraph (1)(B) shall be effective for not more
8 than 90 days, unless extended by the court for good
9 cause shown or unless an indictment or information
10 described in paragraph (1)(A) has been filed.

11 “(3) EX PARTE.—A temporary restraining
12 order under this subsection may be entered upon ap-
13 plication of the United States without notice or op-
14 portunity for a hearing when an information or in-
15 dictment has not yet been filed with respect to the
16 property, if the United States demonstrates that
17 there is probable cause to believe that the property
18 with respect to which the order is sought would, in
19 the event of conviction, be subject to forfeiture
20 under this section and that provision of notice will
21 jeopardize the availability of the property for for-
22 feiture. Such a temporary order shall expire not
23 more than 14 days after the date on which it is en-
24 tered, unless extended for good cause shown or un-
25 less the party against whom it is entered consents

1 to an extension for a longer period. A hearing re-
2 requested concerning an order entered under this
3 paragraph shall be held at the earliest possible time
4 and prior to the expiration of the temporary order.

5 “(4) EVIDENCE.—The court may receive and
6 consider, at a hearing held pursuant to this sub-
7 section, evidence and information that would be in-
8 admissible under the Federal Rules of Evidence.

9 “(5) ORDER TO REPATRIATE AND DEPOSIT.—

10 “(A) IN GENERAL.—Pursuant to its au-
11 thority to enter a pretrial restraining order
12 under this section, the court may order a de-
13 fendant to repatriate any property that may be
14 seized and forfeited, and to deposit that prop-
15 erty pending trial in the registry of the court,
16 or with the United States Marshals Service or
17 the Secretary of the Treasury, in an interest-
18 bearing account, if appropriate.

19 “(B) FAILURE TO COMPLY.—Failure to
20 comply with an order under this subsection, or
21 an order to repatriate property under sub-
22 section (o), shall be punishable as a civil or
23 criminal contempt of court, and may also result
24 in an enhancement of the sentence of the de-

1 fendant under the obstruction of justice provi-
2 sion of the Federal Sentencing Guidelines.

3 “(e) WARRANT OF SEIZURE.—The Government may
4 request the issuance of a warrant authorizing the seizure
5 of property subject to forfeiture under this section in the
6 same manner as provided for a search warrant. If the
7 court determines that there is probable cause to believe
8 that the property to be seized would, in the event of con-
9 viction, be subject to forfeiture and that an order under
10 subsection (d) may not be sufficient to assure the avail-
11 ability of the property for forfeiture, the court shall issue
12 a warrant authorizing the seizure of such property.

13 “(f) EXECUTION.—Upon entry of an order of for-
14 feiture under this section, the court shall authorize the
15 Attorney General to seize all property ordered forfeited
16 upon such terms and conditions as the court shall deem
17 proper. Following entry of an order declaring the property
18 forfeited, the court may, upon application of the United
19 States, enter such appropriate restraining orders or in-
20 junctions, require the execution of satisfactory perform-
21 ance bonds, appoint receivers, conservators, appraisers,
22 accountants, or trustees, or take any other action to pro-
23 tect the interest of the United States in the property or-
24 dered forfeited. Any income accruing to or derived from
25 property ordered forfeited under this section may be used

1 to offset ordinary and necessary expenses to the property
2 which are required by law, or which are necessary to pro-
3 tect the interests of the United States or third parties.

4 “(g) DISPOSITION OF PROPERTY.—Following the sei-
5 zure of property ordered forfeited under this section, the
6 Attorney General shall direct the disposition of the prop-
7 erty by sale of any other any other commercially feasible
8 means, making due provision for the rights of any inno-
9 cent persons. Any property right or interest not exer-
10 cisable by, or transferable for value to, the United States
11 shall expire and shall not revert to the defendant, nor shall
12 the defendant or any person acting in concert with or on
13 the behalf of the defendant be eligible to purchase for-
14 feited property at any sale held by the United States.
15 Upon application of a person, other than the defendant
16 or a person acting in concert with or on the behalf of the
17 defendant, the court may restrain or stay the sale or dis-
18 position of the property pending the conclusion of any ap-
19 peal of the criminal case giving rise to the forfeiture, if
20 the applicant demonstrates that proceeding with the sale
21 or disposition of the property will result in irreparable in-
22 jury, harm, or loss to the applicant.

23 “(h) AUTHORITY OF THE ATTORNEY GENERAL.—
24 With respect to property ordered forfeited under this sec-
25 tion, the Attorney General is authorized to—

1 “(1) grant petitions for mitigation or remission
2 of forfeiture, restore forfeited property to victims of
3 a violation, or take any other action to protect the
4 rights of innocent persons which is in the interest of
5 justice and which is not inconsistent with this sec-
6 tion;

7 “(2) compromise claims arising under this sec-
8 tion;

9 “(3) award compensation to persons providing
10 information resulting in a forfeiture under this sec-
11 tion;

12 “(4) direct the disposition by the United States,
13 in accordance with section 511(e) of the Controlled
14 Substances Act, of all property ordered forfeited
15 under this section by public sale or any other com-
16 mercially feasible means, making due provision for
17 the rights of innocent persons; and

18 “(5) take appropriate measures necessary to
19 safeguard and maintain property ordered forfeited
20 under this section pending its disposition.

21 “(i) APPLICABILITY OF CIVIL FORFEITURE PROVI-
22 SIONS.—Except to the extent that they are inconsistent
23 with this section, section 2552(g) of this title and section
24 511(d) of the Controlled Substances Act apply to a crimi-
25 nal forfeiture under this section.

1 “(j) BAR ON INTERVENTION.—Except as provided in
2 subsection (m), no party claiming an interest in property
3 subject to forfeiture under this section may—

4 “(1) intervene in a trial or appeal of a criminal
5 case involving the forfeiture of such property under
6 this section; or

7 “(2) commence an action at law or equity
8 against the United States concerning the validity of
9 his alleged interest in the property subsequent to the
10 filing of an indictment or information alleging that
11 the property in subject to forfeiture under this sec-
12 tion.

13 “(k) JURISDICTION TO ENTER ORDERS.—The dis-
14 trict courts of the United States shall have jurisdiction
15 to enter orders as provided in this section without regard
16 to the location of any property which may be subject to
17 forfeiture under this section or which has been ordered
18 forfeited under this section.

19 “(l) DEPOSITIONS.—In order to facilitate the identi-
20 fication and location of property declared forfeited and to
21 facilitate the disposition of petitions for remission or miti-
22 gation of forfeiture, after the entry of an order declaring
23 property forfeited to the United States, the court may,
24 upon application of the United States, order that the testi-
25 mony of any witness relating to the property forfeited be

1 taken by deposition and that any designated book, paper,
2 document, record, recording, or other material not privi-
3 leged be produced at the same time any place, in the same
4 manner as provided for the taking of depositions under
5 Rule 15 of the Federal Rules of Criminal Procedure.

6 “(m) THIRD PARTY INTERESTS.—(1) Following the
7 entry of an order of forfeiture under this section, the
8 United States shall publish notice of the order and of its
9 intent to dispose of the property in such manner as the
10 Attorney General may direct. The Government may also,
11 to the extent practicable, provide direct written notice to
12 any person known to have alleged an interest in the prop-
13 erty that is the subject of the order of forfeiture as a sub-
14 stitute for published notice as to those persons so notified.

15 “(2) Any person, other than the defendant, asserting
16 a legal interest in property which has been ordered for-
17 feited to the United States pursuant to this section may,
18 within thirty days of the final publication of notice or his
19 receipt of notice under paragraph (1), whichever is earlier,
20 petition the court for a hearing to adjudicate the validity
21 of his alleged interest in the property. The hearing shall
22 be held before the court alone, without a jury.

23 “(3) The petition shall be signed by the petitioner
24 under penalty of perjury and shall set forth the nature
25 and extent of the petitioner’s right, title, or interest in

1 the property, the time and circumstances of the peti-
2 tioner's acquisition of the right, title, or interest in the
3 property, and additional facts supporting the petitioner's
4 claim, and the relief sought.

5 “(4) The hearing on the petition shall, to the extent
6 practicable and consistent with the interests of justice, be
7 held within thirty days of the filing of the petition. The
8 court may consolidate the hearing on the petition with a
9 hearing on any other petition filed by a person other than
10 the defendant under this subsection.

11 “(5) At the hearing, the petitioner may testify and
12 present evidence and witnesses on his own behalf, and
13 cross-examine witnesses who appear at the hearing. The
14 United States may present evidence and witnesses in re-
15 buttal and in defense of this claim to the property and
16 cross-examine witnesses who appear at the hearing, the
17 court shall consider the relevant portions of the record of
18 the criminal case which resulted in the order of forfeiture.

19 “(6) If, after the hearing, the court determines that
20 the petitioner has established by a preponderance of the
21 evidence that—

22 “(A) the petitioner has a legal right, title, or in-
23 terest in the property, and such right, title, or inter-
24 est renders the order of forfeiture invalid in whole
25 or in part because the right, title, or interest was

1 vested in the petitioner rather than the defendant or
2 was superior to any right, title, or interest of the de-
3 fendant at the time of the commission of the acts
4 which gave rise to the forfeiture of the property
5 under the section; or

6 “(B) the petitioner is a bona fide purchaser for
7 value of the right, title, or interest in the property
8 and was at the time of purchase reasonably without
9 cause to believe that the property was subject to for-
10 feiture under this section;

11 the court shall amend the order of forfeiture in accordance
12 with its determination.

13 “(7) Following the court’s disposition of all petitions
14 filed under this subsection, or if no such petitions are filed
15 following the expiration of the period provided in para-
16 graph (2) for the filing of such petitions, the United States
17 shall have clear title to property that is the subject of the
18 order of forfeiture and may warrant good title to any sub-
19 sequent purchaser or transferee.

20 “(n) RULE OF CONSTRUCTION.—This section shall
21 be liberally construed to effectuate its remedial purposes.

22 “(o) FORFEITURE OF SUBSTITUTE PROPERTY.—

23 “(1) IN GENERAL.—Paragraph (2) of this sub-
24 section applies, if any property described in sub-

1 section (a), as a result of any act or omission of the
2 defendant—

3 “(A) cannot be located upon the exercise of
4 due diligence;

5 “(B) has been transferred or sold to, or
6 deposited with, a third party;

7 “(C) has been placed beyond the jurisdic-
8 tion of the court;

9 “(D) has been substantially diminished in
10 value; or

11 “(E) has been commingled with other
12 property which cannot be divided without dif-
13 ficulty.

14 “(2) SUBSTITUTE PROPERTY.—In any case de-
15 scribed in any of subparagraphs (A) through (E) of
16 paragraph (1), the court shall order the forfeiture of
17 any other property of the defendant, up to the value
18 of any property described in subparagraphs (A)
19 through (E) of paragraph (1), as applicable.

20 “(3) RETURN OF PROPERTY TO JURISDIC-
21 TION.—In the case of property described in para-
22 graph (1)(C), the court may, in addition to any
23 other action authorized by this subsection, order the
24 defendant to return the property to the jurisdiction

1 of the court so that the property may be seized and
2 forfeited.

3 “(4) LIMITATION.—This subsection shall not be
4 used to order a defendant to forfeit assets in place
5 of the actual property laundered where such defend-
6 ant acted merely as an intermediary who handled
7 but did not retain the property in the course of the
8 money laundering offense unless the defendant, in
9 committing the offense or offenses giving rise to the
10 forfeiture, conducted three or more separate trans-
11 actions involving a total of \$100,000 or more in any
12 twelve month period.

13 “(p) SPECIAL RESTITUTION.—The court, when sen-
14 tencing a defendant convicted of an offense under chapter
15 17 involving the manufacture, the possession, or the pos-
16 session with intent to distribute, of amphetamine or meth-
17 amphetamine, shall—

18 “(1) order restitution as provided in sections
19 3612 and 3664;

20 “(2) order the defendant to reimburse the
21 United States, the State or local government con-
22 cerned, or both the United States and the State or
23 local government concerned for the costs incurred by
24 the United States or the State or local government
25 concerned, as the case may be, for the cleanup asso-

1 ciated with the manufacture of amphetamine or
2 methamphetamine by the defendant, or on premises
3 or in property that the defendant owns, resides, or
4 does business in; and

5 “(3) order restitution to any person injured as
6 a result of the offense as provided in section
7 3663A.”

8 **SEC. 3. CONFORMING REPEALS.**

9 (a) CONTROLLED SUBSTANCES ACT.—The Con-
10 trolled Substances Act is amended—

11 (1) by striking all of the sections in part D, ex-
12 cept sections 412 (relating to application of treaties
13 and other international agreements) and 421 (relat-
14 ing to denial of Federal benefits to drug traffickers
15 and possessors); and

16 (2) by striking section 511 (relating to forfeit-
17 ures).

18 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
19 ACT.—The Controlled Substances Import and Export Act
20 is amended by striking sections 1010 (relating to prohib-
21 ited acts), 1010A (relating to foreign terrorist organiza-
22 tions, terrorist persons and groups), 1012 (relating to sec-
23 ond or subsequent offenses), 1013 (relating to attempt
24 and conspiracy), and 1017 (relating to criminal forfeit-
25 ures).

1 (c) IMMIGRATION AND NATIONALITY ACT.—The Im-
2 migration and Nationality Act is amended by striking sec-
3 tions 243, 274, 275, 276, and 277.

4 (d) ATOMIC ENERGY ACT OF 1954.—The Atomic
5 Energy Act of 1954 is amended—

6 (1) by striking sections 92, 221, 224, 225, 226,
7 227, and 235;

8 (2) by striking subsections a. and b. of section
9 57;

10 (3) in section 222 a., by striking “57 or”; and

11 (4) by striking subsection b. of section 222.

12 (e) CONSUMER CREDIT PROTECTION ACT.—The
13 Consumer Credit Protection Act is amended by striking
14 sections 134 (relating to fraudulent use of credit card),
15 619 (relating to obtaining information under false pre-
16 tenses), and 620 (relating to unauthorized disclosures by
17 officers or employees).

18 (f) TITLE 17, UNITED STATES CODE.—Title 17,
19 United States Code, is amended by striking section 506
20 (relating to copyright infringement criminal offenses).

21 (g) TITLE 28, UNITED STATES CODE.—Title 28,
22 United States Code, is amended by striking subsection (c)
23 of section 1826 (relating to recalcitrant witnesses).

24 (h) TITLE 29, UNITED STATES CODE.—Title 29,
25 United States Code, is amended by striking subsection (c)

1 of section 501 (relating to fiduciary responsibility of offi-
2 cers of labor organizations).

3 (i) TITLE 31, UNITED STATES CODE.—Title 31,
4 United States Code, is amended by striking sections 5324
5 (relating to structuring transactions to evade reporting re-
6 quirement prohibited) and 5332 (relating to bulk cash
7 smuggling into or out of the United States).

8 (j) TITLE 49, UNITED STATES CODE.—Title 49,
9 United States Code, is amended by striking sections
10 46502, 46504, 46505, and 46506 (relating to special air-
11 craft jurisdiction of the United States).

12 (k) ADDITIONAL CONFORMING REPEALS.—Not later
13 than 180 days after the date of the enactment of this Act,
14 the Attorney General shall submit to Congress proposed
15 legislation repealing additional provisions of law that have
16 been rendered superfluous by the enactment of this Act.

17 **SEC. 4. CROSS REFERENCES.**

18 Not later than 180 days after the date of the enact-
19 ment of this Act, the Attorney General shall submit to
20 Congress proposed legislation correcting cross references
21 in other laws to provisions of law that have been amended
22 or repealed by this Act.

1 **SEC. 5. SUNSET OF PROVISION RELATING TO FOREIGN IN-**
2 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

3 Effective December 31, 2012, except as provided by
4 section 404 of the FISA Amendments Act of 2008, section
5 1492(b)(1)(B)(i) of title 18, United States Code, is
6 amended by striking “or a court order pursuant to section
7 704 of the Foreign Intelligence Surveillance Act of 1978”.

8 **SEC. 6. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-**
9 **TION 2258A (RELATING TO REPORTING RE-**
10 **QUIREMENTS OF ELECTRONIC COMMUNICA-**
11 **TION SERVICE PROVIDERS AND REMOTE**
12 **COMPUTING SERVICE PROVIDERS).**

13 (a) DUTY TO REPORT.—

14 (1) IN GENERAL.—Whoever, while engaged in
15 providing an electronic communication service or a
16 remote computing service to the public through a fa-
17 cility or means of interstate or foreign commerce,
18 obtains actual knowledge of any facts or cir-
19 cumstances described in paragraph (2) shall, as soon
20 as reasonably possible—

21 (A) provide to the CyberTipline of the Na-
22 tional Center for Missing and Exploited Chil-
23 dren, or any successor to the CyberTipline oper-
24 ated by such center, the mailing address, tele-
25 phone number, facsimile number, electronic
26 mail address of, and individual point of contact

1 for, such electronic communication service pro-
2 vider or remote computing service provider; and

3 (B) make a report of such facts or cir-
4 cumstances to the CyberTipline, or any suc-
5 cessor to the CyberTipline operated by such
6 center.

7 (2) FACTS OR CIRCUMSTANCES.—The facts or
8 circumstances described in this paragraph are any
9 facts or circumstances from which there is an appar-
10 ent violation of—

11 (A) section 221, 222, 223, or 224 of title
12 18, United States Code, that involves child por-
13 nography; or

14 (B) section 1445 of title 18, United States
15 Code.

16 (b) CONTENTS OF REPORT.—To the extent the infor-
17 mation is within the custody or control of an electronic
18 communication service provider or a remote computing
19 service provider, the facts and circumstances included in
20 each report under subsection (a)(1) may include the fol-
21 lowing information:

22 (1) INFORMATION ABOUT THE INVOLVED INDI-
23 VIDUAL.—Information relating to the identity of any
24 individual who appears to have violated a Federal
25 law described in subsection (a)(2), which may, to the

1 extent reasonably practicable, include the electronic
2 mail address, Internet Protocol address, uniform re-
3 source locator, or any other identifying information,
4 including self-reported identifying information.

5 (2) HISTORICAL REFERENCE.—Information re-
6 lating to when and how a customer or subscriber of
7 an electronic communication service or a remote
8 computing service uploaded, transmitted, or received
9 apparent child pornography or when and how appar-
10 ent child pornography was reported to, or discovered
11 by the electronic communication service provider or
12 remote computing service provider, including a date
13 and time stamp and time zone.

14 (3) GEOGRAPHIC LOCATION INFORMATION.—

15 (A) IN GENERAL.—Information relating to
16 the geographic location of the involved indi-
17 vidual or website, which may include the Inter-
18 net Protocol address or verified billing address,
19 or, if not reasonably available, at least 1 form
20 of geographic identifying information, including
21 area code or zip code.

22 (B) INCLUSION.—The information de-
23 scribed in subparagraph (A) may also include
24 any geographic information provided to the
25 electronic communication service or remote

1 computing service by the customer or sub-
2 scriber.

3 (4) IMAGES OF APPARENT CHILD PORNOG-
4 RAPHY.—Any image of apparent child pornography
5 relating to the incident such report is regarding.

6 (5) COMPLETE COMMUNICATION.—The com-
7 plete communication containing any image of appar-
8 ent child pornography, including—

9 (A) any data or information regarding the
10 transmission of the communication; and

11 (B) any images, data, or other digital files
12 contained in, or attached to, the communica-
13 tion.

14 (c) FORWARDING OF REPORT TO LAW ENFORCE-
15 MENT.—

16 (1) IN GENERAL.—The National Center for
17 Missing and Exploited Children shall forward each
18 report made under subsection (a)(1) to any appro-
19 priate law enforcement agency designated by the At-
20 torney General under subsection (d)(2).

21 (2) STATE AND LOCAL LAW ENFORCEMENT.—
22 The National Center for Missing and Exploited Chil-
23 dren may forward any report made under subsection
24 (a)(1) to an appropriate law enforcement official of

1 a State or political subdivision of a State for the
2 purpose of enforcing State criminal law.

3 (3) FOREIGN LAW ENFORCEMENT.—

4 (A) IN GENERAL.—The National Center
5 for Missing and Exploited Children may for-
6 ward any report made under subsection (a)(1)
7 to any appropriate foreign law enforcement
8 agency designated by the Attorney General
9 under subsection (d)(3), subject to the condi-
10 tions established by the Attorney General under
11 subsection (d)(3).

12 (B) TRANSMITTAL TO DESIGNATED FED-
13 ERAL AGENCIES.—If the National Center for
14 Missing and Exploited Children forwards a re-
15 port to a foreign law enforcement agency under
16 subparagraph (A), the National Center for
17 Missing and Exploited Children shall concur-
18 rently provide a copy of the report and the
19 identity of the foreign law enforcement agency
20 to—

21 (i) the Attorney General; or

22 (ii) the Federal law enforcement agen-
23 cy or agencies designated by the Attorney
24 General under subsection (d)(2).

25 (d) ATTORNEY GENERAL RESPONSIBILITIES.—

1 (1) IN GENERAL.—The Attorney General shall
2 enforce this section.

3 (2) DESIGNATION OF FEDERAL AGENCIES.—
4 The Attorney General shall designate promptly the
5 Federal law enforcement agency or agencies to
6 which a report shall be forwarded under subsection
7 (c)(1).

8 (3) DESIGNATION OF FOREIGN AGENCIES.—
9 The Attorney General shall promptly—

10 (A) in consultation with the Secretary of
11 State, designate the foreign law enforcement
12 agencies to which a report may be forwarded
13 under subsection (c)(3);

14 (B) establish the conditions under which
15 such a report may be forwarded to such agen-
16 cies; and

17 (C) develop a process for foreign law en-
18 forcement agencies to request assistance from
19 Federal law enforcement agencies in obtaining
20 evidence related to a report referred under sub-
21 section (c)(3).

22 (4) REPORTING DESIGNATED FOREIGN AGEN-
23 CIES.—The Attorney General shall maintain and
24 make available to the Department of State, the Na-
25 tional Center for Missing and Exploited Children,

1 electronic communication service providers, remote
2 computing service providers, the Committee on the
3 Judiciary of the Senate, and the Committee on the
4 Judiciary of the House of Representatives a list of
5 the foreign law enforcement agencies designated
6 under paragraph (3).

7 (5) SENSE OF CONGRESS REGARDING DESIGNA-
8 TION OF FOREIGN AGENCIES.—It is the sense of
9 Congress that—

10 (A) combating the international manufac-
11 turing, possession, and trade in online child
12 pornography requires cooperation with com-
13 petent, qualified, and appropriately trained for-
14 eign law enforcement agencies; and

15 (B) the Attorney General, in cooperation
16 with the Secretary of State, should make a sub-
17 stantial effort to expand the list of foreign
18 agencies designated under paragraph (3).

19 (6) NOTIFICATION TO PROVIDERS.—If an elec-
20 tronic communication service provider or remote
21 computing service provider notifies the National
22 Center for Missing and Exploited Children that the
23 electronic communication service provider or remote
24 computing service provider is making a report under
25 this section as the result of a request by a foreign

1 law enforcement agency, the National Center for
2 Missing and Exploited Children shall—

3 (A) if the Center forwards the report to
4 the requesting foreign law enforcement agency
5 or another agency in the same country des-
6 ignated by the Attorney General under para-
7 graph (3), notify the electronic communication
8 service provider or remote computing service
9 provider of—

10 (i) the identity of the foreign law en-
11 forcement agency to which the report was
12 forwarded; and

13 (ii) the date on which the report was
14 forwarded; or

15 (B) notify the electronic communication
16 service provider or remote computing service
17 provider if the Center declines to forward the
18 report because the Center, in consultation with
19 the Attorney General, determines that no law
20 enforcement agency in the foreign country has
21 been designated by the Attorney General under
22 paragraph (3).

23 (e) FAILURE TO REPORT.—An electronic communica-
24 tion service provider or remote computing service provider

1 that knowingly and willfully fails to make a report re-
2 quired under subsection (a)(1) shall be fined—

3 (1) in the case of an initial knowing and willful
4 failure to make a report, not more than \$150,000;
5 and

6 (2) in the case of any second or subsequent
7 knowing and willful failure to make a report, not
8 more than \$300,000.

9 (f) PROTECTION OF PRIVACY.—Nothing in this sec-
10 tion shall be construed to require an electronic commu-
11 nication service provider or a remote computing service
12 provider to—

13 (1) monitor any user, subscriber, or customer of
14 that provider;

15 (2) monitor the content of any communication
16 of any person described in paragraph (1); or

17 (3) affirmatively seek facts or circumstances de-
18 scribed in subsections (a) and (b).

19 (g) CONDITIONS OF DISCLOSURE INFORMATION
20 CONTAINED WITHIN REPORT.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), a law enforcement agency that receives a
23 report under subsection (c) shall not disclose any in-
24 formation contained in that report.

1 (2) PERMITTED DISCLOSURES BY LAW EN-
2 FORCEMENT.—

3 (A) IN GENERAL.—A law enforcement
4 agency may disclose information in a report re-
5 ceived under subsection (c)—

6 (i) to an attorney for the government
7 for use in the performance of the official
8 duties of that attorney;

9 (ii) to such officers and employees of
10 that law enforcement agency, as may be
11 necessary in the performance of their in-
12 vestigative and recordkeeping functions;

13 (iii) to such other government per-
14 sonnel (including personnel of a State or
15 subdivision of a State) as are determined
16 to be necessary by an attorney for the gov-
17 ernment to assist the attorney in the per-
18 formance of the official duties of the attor-
19 ney in enforcing Federal criminal law;

20 (iv) if the report discloses a violation
21 of State criminal law, to an appropriate of-
22 ficial of a State or subdivision of a State
23 for the purpose of enforcing such State
24 law;

1 (v) to a defendant in a criminal case
2 or the attorney for that defendant, subject
3 to the terms and limitations under section
4 3509(m) of title 18, United States Code,
5 or a similar State law, to the extent the in-
6 formation relates to a criminal charge
7 pending against that defendant;

8 (vi) subject to subparagraph (B), to
9 an electronic communication service pro-
10 vider or remote computing provider if nec-
11 essary to facilitate response to legal proc-
12 ess issued in connection to a criminal in-
13 vestigation, prosecution, or post-conviction
14 remedy relating to that report; and

15 (vii) as ordered by a court upon a
16 showing of good cause and pursuant to any
17 protective orders or other conditions that
18 the court may impose.

19 (B) LIMITATIONS.—

20 (i) LIMITATIONS ON FURTHER DIS-
21 CLOSURE.—The electronic communication
22 service provider or remote computing serv-
23 ice provider shall be prohibited from dis-
24 closing the contents of a report provided
25 under subparagraph (A)(vi) to any person,

1 except as necessary to respond to the legal
2 process.

3 (ii) EFFECT.—Nothing in subpara-
4 graph (A)(vi) authorizes a law enforcement
5 agency to provide child pornography im-
6 ages to an electronic communications serv-
7 ice provider or a remote computing service.

8 (3) PERMITTED DISCLOSURES BY THE NA-
9 TIONAL CENTER FOR MISSING AND EXPLOITED
10 CHILDREN.—The National Center for Missing and
11 Exploited Children may disclose information received
12 in a report under subsection (a) only—

13 (A) to any Federal law enforcement agency
14 designated by the Attorney General under sub-
15 section (d)(2);

16 (B) to any State, local, or tribal law en-
17 forcement agency involved in the investigation
18 of child pornography, child exploitation, kidnap-
19 ping, or enticement crimes;

20 (C) to any foreign law enforcement agency
21 designated by the Attorney General under sub-
22 section (d)(3); and

23 (D) to an electronic communication service
24 provider or remote computing service provider
25 as described in section 8.

1 (h) PRESERVATION.—

2 (1) IN GENERAL.—For the purposes of this sec-
3 tion, the notification to an electronic communication
4 service provider or a remote computing service pro-
5 vider by the CyberTipline of receipt of a report
6 under subsection (a)(1) shall be treated as a request
7 to preserve, as if such request was made pursuant
8 to section 3120A(f) of title 18, United States Code.

9 (2) PRESERVATION OF REPORT.—Pursuant to
10 paragraph (1), an electronic communication service
11 provider or a remote computing service shall pre-
12 serve the contents of the report provided pursuant to
13 subsection (b) for 90 days after such notification by
14 the CyberTipline.

15 (3) PRESERVATION OF COMMINGLED IMAGES.—
16 Pursuant to paragraph (1), an electronic commu-
17 nication service provider or a remote computing
18 service shall preserve any images, data, or other dig-
19 ital files that are commingled or interspersed among
20 the images of apparent child pornography within a
21 particular communication or user-created folder or
22 directory.

23 (4) PROTECTION OF PRESERVED MATERIALS.—
24 An electronic communications service or remote com-
25 puting service preserving materials under this sec-

1 tion shall maintain the materials in a secure location
2 and take appropriate steps to limit access by agents
3 or employees of the service to the materials to that
4 access necessary to comply with the requirements of
5 this subsection.

6 (5) AUTHORITIES AND DUTIES NOT AF-
7 FECTED.—Nothing in this section shall be construed
8 as replacing, amending, or otherwise interfering with
9 the authorities and duties under section 3120A of
10 title 18, United States Code.

11 **SEC. 7. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-**
12 **TION 2258B (RELATING TO LIMITED LIABIL-**
13 **ITY FOR ELECTRONIC COMMUNICATION**
14 **SERVICE PROVIDERS, REMOTE COMPUTING**
15 **SERVICE PROVIDERS, OR DOMAIN NAME REG-**
16 **ISTRAR).**

17 (a) IN GENERAL.—Except as provided in subsection
18 (b), a civil claim or criminal charge against an electronic
19 communication service provider, a remote computing serv-
20 ice provider, or domain name registrar, including any di-
21 rector, officer, employee, or agent of such electronic com-
22 munication service provider, remote computing service
23 provider, or domain name registrar arising from the per-
24 formance of the reporting or preservation responsibilities
25 of such electronic communication service provider, remote

1 computing service provider, or domain name registrar
2 under this section, section 6, or section 8 may not be
3 brought in any Federal or State court.

4 (b) INTENTIONAL, RECKLESS, OR OTHER MIS-
5 CONDUCT.—Subsection (a) does not apply to a claim if
6 the electronic communication service provider, remote
7 computing service provider, or domain name registrar, or
8 a director, officer, employee, or agent of that electronic
9 communication service provider, remote computing service
10 provider, or domain name registrar—

11 (1) engaged in intentional misconduct; or

12 (2) acted, or failed to act—

13 (A) with actual malice;

14 (B) with reckless disregard to a substantial
15 risk of causing physical injury without legal jus-
16 tification; or

17 (C) for a purpose unrelated to the per-
18 formance of any responsibility or function
19 under this section, section 6 or 8, or section
20 3120 or 3120A of title 18, United States Code.

21 (c) MINIMIZING ACCESS.—An electronic communica-
22 tion service provider, a remote computing service provider,
23 and domain name registrar shall—

1 (1) minimize the number of employees that are
2 provided access to any image provided under section
3 6 or 8; and

4 (2) ensure that any such image is permanently
5 destroyed, upon a request from a law enforcement
6 agency to destroy the image.

7 **SEC. 8. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-**
8 **TION 2258C (RELATING TO USE TO COMBAT**
9 **CHILD PORNOGRAPHY OF TECHNICAL ELE-**
10 **MENTS RELATING TO IMAGES REPORTED TO**
11 **THE CYBERTIPLINE).**

12 (a) ELEMENTS.—

13 (1) IN GENERAL.—The National Center for
14 Missing and Exploited Children may provide ele-
15 ments relating to any apparent child pornography
16 image of an identified child to an electronic commu-
17 nication service provider or a remote computing
18 service provider for the sole and exclusive purpose of
19 permitting that electronic communication service
20 provider or remote computing service provider to
21 stop the further transmission of images.

22 (2) INCLUSIONS.—The elements authorized
23 under paragraph (1) may include hash values or
24 other unique identifiers associated with a specific
25 image, Internet location of images, and other tech-

1 nological elements that can be used to identify and
2 stop the transmission of child pornography.

3 (3) EXCLUSION.—The elements authorized
4 under paragraph (1) may not include the actual im-
5 ages.

6 (b) USE BY ELECTRONIC COMMUNICATION SERVICE
7 PROVIDERS AND REMOTE COMPUTING SERVICE PRO-
8 VIDERS.—Any electronic communication service provider
9 or remote computing service provider that receives ele-
10 ments relating to any apparent child pornography image
11 of an identified child from the National Center for Missing
12 and Exploited Children under this section may use such
13 information only for the purposes described in this section,
14 but such use does not relieve that electronic communica-
15 tion service provider or remote computing service provider
16 from its reporting obligations under section 6.

17 (c) LIMITATIONS.—Nothing in subsection (a) or (b)
18 requires electronic communication service providers or re-
19 mote computing service providers receiving elements relat-
20 ing to any apparent child pornography image of an identi-
21 fied child from the National Center for Missing and Ex-
22 ploited Children to use the elements to stop the further
23 transmission of the images.

24 (d) PROVISION OF ELEMENTS TO LAW ENFORCE-
25 MENT.—The National Center for Missing and Exploited

1 Children shall make available to Federal, State, and local
2 law enforcement involved in the investigation of child por-
3 nography crimes elements, including hash values, relating
4 to any apparent child pornography image of an identified
5 child reported to the National Center for Missing and Ex-
6 ploited Children.

7 (e) USE BY LAW ENFORCEMENT.—Any Federal,
8 State, or local law enforcement agency that receives ele-
9 ments relating to any apparent child pornography image
10 of an identified child from the National Center for Missing
11 and Exploited Children under subsection (d) may use such
12 elements only in the performance of the official duties of
13 that agency to investigate child pornography crimes.

14 **SEC. 9. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-**
15 **TION 2258D (RELATING TO LIMITED LIABIL-**
16 **ITY FOR THE NATIONAL CENTER FOR MISS-**
17 **ING AND EXPLOITED CHILDREN).**

18 (a) IN GENERAL.—Except as provided in subsections
19 (b) and (c), a civil claim or criminal charge against the
20 National Center for Missing and Exploited Children, in-
21 cluding any director, officer, employee, or agent of such
22 center, arising from the performance of the CyberTipline
23 responsibilities or functions of such center, as described
24 in this section, section 6 or 8, or section 404 of the Miss-
25 ing Children’s Assistance Act, or from the effort of such

1 center to identify child victims may not be brought in any
2 Federal or State court.

3 (b) INTENTIONAL, RECKLESS, OR OTHER MIS-
4 CONDUCT.—Subsection (a) does not apply to a claim or
5 charge if the National Center for Missing and Exploited
6 Children, or a director, officer, employee, or agent of such
7 center—

8 (1) engaged in intentional misconduct; or

9 (2) acted, or failed to act—

10 (A) with actual malice;

11 (B) with reckless disregard to a substantial
12 risk of causing injury without legal justification;

13 or

14 (C) for a purpose unrelated to the per-
15 formance of any responsibility or function
16 under this section, section 6 or 8, or section
17 404 of the Missing Children’s Assistance Act.

18 (c) ORDINARY BUSINESS ACTIVITIES.—Subsection
19 (a) does not apply to an act or omission relating to an
20 ordinary business activity, including general administra-
21 tion or operations, the use of motor vehicles, or personnel
22 management.

23 (d) MINIMIZING ACCESS.—The National Center for
24 Missing and Exploited Children shall—

1 (1) minimize the number of employees that are
2 provided access to any image provided under section
3 6; and

4 (2) ensure that any such image is permanently
5 destroyed upon notification from a law enforcement
6 agency.

7 **SEC. 10. REENACTMENT OUTSIDE TITLE 18 OF FORMER**
8 **SECTION 2258E (RELATING TO DEFINITIONS).**

9 In sections 6 through 9—

10 (1) the terms “attorney for the government”
11 and “State” have the meanings given those terms in
12 rule 1 of the Federal Rules of Criminal Procedure;

13 (2) the term “electronic communication service”
14 has the meaning given that term in section 1491 of
15 title 18, United States Code;

16 (3) the term “electronic mail address” has the
17 meaning given that term in section 3 of the CAN-
18 SPAM Act of 2003;

19 (4) the term “Internet” has the meaning given
20 that term in section 1101 of the Internet Tax Free-
21 dom Act;

22 (5) the term “remote computing service” has
23 the meaning given that term in section 3120I of title
24 18, United States Code; and

1 (6) the term “website” means any collection of
2 material placed in a computer server-based file ar-
3 chive so that it is publicly accessible, over the Inter-
4 net, using hypertext transfer protocol or any suc-
5 cessor protocol.

6 **SEC. 11. REENACTMENT OUTSIDE TITLE 18 OF SUBSECTION**
7 **(F) OF FORMER SECTION 1716E (RELATING TO**
8 **USE OF PENALTIES).**

9 There is established a separate account in the Treas-
10 ury, to be known as the “PACT Postal Service Fund”.
11 Notwithstanding any other provision of law, an amount
12 equal to 50 percent of any criminal fines, civil penalties,
13 or other monetary penalties collected by the Federal Gov-
14 ernment in enforcing section 951 of title 18, United States
15 Code, shall be transferred into the PACT Postal Service
16 Fund and shall be available to the Postmaster General for
17 the purpose of enforcing this section.

18 **SEC. 12. TRANSFER TO PART II OF TITLE 18, UNITED**
19 **STATES CODE, OF CERTAIN PROCEDURAL**
20 **AND RELATED PROVISIONS.**

21 Part II of title 18, United States Code, is amended—
22 (1) by inserting after chapter 205 the following:

1 **“CHAPTER 205A—PROCEDURAL AND RE-**
 2 **LATED PROVISIONS PERTAINING TO**
 3 **INTERCEPTION OF COMMUNICATIONS**

“See

“3119. Prohibition of use as evidence of intercepted wire or oral communications

“3119A. Authorization for interception of wire, oral, or electronic communica-
 tions

“3119B. Authorization for disclosure and use of intercepted wire, oral, or elec-
 tronic communications

“3119C. Procedure for interception of wire, oral, or electronic communications

“3119D. Reports concerning intercepted wire, oral, or electronic communications

“3119E. Recovery of civil damages authorized

“3119F. Injunction against illegal interception

“3119G. Enforcement of the Communications Assistance for Law Enforcement
 Act

“3119H. Definitions

4 **“§ 3119. Prohibition of use as evidence of intercepted**
 5 **wire or oral communications**

6 “Whenever any wire or oral communication has been
 7 intercepted, no part of the contents of such communica-
 8 tion and no evidence derived therefrom may be received
 9 in evidence in any trial, hearing, or other proceeding in
 10 or before any court, grand jury, department, officer, agen-
 11 cy, regulatory body, legislative committee, or other author-
 12 ity of the United States, a State, or a political subdivision
 13 thereof if the disclosure of that information would be in
 14 violation of this chapter.

15 **“§ 3119A. Authorization for interception of wire, oral,**
 16 **or electronic communications**

17 “(a) FEDERAL PROSECUTORS.—The Attorney Gen-
 18 eral, Deputy Attorney General, Associate Attorney Gen-
 19 eral, or any Assistant Attorney General, any acting Assist-

1 ant Attorney General, or any Deputy Assistant Attorney
2 General or acting Deputy Assistant Attorney General in
3 the Criminal Division specially designated by the Attorney
4 General, may authorize an application to a Federal judge
5 of competent jurisdiction for, and such judge may grant
6 in conformity with section 3119C an order authorizing or
7 approving the interception of wire or oral communications
8 by the Federal Bureau of Investigation, or a Federal agen-
9 cy having responsibility for the investigation of the offense
10 as to which the application is made, when such intercep-
11 tion may provide or has provided evidence of—

12 “(1) any felony offense under section 272 (re-
13 lating to atomic weapons), section 783 (relating to
14 fraud and related activity in connection with identi-
15 fication documents, authentication features, and in-
16 formation), section 787 (relating to fraud and re-
17 lated activity in connection with computers), sub-
18 chapter C of chapter 10 (relating to kidnapping),
19 subchapter A of chapter 15 (relating to treason),
20 subchapter E of chapter 15 (relating to espionage),
21 subchapter E of chapter 21 (relating to biological
22 weapons), subchapter N of chapter 29 (relating to
23 malicious mischief), subchapter A of chapter 31 (re-
24 lating to piracy), subchapter E of chapter 33, or
25 subchapter C of chapter 35 (relating to protection of

1 trade secrets) of this title, or section 236 of the
2 Atomic Energy Act of 1954;

3 “(2) a violation of section 186 or section 501(c)
4 of title 29, (dealing with restrictions on payments
5 and loans to labor organizations), or any offense
6 which involves murder, kidnapping, robbery, or ex-
7 tortion, and which is punishable under this title;

8 “(3) any offense which is punishable under
9 paragraph (2), (4), (6), or (7) of section 102 (relat-
10 ing to Federally punishable homicides), section 112
11 (relating to individuals Federally protected from as-
12 sault) if the victim is an individual whose killing is
13 an offense under paragraph (6) or (7) of section
14 102, section 121 (relating to kidnapping) if the vic-
15 tim is an individual whose killing is an offense under
16 paragraph (6) or (7) of section 102, section 123 (re-
17 lating to hostage taking), section 131 (relating to
18 threats against officers or employees of the United
19 States, and other specially protected persons), sub-
20 chapter B of chapter 13 (relating to transport for il-
21 legal sexual activity), section 221 (relating to sexual
22 exploitation of children), section 222 (relating to
23 selling or buying of children), section 223 (certain
24 activities relating to materials involving the sexual
25 exploitation of children and child pornography), sec-

1 tion 311 (relating to false statement in application
2 and use of passport), section 312 (relating to forgery
3 or false use of passport), section 313 (relating to
4 misuse of passport), section 314 (relating to fraud
5 and misuse of visas, permits, and other documents),
6 section 315 (relating to procurement of citizenship
7 or nationalization unlawfully), section 316 (relating
8 to the sale of naturalization or citizenship papers),
9 section 501 (interference with commerce by threats
10 or violence), section 502 (interstate and foreign trav-
11 el or transportation in aid of racketeering enter-
12 prises), 504 (offer, acceptance, or solicitation to in-
13 fluence operations of employee benefit plan), section
14 505 (prohibition of illegal gambling businesses), sec-
15 tion 506 (relating to use of interstate commerce fa-
16 cilities in the commission of murder for hire), sec-
17 tion 507 (relating to violent crimes in aid of racket-
18 eering activity), section 513 (relating to criminal
19 penalties with respect to racketeer influenced and
20 corrupt organizations), section 571 (relating to
21 arson within special maritime and territorial juris-
22 diction), section 593 (relating to possession of fire-
23 arms and dangerous weapons in Federal facilities),
24 section 601 (relating to prohibited transactions in-
25 volving nuclear materials), subsection (d), (e), (f),

1 (g), (h), or (i) of section 614 (relating to penalties
2 with respect to unlawful use of explosives), section
3 621 (relating to prohibitions with respect to biological
4 weapons), section 624 (relating to variola virus),
5 section 647 (relating to interstate or foreign ship-
6 ments by carrier; state prosecutions), section 651
7 (theft or embezzlement from employee benefit plan),
8 section 671 (relating to transportation of stolen ve-
9 hicles), section 672 (relating to sale or receipt of sto-
10 len vehicles), section 673 (relating to transportation
11 of stolen goods, securities, moneys, fraudulent State
12 tax stamps, or articles used in counterfeiting), sec-
13 tion 674 (relating to sale or receipt of stolen goods,
14 securities, moneys, or fraudulent State tax stamps),
15 section 681 (relating to trafficking in certain motor
16 vehicles or motor vehicle parts), section 779 (relat-
17 ing to loan and credit applications generally; renew-
18 als and discounts; crop insurance), section 786 (re-
19 lating to fraud and related activity in connection
20 with access devices), section 789 (relating to con-
21 cealment of assets from conservator, receiver, or liq-
22 uidating agent of financial institution), section 801
23 (relating to mail fraud), section 803 (fraud by wire,
24 radio, or television), section 804 (relating to bank
25 fraud), section 924 (relating to conspiracy to kill,

1 kidnap, maim, or injure persons or damage property
2 in a foreign country), section 991 (relating to brib-
3 ery of public officials and witnesses), section 1003
4 (relating to receipt of commissions or gifts for pro-
5 curing loans), section 1007 (bribery in sporting con-
6 tests), section 1071 (relating to prisoners in custody
7 of institution or officer), section 1132 (relating to
8 influencing or injuring officer or juror generally),
9 section 1135 (relating to obstruction of criminal in-
10 vestigations), section 1136 (relating to obstruction
11 of State or local law enforcement with regard to ille-
12 gal gambling business), section 1137 (relating to
13 tampering with a witness, victim, or an informant),
14 section 1138 (relating to retaliating against a wit-
15 ness, victim, or an informant), section 1265 (sex
16 trafficking of children by force, fraud, or coercion),
17 section 1291 (relating to torture), section 1301 (re-
18 lating to destruction of aircraft or aircraft facilities),
19 section 1302 (relating to destruction of motor vehi-
20 cles or motor vehicle facilities), section 1305 (relat-
21 ing to violence at international airports), section
22 1306 (relating to fraud involving aircraft or space
23 vehicle parts in interstate or foreign commerce), sec-
24 tion 1302 (relating to destruction of motor vehicles
25 or motor vehicle facilities), section 1331 (relating to

1 terrorist attacks and other violence against railroad
2 carriers and against mass transportation systems on
3 land, on water, or through the air), section 1373 (re-
4 lating to force, violence, and threats involving animal
5 enterprises), section 1381 (relating to transmission
6 of wagering information; penalties), section 1445
7 (relating to obscene visual representations of the
8 sexual abuse of children), section 1451 (relating to
9 laundering of monetary instruments), section 1452
10 (relating to engaging in monetary transactions in
11 property derived from specified unlawful activity),
12 section 3146 (relating to penalty for failure to ap-
13 pear), or subsection (b)(3) of section 3521 (relating
14 to witness relocation and protection);

15 “(4) any offense involving counterfeiting pun-
16 ishable under section 692, 693, or 694;

17 “(5) any offense involving fraud connected with
18 a case under title 11 or the manufacture, importa-
19 tion, receiving, concealment, buying, selling, or oth-
20 erwise dealing in narcotic drugs, marihuana, or
21 other dangerous drugs, punishable under any law of
22 the United States;

23 “(6) any offense including extortionate credit
24 transactions under section 155, 156, or 157;

1 “(7) a violation of section 1453 (relating to
2 structuring transactions to evade reporting require-
3 ment prohibited) of this title or section 5322 (relat-
4 ing to the reporting of currency transactions) of title
5 31;

6 “(8) any felony violation of sections 1492 and
7 1493 (relating to interception and disclosure of cer-
8 tain communications and to certain intercepting de-
9 vices);

10 “(9) any felony violation of subchapter F of
11 chapter 35 (relating to obscenity);

12 “(10) any violation of section 1307 (relating to
13 aircraft piracy), the second sentence of section 1308
14 (relating to assault on a flight crew with dangerous
15 weapon), or subsection (b)(3) or (c) of section 1309
16 (relating to explosive or incendiary devices, or
17 endangerment of human life, by means of weapons
18 on aircraft) of this title, or section 60123(b) (relat-
19 ing to destruction of a natural gas pipeline) of title
20 49;

21 “(11) any criminal violation of section 2778 of
22 title 22 (relating to the Arms Export Control Act);

23 “(12) the location of any fugitive from justice
24 from an offense described in this section;

1 “(13) a violation of section 318 (relating to
2 bringing in and harboring certain aliens), section
3 321 (relating to reentry of removed alien) of this
4 title or section 278 of the Immigration and Nation-
5 ality Act;

6 “(14) any felony violation of sections 582 and
7 584;

8 “(15) any violation of section 5861 of the Inter-
9 nal Revenue Code of 1986 (relating to firearms);

10 “(16) a felony violation of section 311 (relating
11 to false statements in passport applications), section
12 314 (relating to fraud and misuse of visas, permits,
13 and other documents), section 318 (relating to
14 bringing in and harboring certain aliens), section
15 321 (relating to reentry of removed alien), section
16 783 (relating to production of false identification
17 documents), or section 784 (relating to aggravated
18 identity theft) of this title or a violation of section
19 278 of the Immigration and Nationality Act;

20 “(17) any criminal violation of section 631 (re-
21 lating to chemical weapons); or sections 271, 273,
22 274, 275, 276, 277, 278, 279, 280, or 281 (relating
23 to terrorism);

24 “(18) any criminal violation of section 1 (relat-
25 ing to illegal restraints of trade or commerce), 2 (re-

1 relating to illegal monopolizing of trade or commerce),
2 or 3 (relating to illegal restraints of trade or com-
3 merce in territories or the District of Columbia) of
4 the Sherman Act; or

5 “(19) any conspiracy to commit any offense de-
6 scribed in any paragraph of this subsection.

7 “(b) STATE PROSECUTORS.—The principal pros-
8 ecuting attorney of any State, or the principal prosecuting
9 attorney of any political subdivision thereof, if such attor-
10 ney is authorized by a statute of that State to make appli-
11 cation to a State court judge of competent jurisdiction for
12 an order authorizing or approving the interception of wire,
13 oral, or electronic communications, may apply to such
14 judge for, and such judge may grant in conformity with
15 section 3119C and with the applicable State statute an
16 order authorizing, or approving the interception of wire,
17 oral, or electronic communications by investigative or law
18 enforcement officers having responsibility for the inves-
19 tigation of the offense as to which the application is made,
20 when such interception may provide or has provided evi-
21 dence of the commission of the offense of murder, kidnap-
22 ping, gambling, robbery, bribery, extortion, or dealing in
23 narcotic drugs, marihuana or other dangerous drugs, or
24 other crime dangerous to life, limb, or property, and pun-
25 ishable by imprisonment for more than one year, des-

1 ignated in any applicable State statute authorizing such
2 interception, or any conspiracy to commit any of the fore-
3 going offenses.

4 “(c) INTERCEPTION FOR EVIDENCE OF FEDERAL
5 FELONIES.—Any attorney for the Government (as such
6 term is defined for the purposes of the Federal Rules of
7 Criminal Procedure) may authorize an application to a
8 Federal judge of competent jurisdiction for, and such
9 judge may grant, in conformity with section 3119C, an
10 order authorizing or approving the interception of elec-
11 tronic communications by an investigative or law enforce-
12 ment officer having responsibility for the investigation of
13 the offense as to which the application is made, when such
14 interception may provide or has provided evidence of any
15 Federal felony.

16 **“§ 3119B. Authorization for disclosure and use of**
17 **intercepted wire, oral, or electronic com-**
18 **munications**

19 “(a) DISCLOSURE TO INVESTIGATIVE OR LAW EN-
20 FORCEMENT OFFICERS.—Any investigative or law en-
21 forcement officer who, by any means authorized by this
22 chapter, has obtained knowledge of the contents of any
23 wire, oral, or electronic communication, or evidence de-
24 rived therefrom, may disclose such contents to another in-
25 vestigative or law enforcement officer to the extent that

1 such disclosure is appropriate to the proper performance
2 of the official duties of the officer making or receiving the
3 disclosure.

4 “(b) USE OF CONTENTS IN PERFORMANCE OF DU-
5 TIES.—Any investigative or law enforcement officer who,
6 by any means authorized by this chapter, has obtained
7 knowledge of the contents of any wire, oral, or electronic
8 communication or evidence derived therefrom may use
9 such contents to the extent such use is appropriate to the
10 proper performance of his official duties.

11 “(c) USE OF CONTENTS IN TESTIMONY.—Any person
12 who has received, by any means authorized by this chap-
13 ter, any information concerning a wire, oral, or electronic
14 communication, or evidence derived therefrom intercepted
15 in accordance with this chapter may disclose the contents
16 of that communication or such derivative evidence while
17 giving testimony under oath or affirmation in any pro-
18 ceeding held under the authority of the United States or
19 of any State or political subdivision thereof.

20 “(d) PRIVILEGED CHARACTER.—No otherwise privi-
21 leged wire, oral, or electronic communication intercepted
22 in accordance with, or in violation of, this chapter shall
23 lose its privileged character.

24 “(e) OFFENSES OTHER THAN THOSE SPECIFIED IN
25 THE ORDER.—When an investigative or law enforcement

1 officer, while engaged in intercepting wire, oral, or elec-
2 tronic communications in the manner authorized herein,
3 intercepts wire, oral, or electronic communications relating
4 to offenses other than those specified in the order of au-
5 thorization or approval, the contents thereof, and evidence
6 derived therefrom, may be disclosed or used as provided
7 in subsections (a) and (b). Such contents and any evidence
8 derived therefrom may be used under subsection (c) when
9 authorized or approved by a judge of competent jurisdic-
10 tion where such judge finds on subsequent application that
11 the contents were otherwise intercepted in accordance with
12 this chapter. Such application shall be made as soon as
13 practicable.

14 “(f) DOMESTIC USE OF INTELLIGENCE AND COUN-
15 TERINTELLIGENCE INFORMATION.—Any investigative or
16 law enforcement officer, or attorney for the Government,
17 who by any means authorized by this chapter, has ob-
18 tained knowledge of the contents of any wire, oral, or elec-
19 tronic communication, or evidence derived therefrom, may
20 disclose such contents to any other Federal law enforce-
21 ment, intelligence, protective, immigration, national de-
22 fense, or national security official to the extent that such
23 contents include foreign intelligence or counterintelligence
24 (as defined in section 3 of the National Security Act of
25 1947), or foreign intelligence information (as defined in

1 section 1491), to assist the official who is to receive that
2 information in the performance of his official duties. Any
3 Federal official who receives information pursuant to this
4 provision may use that information only as necessary in
5 the conduct of that person's official duties subject to any
6 limitations on the unauthorized disclosure of such infor-
7 mation.

8 “(g) FOREIGN USE OF INTELLIGENCE AND COUN-
9 TERINTELLIGENCE INFORMATION.—Any investigative or
10 law enforcement officer, or other Federal official in car-
11 rying out official duties as such Federal official, who by
12 any means authorized by this chapter, has obtained knowl-
13 edge of the contents of any wire, oral, or electronic com-
14 munication, or evidence derived therefrom, may disclose
15 such contents or derivative evidence to a foreign investiga-
16 tive or law enforcement officer to the extent that such dis-
17 closure is appropriate to the proper performance of the
18 official duties of the officer making or receiving the dislo-
19 sure, and foreign investigative or law enforcement officers
20 may use or disclose such contents or derivative evidence
21 to the extent such use or disclosure is appropriate to the
22 proper performance of their official duties.

23 “(h) DISCLOSURE FOR PUBLIC SAFETY PUR-
24 POSES.—Any investigative or law enforcement officer, or
25 other Federal official in carrying out official duties as such

1 Federal official, who by any means authorized by this
2 chapter, has obtained knowledge of the contents of any
3 wire, oral, or electronic communication, or evidence de-
4 rived therefrom, may disclose such contents or derivative
5 evidence to any appropriate Federal, State, local, or for-
6 eign government official to the extent that such contents
7 or derivative evidence reveals a threat of actual or poten-
8 tial attack or other grave hostile acts of a foreign power
9 or an agent of a foreign power, domestic or international
10 sabotage, domestic or international terrorism, or clandes-
11 tine intelligence gathering activities by an intelligence
12 service or network of a foreign power or by an agent of
13 a foreign power, within the United States or elsewhere,
14 for the purpose of preventing or responding to such a
15 threat. Any official who receives information pursuant to
16 this provision may use that information only as necessary
17 in the conduct of that person's official duties subject to
18 any limitations on the unauthorized disclosure of such in-
19 formation, and any State, local, or foreign official who re-
20 ceives information pursuant to this provision may use that
21 information only consistent with such guidelines as the At-
22 torney General and Director of Central Intelligence shall
23 jointly issue.

1 **“§ 3119C. Procedure for interception of wire, oral, or**
2 **electronic communications**

3 “(a) APPLICATION.—Each application for an order
4 authorizing or approving the interception of a wire, oral,
5 or electronic communication under this chapter shall be
6 made in writing upon oath or affirmation to a judge of
7 competent jurisdiction and shall state the applicant’s au-
8 thority to make such application. Each application shall
9 include the following information:

10 “(1) The identity of the investigative or law en-
11 forcement officer making the application, and the of-
12 ficer authorizing the application.

13 “(2) A full and complete statement of the facts
14 and circumstances relied upon by the applicant, to
15 justify his belief that an order should be issued, in-
16 cluding (A) details as to the particular offense that
17 has been, is being, or is about to be committed, (B)
18 except as provided in subsection (k), a particular de-
19 scription of the nature and location of the facilities
20 from which or the place where the communication is
21 to be intercepted, (C) a particular description of the
22 type of communications sought to be intercepted,
23 (D) the identity of the person, if known, committing
24 the offense and whose communications are to be
25 intercepted.

1 “(3) A full and complete statement as to wheth-
2 er or not other investigative procedures have been
3 tried and failed or why they reasonably appear to be
4 unlikely to succeed if tried or to be too dangerous.

5 “(4) A statement of the period of time for
6 which the interception is required to be maintained.
7 If the nature of the investigation is such that the
8 authorization for interception should not automati-
9 cally terminate when the described type of commu-
10 nication has been first obtained, a particular de-
11 scription of facts establishing probable cause to be-
12 lieve that additional communications of the same
13 type will occur thereafter.

14 “(5) A full and complete statement of the facts
15 concerning all previous applications known to the in-
16 dividual authorizing and making the application,
17 made to any judge for authorization to intercept, or
18 for approval of interceptions of, wire, oral, or elec-
19 tronic communications involving any of the same
20 persons, facilities or places specified in the applica-
21 tion, and the action taken by the judge on each such
22 application.

23 “(6) Where the application is for the extension
24 of an order, a statement setting forth the results

1 thus far obtained from the interception, or a reason-
2 able explanation of the failure to obtain such results.

3 “(b) **ADDITIONAL TESTIMONY OR DOCUMENTARY**
4 **EVIDENCE.**—The judge may require the applicant to fur-
5 nish additional testimony or documentary evidence in sup-
6 port of the application.

7 “(c) **EX PARTE ORDER.**—Upon such application the
8 judge may enter an *ex parte* order, as requested or as
9 modified, authorizing or approving interception of wire,
10 oral, or electronic communications within the territorial
11 jurisdiction of the court in which the judge is sitting (and
12 outside that jurisdiction but within the United States in
13 the case of a mobile interception device authorized by a
14 Federal court within such jurisdiction), if the judge deter-
15 mines on the basis of the facts submitted by the applicant
16 that—

17 “(1) there is probable cause for belief that an
18 individual is committing, has committed, or is about
19 to commit a particular offense enumerated in section
20 3119A;

21 “(2) there is probable cause for belief that par-
22 ticular communications concerning that offense will
23 be obtained through such interception;

1 “(3) normal investigative procedures have been
2 tried and have failed or reasonably appear to be un-
3 likely to succeed if tried or to be too dangerous; and

4 “(4) except as provided in subsection (k), there
5 is probable cause for belief that the facilities from
6 which, or the place where, the wire, oral, or elec-
7 tronic communications are to be intercepted are
8 being used, or are about to be used, in connection
9 with the commission of such offense, or are leased
10 to, listed in the name of, or commonly used by such
11 person.

12 “(d) CONTENTS OF ORDER.—Each order authorizing
13 or approving the interception of any wire, oral, or elec-
14 tronic communication under this chapter shall specify—

15 “(1) the identity of the person, if known, whose
16 communications are to be intercepted;

17 “(2) the nature and location of the communica-
18 tions facilities as to which, or the place where, au-
19 thority to intercept is granted;

20 “(3) a particular description of the type of com-
21 munication sought to be intercepted, and a state-
22 ment of the particular offense to which it relates;

23 “(4) the identity of the agency authorized to
24 intercept the communications, and of the person au-
25 thorizing the application; and

1 “(5) the period of time during which such inter-
2 ception is authorized, including a statement as to
3 whether or not the interception shall automatically
4 terminate when the described communication has
5 been first obtained.

6 An order authorizing the interception of a wire, oral, or
7 electronic communication under this chapter shall, upon
8 request of the applicant, direct that a provider of wire or
9 electronic communication service, landlord, custodian or
10 other person shall furnish the applicant forthwith all infor-
11 mation, facilities, and technical assistance necessary to ac-
12 complish the interception unobtrusively and with a min-
13 imum of interference with the services that such service
14 provider, landlord, custodian, or person is according the
15 person whose communications are to be intercepted. Any
16 provider of wire or electronic communication service, land-
17 lord, custodian or other person furnishing such facilities
18 or technical assistance shall be compensated therefor by
19 the applicant for reasonable expenses incurred in pro-
20 viding such facilities or assistance. Pursuant to section
21 3119G, an order may also be issued to enforce the assist-
22 ance capability and capacity requirements under the Com-
23 munications Assistance for Law Enforcement Act.

24 “(e) LIMITATIONS ON ORDERS.—No order entered
25 under this section may authorize or approve the intercep-

1 tion of any wire, oral, or electronic communication for any
2 period longer than is necessary to achieve the objective
3 of the authorization, nor in any event longer than thirty
4 days. Such thirty-day period begins on the earlier of the
5 day on which the investigative or law enforcement officer
6 first begins to conduct an interception under the order or
7 ten days after the order is entered. Extensions of an order
8 may be granted, but only upon application for an exten-
9 sion made in accordance with subsection (a) of this section
10 and the court making the findings required by subsection
11 (c) of this section. The period of extension shall be no
12 longer than the authorizing judge deems necessary to
13 achieve the purposes for which it was granted and in no
14 event for longer than thirty days. Every order and exten-
15 sion thereof shall contain a provision that the authoriza-
16 tion to intercept shall be executed as soon as practicable,
17 shall be conducted in such a way as to minimize the inter-
18 ception of communications not otherwise subject to inter-
19 ception under this chapter, and must terminate upon at-
20 tainment of the authorized objective, or in any event in
21 thirty days. In the event the intercepted communication
22 is in a code or foreign language, and an expert in that
23 foreign language or code is not reasonably available during
24 the interception period, minimization may be accomplished
25 as soon as practicable after such interception. An intercep-

1 tion under this chapter may be conducted in whole or in
2 part by Government personnel, or by an individual oper-
3 ating under a contract with the Government, acting under
4 the supervision of an investigative or law enforcement offi-
5 cer authorized to conduct the interception.

6 “(f) REPORTS TO ISSUING JUDGE.—Whenever an
7 order authorizing interception is entered pursuant to this
8 chapter, the order may require reports to be made to the
9 judge who issued the order showing what progress has
10 been made toward achievement of the authorized objective
11 and the need for continued interception. Such reports shall
12 be made at such intervals as the judge may require.

13 “(g) EMERGENCY SITUATIONS.—Notwithstanding
14 any other provision of this chapter, any investigative or
15 law enforcement officer, specially designated by the Attor-
16 ney General, the Deputy Attorney General, the Associate
17 Attorney General, or by the principal prosecuting attorney
18 of any State or subdivision thereof acting pursuant to a
19 statute of that State, who reasonably determines that—

20 “(1) an emergency situation exists that in-
21 volves—

22 “(A) immediate danger of death or serious
23 physical injury to any person,

24 “(B) conspiratorial activities threatening
25 the national security interest, or

1 “(C) conspiratorial activities characteristic
2 of organized crime,
3 that requires a wire, oral, or electronic communica-
4 tion to be intercepted before an order authorizing
5 such interception can, with due diligence, be ob-
6 tained, and

7 “(2) there are grounds upon which an order
8 could be entered under this chapter to authorize
9 such interception,

10 may intercept such wire, oral, or electronic communication
11 if an application for an order approving the interception
12 is made in accordance with this section within forty-eight
13 hours after the interception has occurred, or begins to
14 occur. In the absence of an order, such interception shall
15 immediately terminate when the communication sought is
16 obtained or when the application for the order is denied,
17 whichever is earlier. In the event such application for ap-
18 proval is denied, or in any other case where the intercep-
19 tion is terminated without an order having been issued,
20 the contents of any wire, oral, or electronic communication
21 intercepted shall be treated as having been obtained in vio-
22 lation of this chapter, and an inventory shall be served
23 as provided for in subsection (d) of this section on the
24 person named in the application.

1 “(h) RECORDING OF INTERCEPTION.—(1) The con-
2 tents of any wire, oral, or electronic communication inter-
3 cepted by any means authorized by this chapter shall, if
4 possible, be recorded on tape or wire or other comparable
5 device. The recording of the contents of any wire, oral,
6 or electronic communication under this subsection shall be
7 done in such a way as will protect the recording from edit-
8 ing or other alterations. Immediately upon the expiration
9 of the period of the order, or extensions thereof, such re-
10 cordings shall be made available to the judge issuing such
11 order and sealed under his directions. Custody of the re-
12 cordings shall be wherever the judge orders. They shall
13 not be destroyed except upon an order of the issuing or
14 denying judge and in any event shall be kept for ten years.
15 Duplicate recordings may be made for use or disclosure
16 pursuant to subsections (a) and (b) of section 3119B for
17 investigations. The presence of the seal provided for by
18 this subsection, or a satisfactory explanation for the ab-
19 sence thereof, shall be a prerequisite for the use or disclo-
20 sure of the contents of any wire, oral, or electronic commu-
21 nication or evidence derived therefrom under subsection
22 (c) of section 3119B.

23 “(2) Applications made and orders granted under
24 this chapter shall be sealed by the judge. Custody of the
25 applications and orders shall be wherever the judge di-

1 rects. Such applications and orders shall be disclosed only
2 upon a showing of good cause before a judge of competent
3 jurisdiction and shall not be destroyed except on order of
4 the issuing or denying judge, and in any event shall be
5 kept for ten years.

6 “(3) Any violation of the provisions of this subsection
7 may be punished as contempt of the issuing or denying
8 judge.

9 “(4) Within a reasonable time but not later than
10 ninety days after the filing of an application for an order
11 of approval under section 3119C(f)(2) which is denied or
12 the termination of the period of an order or extensions
13 thereof, the issuing or denying judge shall cause to be
14 served, on the persons named in the order or the applica-
15 tion, and such other parties to intercepted communica-
16 tions as the judge may determine in his discretion that
17 is in the interest of justice, an inventory which shall in-
18 clude notice of—

19 “(A) the fact of the entry of the order or the
20 application;

21 “(B) the date of the entry and the period of au-
22 thorized, approved or disapproved interception, or
23 the denial of the application; and

1 “(C) the fact that during the period wire, oral,
2 or electronic communications were or were not inter-
3 cepted.

4 The judge, upon the filing of a motion, may in his discre-
5 tion make available to such person or his counsel for in-
6 spection such portions of the intercepted communications,
7 applications and orders as the judge determines to be in
8 the interest of justice. On an ex parte showing of good
9 cause to a judge of competent jurisdiction the serving of
10 the inventory required by this subsection may be post-
11 poned.

12 “(i) EXCLUSION AS EVIDENCE.—The contents of any
13 wire, oral, or electronic communication intercepted pursu-
14 ant to this chapter or evidence derived therefrom shall not
15 be received in evidence or otherwise disclosed in any trial,
16 hearing, or other proceeding in a Federal or State court
17 unless each party, not less than ten days before the trial,
18 hearing, or proceeding, has been furnished with a copy of
19 the court order, and accompanying application, under
20 which the interception was authorized or approved. This
21 ten-day period may be waived by the judge if he finds that
22 it was not possible to furnish the party with the above
23 information ten days before the trial, hearing, or pro-
24 ceeding and that the party will not be prejudiced by the
25 delay in receiving such information.

1 “(j) MOVE TO SUPPRESS.—(1) Any aggrieved person
2 in any trial, hearing, or proceeding in or before any court,
3 department, officer, agency, regulatory body, or other au-
4 thority of the United States, a State, or a political subdivi-
5 sion thereof, may move to suppress the contents of any
6 wire or oral communication intercepted pursuant to this
7 chapter, or evidence derived therefrom, on the grounds
8 that—

9 “(A) the communication was unlawfully inter-
10 cepted;

11 “(B) the order of authorization or approval
12 under which it was intercepted is insufficient on its
13 face; or

14 “(C) the interception was not made in con-
15 formity with the order of authorization or approval.
16 Such motion shall be made before the trial, hearing,
17 or proceeding unless there was no opportunity to
18 make such motion or the person was not aware of
19 the grounds of the motion. If the motion is granted,
20 the contents of the intercepted wire or oral commu-
21 nication, or evidence derived therefrom, shall be
22 treated as having been obtained in violation of this
23 chapter. The judge, upon the filing of such motion
24 by the aggrieved person, may in his discretion make
25 available to the aggrieved person or his counsel for

1 inspection such portions of the intercepted commu-
2 nication or evidence derived therefrom as the judge
3 determines to be in the interests of justice.

4 “(2) In addition to any other right to appeal, the
5 United States shall have the right to appeal from an order
6 granting a motion to suppress made under paragraph (1),
7 or the denial of an application for an order of approval,
8 if the United States attorney shall certify to the judge or
9 other official granting such motion or denying such appli-
10 cation that the appeal is not taken for purposes of delay.
11 Such appeal shall be taken within thirty days after the
12 date the order was entered and shall be diligently pros-
13 ecutied.

14 “(3) The remedies and sanctions described in this
15 chapter with respect to the interception of electronic com-
16 munications are the only judicial remedies and sanctions
17 for nonconstitutional violations of this chapter involving
18 such communications.

19 “(k) EXCEPTION TO SPECIFICATION OF FACILITY
20 REQUIREMENTS.—The requirements of subsections
21 (a)(2)(B) and (c)(4) relating to the specification of the
22 facilities from which, or the place where, the communica-
23 tion is to be intercepted do not apply if—

24 “(1) in the case of an application with respect
25 to the interception of an oral communication—

1 “(A) the application is by a Federal inves-
2 tigative or law enforcement officer and is ap-
3 proved by the Attorney General, the Deputy At-
4 torney General, the Associate Attorney General,
5 an Assistant Attorney General, or an acting As-
6 sistant Attorney General;

7 “(B) the application contains a full and
8 complete statement as to why such specification
9 is not practical and identifies the person com-
10 mitting the offense and whose communications
11 are to be intercepted; and

12 “(C) the judge finds that such specification
13 is not practical; and

14 “(2) in the case of an application with respect
15 to a wire or electronic communication—

16 “(A) the application is by a Federal inves-
17 tigative or law enforcement officer and is ap-
18 proved by the Attorney General, the Deputy At-
19 torney General, the Associate Attorney General,
20 an Assistant Attorney General, or an acting As-
21 sistant Attorney General;

22 “(B) the application identifies the person
23 believed to be committing the offense and whose
24 communications are to be intercepted and the
25 applicant makes a showing that there is prob-

1 able cause to believe that the person’s actions
2 could have the effect of thwarting interception
3 from a specified facility;

4 “(C) the judge finds that such showing has
5 been adequately made; and

6 “(D) the order authorizing or approving
7 the interception is limited to interception only
8 for such time as it is reasonable to presume
9 that the person identified in the application is
10 or was reasonably proximate to the instrument
11 through which such communication will be or
12 was transmitted.

13 “(l) BEGINNING OF CERTAIN INTERCEPTIONS.—An
14 interception of a communication under an order with re-
15 spect to which the requirements of subsections (a)(2)(B)
16 and (c)(4) of this section do not apply by reason of sub-
17 section (k)(1) shall not begin until the place where the
18 communication is to be intercepted is ascertained by the
19 person implementing the interception order. A provider of
20 wire or electronic communications service that has re-
21 ceived an order as provided for in subsection (k)(2) may
22 move the court to modify or quash the order on the ground
23 that its assistance with respect to the interception cannot
24 be performed in a timely or reasonable fashion. The court,

1 upon notice to the government, shall decide such a motion
2 expeditiously.

3 **“§ 3119D. Reports concerning intercepted wire, oral,**
4 **or electronic communications**

5 “(a) 30 DAYS AFTER EXPIRATION OF ORDER.—In
6 January of each year, any judge who has issued an order
7 (or an extension thereof) under section 3119C that expired
8 during the preceding year, or who has denied approval of
9 an interception during that year, shall report to the Ad-
10 ministrative Office of the United States Courts—

11 “(1) the fact that an order or extension was ap-
12 plied for;

13 “(2) the kind of order or extension applied for
14 (including whether or not the order was an order
15 with respect to which the requirements of sections
16 3119C(a)(2)(B) and 3119(c)(4) did not apply by
17 reason of section 3119C(k));

18 “(3) the fact that the order or extension was
19 granted as applied for, was modified, or was denied;

20 “(4) the period of interceptions authorized by
21 the order, and the number and duration of any ex-
22 tensions of the order;

23 “(5) the offense specified in the order or appli-
24 cation, or extension of an order;

1 “(6) the identity of the applying investigative or
2 law enforcement officer and agency making the ap-
3 plication and the person authorizing the application;
4 and

5 “(7) the nature of the facilities from which or
6 the place where communications were to be inter-
7 cepted.

8 “(b) ANNUAL JUSTICE DEPARTMENT REPORT.—In
9 March of each year the Attorney General, an Assistant
10 Attorney General specially designated by the Attorney
11 General, or the principal prosecuting attorney of a State,
12 or the principal prosecuting attorney for any political sub-
13 division of a State, shall report to the Administrative Of-
14 fice of the United States Courts—

15 “(1) the information required by paragraphs
16 (1) through (7) of subsection (a) of this section with
17 respect to each application for an order or extension
18 made during the preceding calendar year;

19 “(2) a general description of the interceptions
20 made under such order or extension, including (i)
21 the approximate nature and frequency of incrimi-
22 nating communications intercepted, (ii) the approxi-
23 mate nature and frequency of other communications
24 intercepted, (iii) the approximate number of persons
25 whose communications were intercepted, (iv) the

1 number of orders in which encryption was encoun-
2 tered and whether such encryption prevented law en-
3 forcement from obtaining the plain text of commu-
4 nications intercepted pursuant to such order, and (v)
5 the approximate nature, amount, and cost of the
6 manpower and other resources used in the intercep-
7 tions;

8 “(3) the number of arrests resulting from inter-
9 ceptions made under such order or extension, and
10 the offenses for which arrests were made;

11 “(4) the number of trials resulting from such
12 interceptions;

13 “(5) the number of motions to suppress made
14 with respect to such interceptions, and the number
15 granted or denied;

16 “(6) the number of convictions resulting from
17 such interceptions and the offenses for which the
18 convictions were obtained and a general assessment
19 of the importance of the interceptions; and

20 “(7) the information required by paragraphs
21 (2) through (6) of this subsection with respect to or-
22 ders or extensions obtained in a preceding calendar
23 year.

24 “(c) REPORT TO CONGRESS.—In June of each year
25 the Director of the Administrative Office of the United

1 States Courts shall transmit to the Congress a full and
2 complete report concerning the number of applications for
3 orders authorizing or approving the interception of wire,
4 oral, or electronic communications pursuant to this chap-
5 ter and the number of orders and extensions granted or
6 denied pursuant to this chapter during the preceding cal-
7 endar year. Such report shall include a summary and anal-
8 ysis of the data required to be filed with the Administra-
9 tive Office by subsections (a) and (b) of this section. The
10 Director of the Administrative Office of the United States
11 Courts is authorized to issue binding regulations dealing
12 with the content and form of the reports required to be
13 filed by subsections (a) and (b).

14 **“§ 3119E. Recovery of civil damages authorized**

15 “(a) IN GENERAL.—Except as provided in section
16 1492(b)(1)(B), any person whose wire, oral, or electronic
17 communication is intercepted, disclosed, or intentionally
18 used in violation of subchapter B of chapter 37 may in
19 a civil action recover from the person or entity, other than
20 the United States, which engaged in that violation such
21 relief as may be appropriate.

22 “(b) RELIEF.—In an action under this section, ap-
23 propriate relief includes—

24 “(1) such preliminary and other equitable or
25 declaratory relief as may be appropriate;

1 “(2) damages under subsection (c) and punitive
2 damages in appropriate cases; and

3 “(3) a reasonable attorney’s fee and other liti-
4 gation costs reasonably incurred.

5 “(c) COMPUTATION OF DAMAGES.—(1) In an action
6 under this section, if the conduct in violation of this chap-
7 ter is the private viewing of a private satellite video com-
8 munication that is not scrambled or encrypted or if the
9 communication is a radio communication that is trans-
10 mitted on frequencies allocated under subpart D of part
11 74 of the rules of the Federal Communications Commis-
12 sion that is not scrambled or encrypted and the conduct
13 is not for a tortious or illegal purpose or for purposes of
14 direct or indirect commercial advantage or private com-
15 mercial gain, then the court shall assess damages as fol-
16 lows:

17 “(A) If the person who engaged in that conduct
18 has not previously been enjoined under section 1492,
19 and has not been found liable in a prior civil action
20 under this section, the court shall assess the greater
21 of the sum of actual damages suffered by the plain-
22 tiff, or statutory damages of not less than \$50 and
23 not more than \$500.

24 “(B) If, on one prior occasion, the person who
25 engaged in that conduct has been enjoined under

1 section 1492 or has been found liable in a civil ac-
2 tion under this section, the court shall assess the
3 greater of the sum of actual damages suffered by
4 the plaintiff, or statutory damages of not less than
5 \$100 and not more than \$1000.

6 “(2) In any other action under this section, the court
7 may assess as damages whichever is the greater of—

8 “(A) the sum of the actual damages suffered by
9 the plaintiff and any profits made by the violator as
10 a result of the violation; or

11 “(B) statutory damages of whichever is the
12 greater of \$100 a day for each day of violation or
13 \$10,000.

14 “(d) DEFENSE.—A good faith reliance on—

15 “(1) a court warrant or order, a grand jury
16 subpoena, a legislative authorization, or a statutory
17 authorization;

18 “(2) a request of an investigative or law en-
19 forcement officer under section 3119C(g); or

20 “(3) a good faith determination that section
21 1492(c) or 1492(b)(1) permitted the conduct com-
22 plained of,

23 is a complete defense against any civil or criminal action
24 brought under this chapter or any other law.

1 “(e) LIMITATION.—A civil action under this section
2 may not be commenced later than two years after the date
3 upon which the claimant first has a reasonable oppor-
4 tunity to discover the violation.

5 “(f) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
6 propriate department or agency determines that the
7 United States or any of its departments or agencies has
8 violated any provision of this chapter, and the court or
9 appropriate department or agency finds that the cir-
10 cumstances surrounding the violation raise serious ques-
11 tions about whether or not an officer or employee of the
12 United States acted willfully or intentionally with respect
13 to the violation, the department or agency shall, upon re-
14 ceipt of a true and correct copy of the decision and find-
15 ings of the court or appropriate department or agency
16 promptly initiate a proceeding to determine whether dis-
17 ciplinary action against the officer or employee is war-
18 ranted. If the head of the department or agency involved
19 determines that disciplinary action is not warranted, he
20 or she shall notify the Inspector General with jurisdiction
21 over the department or agency concerned and shall provide
22 the Inspector General with the reasons for such deter-
23 mination.

24 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any
25 willful disclosure or use by an investigative or law enforce-

1 ment officer or governmental entity of information beyond
2 the extent permitted by section 3119B is a violation of
3 this chapter for purposes of subsection (a).

4 **“§ 3119F. Injunction against illegal interception**

5 “Whenever it shall appear that any person is engaged
6 or is about to engage in any act which constitutes or will
7 constitute a felony violation of this chapter, the Attorney
8 General may initiate a civil action in a district court of
9 the United States to enjoin such violation. The court shall
10 proceed as soon as practicable to the hearing and deter-
11 mination of such an action, and may, at any time before
12 final determination, enter such a restraining order or pro-
13 hibition, or take such other action, as is warranted to pre-
14 vent a continuing and substantial injury to the United
15 States or to any person or class of persons for whose pro-
16 tection the action is brought. A proceeding under this sec-
17 tion is governed by the Federal Rules of Civil Procedure,
18 except that, if an indictment has been returned against
19 the respondent, discovery is governed by the Federal Rules
20 of Criminal Procedure.

21 **“§ 3119G. Enforcement of the Communications Assist-**
22 **ance for Law Enforcement Act**

23 “(a) ENFORCEMENT BY COURT ISSUING SURVEIL-
24 LANCE ORDER.—If a court authorizing an interception
25 under this chapter, a State statute, or the Foreign Intel-

1 ligen­ce Surveil­lance Act of 1978 or authorizing use of a
2 pen regis­ter or a trap and trace device under chapter 206
3 or a State statute finds that a telecommuni­cations carrier
4 has failed to comply with the require­ments of the Commu­
5 nica­tions As­sis­tance for Law En­force­ment Act, the court
6 may, in ac­cordance with sec­tion 108 of such Act, direct
7 that the carrier comply forthwith and may direct that a
8 provider of support ser­vices to the carrier or the manufac­
9 turer of the carrier’s trans­mis­sion or switch­ing equip­ment
10 furnish forthwith modifi­cations nec­essary for the carrier
11 to comply.

12 “(b) ENFORCEMENT UPON APPLICATION BY ATTOR­
13 NEY GENERAL.—The Attorney General may, in a civil ac­
14 tion in the appropriate United States district court, obtain
15 an order, in ac­cordance with sec­tion 108 of the Commu­
16 nica­tions As­sis­tance for Law En­force­ment Act, directing
17 that a telecommuni­cations carrier, a manufacturer of tele­
18 communi­cations trans­mis­sion or switch­ing equip­ment, or
19 a provider of telecommuni­cations support ser­vices comply
20 with such Act.

21 “(c) CIVIL PENALTY.—

22 “(1) IN GENERAL.—A court issuing an order
23 under this section against a telecommuni­cations car­
24 rier, a manufacturer of telecommuni­cations trans­
25 mis­sion or switch­ing equip­ment, or a provider of

1 telecommunications support services may impose a
2 civil penalty of up to \$10,000 per day for each day
3 in violation after the issuance of the order or after
4 such future date as the court may specify.

5 “(2) CONSIDERATIONS.—In determining wheth-
6 er to impose a civil penalty and in determining its
7 amount, the court shall take into account—

8 “(A) the nature, circumstances, and extent
9 of the violation;

10 “(B) the violator’s ability to pay, the viola-
11 tor’s good faith efforts to comply in a timely
12 manner, any effect on the violator’s ability to
13 continue to do business, the degree of culpa-
14 bility, and the length of any delay in under-
15 taking efforts to comply; and

16 “(C) such other matters as justice may re-
17 quire.

18 “(d) DEFINITIONS.—As used in this section, the
19 terms defined in section 102 of the Communications As-
20 sistance for Law Enforcement Act have the meanings pro-
21 vided, respectively, in such section.

22 **“§ 3119H. Definitions**

23 “Unless otherwise provided, a term defined for the
24 purposes of subchapter B of chapter 37 shall have the
25 same meaning for the purposes of this chapter.

1 **“CHAPTER 205B—PROCEDURAL AND RE-**
 2 **LATED PROVISIONS PERTAINING TO**
 3 **STORED COMMUNICATIONS**

“See

“3120. Voluntary disclosure of customer communications or records

“3120A. Required disclosure of customer communications or records

“3120B. Backup preservation

“3120C. Delayed notice

“3120D. Cost reimbursement

“3120E. Civil action

“3120F. Exclusivity of remedies

“3120G. Counterintelligence access to telephone toll and transactional records

“3120H. Wrongful disclosure of video tape rental or sale records

“3120I. Definitions for chapter

“3120J. Civil actions against the United States

4 **“§ 3120. Voluntary disclosure of customer commu-**
 5 **nications or records**

6 “(a) PROHIBITIONS.—Except as provided in sub-
 7 section (b) or (c)—

8 “(1) a person or entity providing an electronic
 9 communication service to the public shall not know-
 10 ingly divulge to any person or entity the contents of
 11 a communication while in electronic storage by that
 12 service; and

13 “(2) a person or entity providing remote com-
 14 puting service to the public shall not knowingly di-
 15 vulge to any person or entity the contents of any
 16 communication which is carried or maintained on
 17 that service—

18 “(A) on behalf of, and received by means
 19 of electronic transmission from (or created by

1 means of computer processing of communica-
2 tions received by means of electronic trans-
3 mission from), a subscriber or customer of such
4 service;

5 “(B) solely for the purpose of providing
6 storage or computer processing services to such
7 subscriber or customer, if the provider is not
8 authorized to access the contents of any such
9 communications for purposes of providing any
10 services other than storage or computer proc-
11 essing; and

12 “(3) a provider of remote computing service or
13 electronic communication service to the public shall
14 not knowingly divulge a record or other information
15 pertaining to a subscriber to or customer of such
16 service (not including the contents of communica-
17 tions covered by paragraph (1) or (2)) to any gov-
18 ernmental entity.

19 “(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICA-
20 TIONS.—A provider described in subsection (a) may di-
21 vulge the contents of a communication—

22 “(1) to an addressee or intended recipient of
23 such communication or an agent of such addressee
24 or intended recipient;

1 “(2) as otherwise authorized in section 3119B,
2 1492, or 3120A;

3 “(3) with the lawful consent of the originator or
4 an addressee or intended recipient of such commu-
5 nication, or the subscriber in the case of remote
6 computing service;

7 “(4) to a person employed or authorized or
8 whose facilities are used to forward such commu-
9 nication to its destination;

10 “(5) as may be necessarily incident to the ren-
11 dition of the service or to the protection of the rights
12 or property of the provider of that service;

13 “(6) to the National Center for Missing and
14 Exploited Children, in connection with a report sub-
15 mitted thereto under section 6 of the Criminal Code
16 Modernization and Simplification Act of 2011;

17 “(7) to a law enforcement agency if the con-
18 tents—

19 “(A) were inadvertently obtained by the
20 service provider; and

21 “(B) appear to pertain to the commission
22 of a crime; and

23 “(8) to a governmental entity, if the provider,
24 in good faith, believes that an emergency involving
25 danger of death or serious physical injury to any

1 person requires disclosure without delay of commu-
2 nications relating to the emergency.

3 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
4 RECORDS.—A provider described in subsection (a) may di-
5 vulge a record or other information pertaining to a sub-
6 scriber to or customer of such service (not including the
7 contents of communications covered by subsection (a)(1)
8 or (a)(2))—

9 “(1) as otherwise authorized in section 3120A;

10 “(2) with the lawful consent of the customer or
11 subscriber;

12 “(3) as may be necessarily incident to the ren-
13 dition of the service or to the protection of the rights
14 or property of the provider of that service;

15 “(4) to a governmental entity, if the provider,
16 in good faith, believes that an emergency involving
17 danger of death or serious physical injury to any
18 person requires disclosure without delay of informa-
19 tion relating to the emergency;

20 “(5) to the National Center for Missing and
21 Exploited Children, in connection with a report sub-
22 mitted thereto under section 6 of the Criminal Code
23 Modernization and Simplification Act of 2011; or

24 “(6) to any person other than a governmental
25 entity.

1 “(d) REPORTING OF EMERGENCY DISCLOSURES.—

2 On an annual basis, the Attorney General shall submit to
3 the Committee on the Judiciary of the House of Rep-
4 resentatives and the Committee on the Judiciary of the
5 Senate a report containing

6 “(1) the number of accounts from which the
7 Department of Justice has received voluntary disclo-
8 sures under subsection (b)(8); and

9 “(2) a summary of the basis for disclosure in
10 those instances where—

11 “(A) voluntary disclosures under sub-
12 section (b)(8) were made to the Department of
13 Justice; and

14 “(B) the investigation pertaining to those
15 disclosures was closed without the filing of
16 criminal charges.

17 **“§ 3120A. Required disclosure of customer commu-
18 nications or records**

19 “(a) CONTENTS OF WIRE OR ELECTRONIC COMMU-
20 NICATIONS IN ELECTRONIC STORAGE.—A governmental
21 entity may require the disclosure by a provider of elec-
22 tronic communication service of the contents of a wire or
23 electronic communication, that is in electronic storage in
24 an electronic communications system for one hundred and
25 eighty days or less, only pursuant to a warrant issued

1 using the procedures described in the Federal Rules of
2 Criminal Procedure (or, in the case of a State court,
3 issued using State warrant procedures) by a court of com-
4 petent jurisdiction. A governmental entity may require the
5 disclosure by a provider of electronic communications serv-
6 ices of the contents of a wire or electronic communication
7 that has been in electronic storage in an electronic commu-
8 nications system for more than one hundred and eighty
9 days by the means available under subsection (b) of this
10 section.

11 “(b) CONTENTS OF WIRE OR ELECTRONIC COMMU-
12 NICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A
13 governmental entity may require a provider of remote
14 computing service to disclose the contents of any wire or
15 electronic communication to which this paragraph is made
16 applicable by paragraph (2) of this subsection—

17 “(A) without required notice to the subscriber
18 or customer, if the governmental entity obtains a
19 warrant issued using the procedures described in the
20 Federal Rules of Criminal Procedure (or, in the case
21 of a State court, issued using State warrant proce-
22 dures) by a court of competent jurisdiction; or

23 “(B) with prior notice from the governmental
24 entity to the subscriber or customer if the govern-
25 mental entity—

1 “(i) uses an administrative subpoena au-
2 thorized by a Federal or State statute or a Fed-
3 eral or State grand jury or trial subpoena; or

4 “(ii) obtains a court order for such disclo-
5 sure under subsection (d) of this section;

6 except that delayed notice may be given pursuant to
7 section 3120C.

8 “(2) Paragraph (1) is applicable with respect to any
9 wire or electronic communication that is held or main-
10 tained on that service—

11 “(A) on behalf of, and received by means of
12 electronic transmission from (or created by means of
13 computer processing of communications received by
14 means of electronic transmission from), a subscriber
15 or customer of such remote computing service; and

16 “(B) solely for the purpose of providing storage
17 or computer processing services to such subscriber
18 or customer, if the provider is not authorized to ac-
19 cess the contents of any such communications for
20 purposes of providing any services other than stor-
21 age or computer processing.

22 “(c) RECORDS CONCERNING ELECTRONIC COMMU-
23 NICATION SERVICE OR REMOTE COMPUTING SERVICE.—

24 (1) A governmental entity may require a provider of elec-
25 tronic communication service or remote computing service

1 to disclose a record or other information pertaining to a
2 subscriber to or customer of such service (not including
3 the contents of communications) only when the govern-
4 mental entity—

5 “(A) obtains a warrant issued using the proce-
6 dures described in the Federal Rules of Criminal
7 Procedure (or, in the case of a State court, issued
8 using State warrant procedures) by a court of com-
9 petent jurisdiction;

10 “(B) obtains a court order for such disclosure
11 under subsection (d) of this section;

12 “(C) has the consent of the subscriber or cus-
13 tomer to such disclosure;

14 “(D) submits a formal written request relevant
15 to a law enforcement investigation concerning tele-
16 marketing fraud for the name, address, and place of
17 business of a subscriber or customer of such pro-
18 vider, which subscriber or customer is engaged in
19 telemarketing; or

20 “(E) seeks information under paragraph (2).

21 “(2) A provider of electronic communication service
22 or remote computing service shall disclose to a govern-
23 mental entity the—

24 “(A) name;

25 “(B) address;

1 “(C) local and long distance telephone connec-
2 tion records, or records of session times and dura-
3 tions;

4 “(D) length of service (including start date)
5 and types of service utilized;

6 “(E) telephone or instrument number or other
7 subscriber number or identity, including any tempo-
8 rarily assigned network address; and

9 “(F) means and source of payment for such
10 service (including any credit card or bank account
11 number),

12 of a subscriber to or customer of such service when the
13 governmental entity uses an administrative subpoena au-
14 thorized by a Federal or State statute or a Federal or
15 State grand jury or trial subpoena or any means available
16 under paragraph (1).

17 “(3) A governmental entity receiving records or infor-
18 mation under this subsection is not required to provide
19 notice to a subscriber or customer.

20 “(4) As used in this subsection, the term ‘tele-
21 marketing’—

22 “(A) means a plan, program, promotion, or
23 campaign that is conducted to induce—

24 “(i) purchases of goods or services;

1 “(ii) participation in a contest or sweep-
2 stakes; or

3 “(iii) a charitable contribution, donation,
4 or gift of money or any other thing of value,
5 by use of 1 or more interstate telephone calls initiated ei-
6 ther by a person who is conducting the plan, program,
7 promotion, or campaign or by a prospective purchaser or
8 contest or sweepstakes participant or charitable contrib-
9 utor, or donor; but

10 “(B) does not include the solicitation of sales
11 through the mailing of a catalog that—

12 “(i) contains a written description or illus-
13 tration of the goods or services offered for sale;

14 “(ii) includes the business address of the
15 seller;

16 “(iii) includes multiple pages of written
17 material or illustration; and

18 “(iv) has been issued not less frequently
19 than once a year,

20 if the person making the solicitation does not solicit cus-
21 tomers by telephone but only receives calls initiated by
22 customers in response to the catalog and during those
23 calls takes orders without further solicitation.

24 “(d) REQUIREMENTS FOR COURT ORDER.—A court
25 order for disclosure under subsection (b) or (c) may be

1 issued by any court that is a court of competent jurisdic-
2 tion and shall issue only if the governmental entity offers
3 specific and articulable facts showing that there are rea-
4 sonable grounds to believe that the contents of a wire or
5 electronic communication, or the records or other informa-
6 tion sought, are relevant and material to an ongoing crimi-
7 nal investigation. In the case of a State governmental au-
8 thority, such a court order shall not issue if prohibited
9 by the law of such State. A court issuing an order pursu-
10 ant to this section, on a motion made promptly by the
11 service provider, may quash or modify such order, if the
12 information or records requested are unusually volumi-
13 nous in nature or compliance with such order otherwise
14 would cause an undue burden on such provider.

15 “(e) NO CAUSE OF ACTION AGAINST A PROVIDER
16 DISCLOSING INFORMATION UNDER THIS CHAPTER.—No
17 cause of action shall lie in any court against any provider
18 of wire or electronic communication service, its officers,
19 employees, agents, or other specified persons for providing
20 information, facilities, or assistance in accordance with the
21 terms of a court order, warrant, subpoena, statutory au-
22 thorization, or certification under this chapter.

23 “(f) REQUIREMENT TO PRESERVE EVIDENCE.—

24 “(1) IN GENERAL.—A provider of wire or elec-
25 tronic communication services or a remote com-

1 puting service, upon the request of a governmental
2 entity, shall take all necessary steps to preserve
3 records and other evidence in its possession pending
4 the issuance of a court order or other process.

5 “(2) PERIOD OF RETENTION.—Records referred
6 to in paragraph (1) shall be retained for a period of
7 90 days, which shall be extended for an additional
8 90-day period upon a renewed request by the gov-
9 ernmental entity.

10 “(g) PRESENCE OF OFFICER NOT REQUIRED.—Not-
11 withstanding section 3105, the presence of an officer shall
12 not be required for service or execution of a search war-
13 rant issued in accordance with this chapter requiring dis-
14 closure by a provider of electronic communications service
15 or remote computing service of the contents of commu-
16 nications or records or other information pertaining to a
17 subscriber to or customer of such service.

18 **“§ 3120B. Backup preservation**

19 “(a) BACKUP PRESERVATION.—(1) A governmental
20 entity acting under section 3120A(b)(2) may include in
21 its subpoena or court order a requirement that the service
22 provider to whom the request is directed create a backup
23 copy of the contents of the electronic communications
24 sought in order to preserve those communications. With-
25 out notifying the subscriber or customer of such subpoena

1 or court order, such service provider shall create such
2 backup copy as soon as practicable consistent with its reg-
3 ular business practices and shall confirm to the govern-
4 mental entity that such backup copy has been made. Such
5 backup copy shall be created within two business days
6 after receipt by the service provider of the subpoena or
7 court order.

8 “(2) Notice to the subscriber or customer shall be
9 made by the governmental entity within three days after
10 receipt of such confirmation, unless such notice is delayed
11 pursuant to section 3120C(a).

12 “(3) The service provider shall not destroy such
13 backup copy until the later of—

14 “(A) the delivery of the information; or

15 “(B) the resolution of any proceedings (includ-
16 ing appeals of any proceeding) concerning the gov-
17 ernment’s subpoena or court order.

18 “(4) The service provider shall release such backup
19 copy to the requesting governmental entity no sooner than
20 fourteen days after the governmental entity’s notice to the
21 subscriber or customer if such service provider—

22 “(A) has not received notice from the sub-
23 scriber or customer that the subscriber or customer
24 has challenged the governmental entity’s request;
25 and

1 “(B) has not initiated proceedings to challenge
2 the request of the governmental entity.

3 “(5) A governmental entity may seek to require the
4 creation of a backup copy under subsection (a)(1) of this
5 section if in its sole discretion such entity determines that
6 there is reason to believe that notification under section
7 3120A of the existence of the subpoena or court order may
8 result in destruction of or tampering with evidence. This
9 determination is not subject to challenge by the subscriber
10 or customer or service provider.

11 “(b) CUSTOMER CHALLENGES.—(1) Within 14 days
12 after notice by the governmental entity to the subscriber
13 or customer under subsection (a)(2) of this section, such
14 subscriber or customer may file a motion to quash such
15 subpoena or vacate such court order, with copies served
16 upon the governmental entity and with written notice of
17 such challenge to the service provider. A motion to vacate
18 a court order shall be filed in the court which issued such
19 order. A motion to quash a subpoena shall be filed in the
20 appropriate United States district court or State court.
21 Such motion or application shall contain an affidavit or
22 sworn statement—

23 “(A) stating that the applicant is a customer or
24 subscriber to the service from which the contents of

1 electronic communications maintained for him have
2 been sought; and

3 “(B) stating the applicant’s reasons for believ-
4 ing that the records sought are not relevant to a le-
5 gitimate law enforcement inquiry or that there has
6 not been substantial compliance with the provisions
7 of this chapter in some other respect.

8 “(2) Service shall be made under this section upon
9 a governmental entity by delivering or mailing by reg-
10 istered or certified mail a copy of the papers to the person,
11 office, or department specified in the notice which the cus-
12 tomer has received pursuant to this chapter. For the pur-
13 poses of this section, the term ‘delivery’ has the meaning
14 given that term in the Federal Rules of Civil Procedure.

15 “(3) If the court finds that the customer has com-
16 plied with paragraphs (1) and (2) of this subsection, the
17 court shall order the governmental entity to file a sworn
18 response, which may be filed in camera if the govern-
19 mental entity includes in its response the reasons which
20 make in camera review appropriate. If the court is unable
21 to determine the motion or application on the basis of the
22 parties’ initial allegations and response, the court may
23 conduct such additional proceedings as it deems appro-
24 priate. All such proceedings shall be completed and the

1 motion or application decided as soon as practicable after
2 the filing of the governmental entity's response.

3 “(4) If the court finds that the applicant is not the
4 subscriber or customer for whom the communications
5 sought by the governmental entity are maintained, or that
6 there is a reason to believe that the law enforcement in-
7 quiry is legitimate and that the communications sought
8 are relevant to that inquiry, it shall deny the motion or
9 application and order such process enforced. If the court
10 finds that the applicant is the subscriber or customer for
11 whom the communications sought by the governmental en-
12 tity are maintained, and that there is not a reason to be-
13 lieve that the communications sought are relevant to a le-
14 gitimate law enforcement inquiry, or that there has not
15 been substantial compliance with the provisions of this
16 chapter, it shall order the process quashed.

17 “(5) A court order denying a motion or application
18 under this section shall not be deemed a final order and
19 no interlocutory appeal may be taken therefrom by the
20 customer.

21 **“§ 3120C. Delayed notice**

22 “(a) DELAY OF NOTIFICATION.—(1) A governmental
23 entity acting under section 3120A(b) may—

24 “(A) where a court order is sought, include in
25 the application a request, which the court shall

1 grant, for an order delaying the notification required
2 under section 3120A(b) for a period not to exceed
3 ninety days, if the court determines that there is
4 reason to believe that notification of the existence of
5 the court order may have an adverse result described
6 in paragraph (2) of this subsection; or

7 “(B) where an administrative subpoena author-
8 ized by a Federal or State statute or a Federal or
9 State grand jury subpoena is obtained, delay the no-
10 tification required under section 3120A(b) for a pe-
11 riod not to exceed ninety days upon the execution of
12 a written certification of a supervisory official that
13 there is reason to believe that notification of the ex-
14 istence of the subpoena may have an adverse result
15 described in paragraph (2) of this subsection.

16 “(2) An adverse result for the purposes of paragraph
17 (1) of this subsection is—

18 “(A) endangering the life or physical safety of
19 an individual;

20 “(B) flight from prosecution;

21 “(C) destruction of or tampering with evidence;

22 “(D) intimidation of potential witnesses; or

23 “(E) otherwise seriously jeopardizing an inves-
24 tigation or unduly delaying a trial.

1 “(3) The governmental entity shall maintain a true
2 copy of certification under paragraph (1)(B).

3 “(4) Extensions of the delay of notification provided
4 in section 3120A of up to ninety days each may be granted
5 by the court upon application, or by certification by a gov-
6 ernmental entity, but only in accordance with subsection
7 (b) of this section.

8 “(5) Upon expiration of the period of delay of notifi-
9 cation under paragraph (1) or (4) of this subsection, the
10 governmental entity shall serve upon, or deliver by reg-
11 istered or first-class mail to, the customer or subscriber
12 a copy of the process or request together with notice
13 that—

14 “(A) states with reasonable specificity the na-
15 ture of the law enforcement inquiry; and

16 “(B) informs such customer or subscriber—

17 “(i) that information maintained for such
18 customer or subscriber by the service provider
19 named in such process or request was supplied
20 to or requested by that governmental authority
21 and the date on which the supplying or request
22 took place;

23 “(ii) that notification of such customer or
24 subscriber was delayed;

1 “(iii) what governmental entity or court
2 made the certification or determination pursu-
3 ant to which that delay was made; and

4 “(iv) which provision of this chapter al-
5 lowed such delay.

6 “(6) As used in this subsection, the term ‘supervisory
7 official’ means the investigative agent in charge or assist-
8 ant investigative agent in charge or an equivalent of an
9 investigating agency’s headquarters or regional office, or
10 the chief prosecuting attorney or the first assistant pros-
11 ecuting attorney or an equivalent of a prosecuting attor-
12 ney’s headquarters or regional office.

13 “(b) PRECLUSION OF NOTICE TO SUBJECT OF GOV-
14 ERNMENTAL ACCESS.—A governmental entity acting
15 under section 3120A, when it is not required to notify the
16 subscriber or customer under section 3120A(b)(1), or to
17 the extent that it may delay such notice pursuant to sub-
18 section (a) of this section, may apply to a court for an
19 order commanding a provider of electronic communica-
20 tions service or remote computing service to whom a war-
21 rant, subpoena, or court order is directed, for such period
22 as the court deems appropriate, not to notify any other
23 person of the existence of the warrant, subpoena, or court
24 order. The court shall enter such an order if it determines
25 that there is reason to believe that notification of the exist-

1 ence of the warrant, subpoena, or court order will result
2 in—

3 “(1) endangering the life or physical safety of
4 an individual;

5 “(2) flight from prosecution;

6 “(3) destruction of or tampering with evidence;

7 “(4) intimidation of potential witnesses; or

8 “(5) otherwise seriously jeopardizing an inves-
9 tigation or unduly delaying a trial.

10 **“§ 3120D. Cost reimbursement**

11 “(a) PAYMENT.—Except as otherwise provided in
12 subsection (c), a governmental entity obtaining the con-
13 tents of communications, records, or other information
14 under section 3120, 3120A, or 3120B shall pay to the
15 person or entity assembling or providing such information
16 a fee for reimbursement for such costs as are reasonably
17 necessary and which have been directly incurred in search-
18 ing for, assembling, reproducing, or otherwise providing
19 such information. Such reimbursable costs shall include
20 any costs due to necessary disruption of normal operations
21 of any electronic communication service or remote com-
22 puting service in which such information may be stored.

23 “(b) AMOUNT.—The amount of the fee provided by
24 subsection (a) shall be as mutually agreed by the govern-
25 mental entity and the person or entity providing the infor-

1 mation, or, in the absence of agreement, shall be as deter-
2 mined by the court which issued the order for production
3 of such information (or the court before which a criminal
4 prosecution relating to such information would be brought,
5 if no court order was issued for production of the informa-
6 tion).

7 “(c) EXCEPTION.—The requirement of subsection (a)
8 of this section does not apply with respect to records or
9 other information maintained by a communications com-
10 mon carrier that relate to telephone toll records and tele-
11 phone listings obtained under section 3120A. The court
12 may, however, order a payment as described in subsection
13 (a) if the court determines the information required is un-
14 usually voluminous in nature or otherwise caused an
15 undue burden on the provider.

16 **“§ 3120E. Civil action**

17 “(a) CAUSE OF ACTION.—Except as provided in sec-
18 tion 3120A(e), any provider of electronic communication
19 service, subscriber, or other person aggrieved by any viola-
20 tion of this chapter in which the conduct constituting the
21 violation is engaged in with a knowing or intentional state
22 of mind may, in a civil action, recover from the person
23 or entity, other than the United States, which engaged in
24 that violation such relief as may be appropriate.

1 “(b) RELIEF.—In a civil action under this section,
2 appropriate relief includes—

3 “(1) such preliminary and other equitable or
4 declaratory relief as may be appropriate;

5 “(2) damages under subsection (c); and

6 “(3) a reasonable attorney’s fee and other liti-
7 gation costs reasonably incurred.

8 “(c) DAMAGES.—The court may assess as damages
9 in a civil action under this section the sum of the actual
10 damages suffered by the plaintiff and any profits made
11 by the violator as a result of the violation, but in no case
12 shall a person entitled to recover receive less than the sum
13 of \$1,000. If the violation is willful or intentional, the
14 court may assess punitive damages. In the case of a suc-
15 cessful action to enforce liability under this section, the
16 court may assess the costs of the action, together with
17 reasonable attorney fees determined by the court.

18 “(d) ADMINISTRATIVE DISCIPLINE.—If a court or
19 appropriate department or agency determines that the
20 United States or any of its departments or agencies has
21 violated any provision of this chapter, and the court or
22 appropriate department or agency finds that the cir-
23 cumstances surrounding the violation raise serious ques-
24 tions about whether or not an officer or employee of the
25 United States acted willfully or intentionally with respect

1 to the violation, the department or agency shall, upon re-
2 ceipt of a true and correct copy of the decision and find-
3 ings of the court or appropriate department or agency
4 promptly initiate a proceeding to determine whether dis-
5 ciplinary action against the officer or employee is war-
6 ranted. If the head of the department or agency involved
7 determines that disciplinary action is not warranted, he
8 or she shall notify the Inspector General with jurisdiction
9 over the department or agency concerned and shall provide
10 the Inspector General with the reasons for such deter-
11 mination.

12 “(e) DEFENSE.—A good faith reliance on—

13 “(1) a court warrant or order, a grand jury
14 subpoena, a legislative authorization, or a statutory
15 authorization (including a request of a governmental
16 entity under section 3120A(f));

17 “(2) a request of an investigative or law en-
18 forcement officer under section 3119C(g); or

19 “(3) a good faith determination that section
20 1492(e) permitted the conduct complained of;

21 is a complete defense to any civil or criminal action
22 brought under this chapter or any other law.

23 “(f) LIMITATION.—A civil action under this section
24 may not be commenced later than two years after the date

1 upon which the claimant first discovered or had a reason-
2 able opportunity to discover the violation.

3 “(g) IMPROPER DISCLOSURE.—Any willful disclosure
4 of a ‘record’, as that term is defined in section 552a(a)
5 of title 5, obtained by an investigative or law enforcement
6 officer, or a governmental entity, pursuant to section
7 3120A, or from a device installed pursuant to section
8 3123 or 3125, that is not a disclosure made in the proper
9 performance of the official functions of the officer or gov-
10 ernmental entity making the disclosure, is a violation of
11 this chapter. This subsection does not apply to informa-
12 tion previously lawfully disclosed (prior to the commence-
13 ment of any civil or administrative proceeding under this
14 chapter) to the public by a Federal, State, or local govern-
15 mental entity or by the plaintiff in a civil action under
16 this chapter.

17 **“§ 3120F. Exclusivity of remedies**

18 “The remedies and sanctions described in this chap-
19 ter are the only judicial remedies and sanctions for non-
20 constitutional violations of this chapter.

21 **“§ 3120G. Counterintelligence access to telephone toll
22 and transactional records**

23 “(a) DUTY TO PROVIDE.—A wire or electronic com-
24 munication service provider shall comply with a request
25 for subscriber information and toll billing records informa-

1 tion, or electronic communication transactional records in
2 its custody or possession made by the Director of the Fed-
3 eral Bureau of Investigation under subsection (b) of this
4 section.

5 “(b) REQUIRED CERTIFICATION.—The Director of
6 the Federal Bureau of Investigation, or his designee in
7 a position not lower than Deputy Assistant Director at
8 Bureau headquarters or a Special Agent in Charge in a
9 Bureau field office designated by the Director, may—

10 “(1) request the name, address, length of serv-
11 ice, and local and long distance toll billing records
12 of a person or entity if the Director (or his designee)
13 certifies in writing to the wire or electronic commu-
14 nication service provider to which the request is
15 made that the name, address, length of service, and
16 toll billing records sought are relevant to an author-
17 ized investigation to protect against international
18 terrorism or clandestine intelligence activities, pro-
19 vided that such an investigation of a United States
20 person is not conducted solely on the basis of activi-
21 ties protected by the first amendment to the Con-
22 stitution of the United States; and

23 “(2) request the name, address, and length of
24 service of a person or entity if the Director (or his
25 designee) certifies in writing to the wire or electronic

1 communication service provider to which the request
2 is made that the information sought is relevant to
3 an authorized investigation to protect against inter-
4 national terrorism or clandestine intelligence activi-
5 ties, provided that such an investigation of a United
6 States person is not conducted solely upon the basis
7 of activities protected by the first amendment to the
8 Constitution of the United States.

9 “(c) PROHIBITION OF CERTAIN DISCLOSURE.—

10 “(1) If the Director of the Federal Bureau of
11 Investigation, or his designee in a position not lower
12 than Deputy Assistant Director at Bureau head-
13 quarters or a Special Agent in Charge in a Bureau
14 field office designated by the Director, certifies that
15 otherwise there may result a danger to the national
16 security of the United States, interference with a
17 criminal, counterterrorism, or counterintelligence in-
18 vestigation, interference with diplomatic relations, or
19 danger to the life or physical safety of any person,
20 no wire or electronic communications service pro-
21 vider, or officer, employee, or agent thereof, shall
22 disclose to any person (other than those to whom
23 such disclosure is necessary to comply with the re-
24 quest or an attorney to obtain legal advice or legal
25 assistance with respect to the request) that the Fed-

1 eral Bureau of Investigation has sought or obtained
2 access to information or records under this section.

3 “(2) The request shall notify the person or enti-
4 ty to whom the request is directed of the nondisclo-
5 sure requirement under paragraph (1).

6 “(3) Any recipient disclosing to those persons
7 necessary to comply with the request or to an attor-
8 ney to obtain legal advice or legal assistance with re-
9 spect to the request shall inform such person of any
10 applicable nondisclosure requirement. Any person
11 who receives a disclosure under this subsection shall
12 be subject to the same prohibitions on disclosure
13 under paragraph (1).

14 “(4) At the request of the Director of the Fed-
15 eral Bureau of Investigation or the designee of the
16 Director, any person making or intending to make
17 a disclosure under this section shall identify to the
18 Director or such designee the person to whom such
19 disclosure will be made or to whom such disclosure
20 was made prior to the request, except that nothing
21 in this section requires a person to inform the Direc-
22 tor or such designee of the identity of an attorney
23 to whom disclosure was made or will be made to ob-
24 tain legal advice or legal assistance with respect to
25 the request under subsection (a).

1 “(d) DISSEMINATION BY BUREAU.—The Federal Bu-
2 reau of Investigation may disseminate information and
3 records obtained under this section only as provided in
4 guidelines approved by the Attorney General for foreign
5 intelligence collection and foreign counterintelligence in-
6 vestigations conducted by the Federal Bureau of Inves-
7 tigation, and, with respect to dissemination to an agency
8 of the United States, only if such information is clearly
9 relevant to the authorized responsibilities of such agency.

10 “(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL
11 BODIES BE INFORMED.—On a semiannual basis the Di-
12 rector of the Federal Bureau of Investigation shall fully
13 inform the Permanent Select Committee on Intelligence
14 of the House of Representatives and the Select Committee
15 on Intelligence of the Senate, and the Committee on the
16 Judiciary of the House of Representatives and the Com-
17 mittee on the Judiciary of the Senate, concerning all re-
18 quests made under subsection (b) of this section.

19 “(f) LIBRARIES.—A library (as that term is defined
20 in section 213(1) of the Library Services and Technology
21 Act), the services of which include access to the Internet,
22 books, journals, magazines, newspapers, or other similar
23 forms of communication in print or digitally by patrons
24 for their use, review, examination, or circulation, is not
25 a wire or electronic communication service provider for

1 purposes of this section, unless the library is providing the
2 services defined in section 1491 ('electronic communica-
3 tion service').

4 **“§ 3120H. Wrongful disclosure of video tape rental or**
5 **sale records**

6 “(a) DEFINITIONS.—For purposes of this section—

7 “(1) the term ‘consumer’ means any renter,
8 purchaser, or subscriber of goods or services from a
9 video tape service provider;

10 “(2) the term ‘ordinary course of business’
11 means only debt collection activities, order fulfill-
12 ment, request processing, and the transfer of owner-
13 ship;

14 “(3) the term ‘personally identifiable informa-
15 tion’ includes information which identifies a person
16 as having requested or obtained specific video mate-
17 rials or services from a video tape service provider;
18 and

19 “(4) the term ‘video tape service provider’
20 means any person, engaged in the business, in or af-
21 fecting interstate or foreign commerce, of rental,
22 sale, or delivery of prerecorded video cassette tapes
23 or similar audio visual materials, or any person or
24 other entity to whom a disclosure is made under
25 subparagraph (D) or (E) of subsection (b)(2), but

1 only with respect to the information contained in the
2 disclosure.

3 “(b) VIDEO TAPE RENTAL AND SALE RECORDS.—

4 (1) A video tape service provider who knowingly discloses,
5 to any person, personally identifiable information con-
6 cerning any consumer of such provider shall be liable to
7 the aggrieved person for the relief provided in subsection
8 (d).

9 “(2) A video tape service provider may disclose per-
10 sonally identifiable information concerning any con-
11 sumer—

12 “(A) to the consumer;

13 “(B) to any person with the informed, written
14 consent of the consumer given at the time the disclo-
15 sure is sought;

16 “(C) to a law enforcement agency pursuant to
17 a warrant issued under the Federal Rules of Crimi-
18 nal Procedure, an equivalent State warrant, a grand
19 jury subpoena, or a court order;

20 “(D) to any person if the disclosure is solely of
21 the names and addresses of consumers and if—

22 “(i) the video tape service provider has
23 provided the consumer with the opportunity, in
24 a clear and conspicuous manner, to prohibit
25 such disclosure; and

1 “(ii) the disclosure does not identify the
2 title, description, or subject matter of any video
3 tapes or other audio visual material; however,
4 the subject matter of such materials may be
5 disclosed if the disclosure is for the exclusive
6 use of marketing goods and services directly to
7 the consumer;

8 “(E) to any person if the disclosure is incident
9 to the ordinary course of business of the video tape
10 service provider; or

11 “(F) pursuant to a court order, in a civil pro-
12 ceeding upon a showing of compelling need for the
13 information that cannot be accommodated by any
14 other means, if—

15 “(i) the consumer is given reasonable no-
16 tice, by the person seeking the disclosure, of the
17 court proceeding relevant to the issuance of the
18 court order; and

19 “(ii) the consumer is afforded the oppor-
20 tunity to appear and contest the claim of the
21 person seeking the disclosure.

22 If an order is granted pursuant to subparagraph (C) or
23 (F), the court shall impose appropriate safeguards against
24 unauthorized disclosure.

1 “(3) Court orders authorizing disclosure under sub-
2 paragraph (C) shall issue only with prior notice to the con-
3 sumer and only if the law enforcement agency shows that
4 there is probable cause to believe that the records or other
5 information sought are relevant to a legitimate law en-
6 forcement inquiry. In the case of a State government au-
7 thority, such a court order shall not issue if prohibited
8 by the law of such State. A court issuing an order pursu-
9 ant to this section, on a motion made promptly by the
10 video tape service provider, may quash or modify such
11 order if the information or records requested are unrea-
12 sonably voluminous in nature or if compliance with such
13 order otherwise would cause an unreasonable burden on
14 such provider.

15 “(c) CIVIL ACTION.—(1) Any person aggrieved by
16 any act of a person in violation of this section may bring
17 a civil action in a United States district court.

18 “(2) The court may award—

19 “(A) actual damages but not less than liq-
20 uidated damages in an amount of \$2,500;

21 “(B) punitive damages;

22 “(C) reasonable attorneys’ fees and other litiga-
23 tion costs reasonably incurred; and

24 “(D) such other preliminary and equitable relief
25 as the court determines to be appropriate.

1 “(3) No action may be brought under this subsection
2 unless such action is begun within 2 years from the date
3 of the act complained of or the date of discovery.

4 “(4) No liability shall result from lawful disclosure
5 permitted by this section.

6 “(d) **PERSONALLY IDENTIFIABLE INFORMATION.**—
7 Personally identifiable information obtained in any man-
8 ner other than as provided in this section shall not be re-
9 ceived in evidence in any trial, hearing, arbitration, or
10 other proceeding in or before any court, grand jury, de-
11 partment, officer, agency, regulatory body, legislative com-
12 mittee, or other authority of the United States, a State,
13 or a political subdivision of a State.

14 “(e) **DESTRUCTION OF OLD RECORDS.**—A person
15 subject to this section shall destroy personally identifiable
16 information as soon as practicable, but no later than one
17 year from the date the information is no longer necessary
18 for the purpose for which it was collected and there are
19 no pending requests or orders for access to such informa-
20 tion under subsection (b)(2) or (c)(2) or pursuant to a
21 court order.

22 **“§ 3120I. Definitions for chapter**

23 “As used in this chapter—

1 “(1) unless otherwise provided, a term defined
2 in section 1491 has the same meaning given that
3 term in that section;

4 “(2) the term ‘remote computing service’ means
5 the provision to the public of computer storage or
6 processing services by means of an electronic com-
7 munications system;

8 “(3) the term ‘court of competent jurisdiction’
9 includes—

10 “(A) any district court of the United
11 States (including a magistrate judge of such a
12 court) or any United States court of appeals
13 that—

14 “(i) has jurisdiction over the offense
15 being investigated;

16 “(ii) is in or for a district in which the
17 provider of a wire or electronic communica-
18 tion service is located or in which the wire
19 or electronic communications, records, or
20 other information are stored; or

21 “(iii) is acting on a request for foreign
22 assistance pursuant to section 3512; or

23 “(B) a court of general criminal jurisdic-
24 tion of a State authorized by the law of that
25 State to issue search warrants; and

1 “(4) the term ‘governmental entity’ means a de-
2 partment or agency of the United States or any
3 State or political subdivision thereof.

4 **“§ 3120J. Civil actions against the United States**

5 “(a) IN GENERAL.—Any person who is aggrieved by
6 any willful violation of subchapter B or C of chapter 37
7 or of sections 106(a), 305(a), or 405(a) of the Foreign
8 Intelligence Surveillance Act of 1978 may commence an
9 action in United States District Court against the United
10 States to recover money damages. In any such action, if
11 a person who is aggrieved successfully establishes such a
12 violation of subchapter B or C of chapter 37 or of the
13 above specified provisions of title 50, the Court may assess
14 as damages—

15 “(1) actual damages, but not less than
16 \$10,000, whichever amount is greater; and

17 “(2) litigation costs, reasonably incurred.

18 “(b) PROCEDURES.—(1) Any action against the
19 United States under this section may be commenced only
20 after a claim is presented to the appropriate department
21 or agency under the procedures of the Federal Tort
22 Claims Act, as set forth in title 28.

23 “(2) Any action against the United States under this
24 section shall be forever barred unless it is presented in
25 writing to the appropriate Federal agency within 2 years

1 after such claim accrues or unless action is begun within
2 6 months after the date of mailing, by certified or reg-
3 istered mail, of notice of final denial of the claim by the
4 agency to which it was presented. The claim shall accrue
5 on the date upon which the claimant first has a reasonable
6 opportunity to discover the violation.

7 “(3) Any action under this section shall be tried to
8 the court without a jury.

9 “(4) Notwithstanding any other provision of law, the
10 procedures set forth in section 106(f), 305(g), or 405(f)
11 of the Foreign Intelligence Surveillance Act of 1978 shall
12 be the exclusive means by which materials governed by
13 those sections may be reviewed.

14 “(5) An amount equal to any award against the
15 United States under this section shall be reimbursed by
16 the department or agency concerned to the fund described
17 in section 1304 of title 31, out of any appropriation, fund,
18 or other account (excluding any part of such appropria-
19 tion, fund, or account that is available for the enforcement
20 of any Federal law) that is available for the operating ex-
21 penses of the department or agency concerned.

22 “(c) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
23 propriate department or agency determines that the
24 United States or any of its departments or agencies has
25 violated any provision of this chapter, and the court or

1 appropriate department or agency finds that the cir-
2 cumstances surrounding the violation raise serious ques-
3 tions about whether or not an officer or employee of the
4 United States acted willfully or intentionally with respect
5 to the violation, the department or agency shall, upon re-
6 ceipt of a true and correct copy of the decision and find-
7 ings of the court or appropriate department or agency
8 promptly initiate a proceeding to determine whether dis-
9 ciplinary action against the officer or employee is war-
10 ranted. If the head of the department or agency involved
11 determines that disciplinary action is not warranted, he
12 or she shall notify the Inspector General with jurisdiction
13 over the department or agency concerned and shall provide
14 the Inspector General with the reasons for such deter-
15 mination.

16 “(d) EXCLUSIVE REMEDY.—Any action against the
17 United States under this subsection shall be the exclusive
18 remedy against the United States for any claims within
19 the purview of this section.

20 “(e) STAY OF PROCEEDINGS.—(1) Upon the motion
21 of the United States, the court shall stay any action com-
22 menced under this section if the court determines that civil
23 discovery will adversely affect the ability of the Govern-
24 ment to conduct a related investigation or the prosecution

1 of a related criminal case. Such a stay shall toll the limita-
2 tions periods of paragraph (2) of subsection (b).

3 “(2) In this subsection, the terms ‘related criminal
4 case’ and ‘related investigation’ mean an actual prosecu-
5 tion or investigation in progress at the time at which the
6 request for the stay or any subsequent motion to lift the
7 stay is made. In determining whether an investigation or
8 a criminal case is related to an action commenced under
9 this section, the court shall consider the degree of simi-
10 larity between the parties, witnesses, facts, and cir-
11 cumstances involved in the 2 proceedings, without requir-
12 ing that any one or more factors be identical.

13 “(3) In requesting a stay under paragraph (1), the
14 Government may, in appropriate cases, submit evidence ex
15 parte in order to avoid disclosing any matter that may
16 adversely affect a related investigation or a related crimi-
17 nal case. If the Government makes such an ex parte sub-
18 mission, the plaintiff shall be given an opportunity to
19 make a submission to the court, not ex parte, and the
20 court may, in its discretion, request further information
21 from either party.”; and

22 (2) by inserting at the end of chapter 213 the
23 following:

1 **“§ 3301 Hate crime acts**

2 “(a) OFFENSES NOT RESULTING IN DEATH.—EX-
3 cept as provided in paragraph (2), no person shall be pros-
4 ecutated, tried, or punished for any offense under section
5 901 unless the indictment for such offense is found, or
6 the information for such offense is instituted, not later
7 than 7 years after the date on which the offense was com-
8 mitted.

9 “(b) DEATH RESULTING OFFENSES.—An indictment
10 or information alleging that an offense under section 901
11 resulted in death may be found or instituted at any time
12 without limitation.”.

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